

CLERK OF JUDICIAL RECORDS

LACKAWANNA COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2007 TO DECEMBER 31, 2010

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**Department of the Auditor General  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER  
AUDITOR GENERAL**

Independent Auditor's Report

The Honorable Daniel P. Meuser  
Secretary  
Pennsylvania Department of Revenue  
Harrisburg, PA 17128

We have examined the accompanying statements of receipts and disbursements (Statements) of the Clerk of Judicial Records, Lackawanna County, Pennsylvania (County Officer), for the period January 1, 2007 to December 31, 2010, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d). These Statements are the responsibility of the county office's management. Our responsibility is to express an opinion on these Statements based on our examination.

Except as discussed in the fourth paragraph, our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the Statements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Sections 401(b) and 401(d) of *The Fiscal Code* 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. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Sections 401(b) and 401(d) of *The Fiscal Code*.

### Independent Auditor's Report (Continued)

As discussed in Finding No. 2, a population of manual receipts could not be determined. Without these records, we could not perform our standard examination procedures. As a result, the scope of our examination of the Clerk of Judicial Records – Criminal Division's Statement was limited, and we were unable to satisfy ourselves by other examination procedures.

In our opinion, except for the effects, if any, of the matter noted in the preceding paragraph, the Statements referred to above present, in all material respects, the operations of the County Officer as it pertains to receipts made on behalf of the Commonwealth for the period ended December 31, 2010, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Statements and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Statements are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Statements or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the County Officer's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the County Officer's Statements that is more than inconsequential will not be prevented or detected by the County Officer's internal control. We consider the deficiencies described in the findings below to be significant deficiencies in internal control over the reporting on the Statements:

- Inadequate Internal Control Over The Bank Account – Criminal Division.
- Inadequate Internal Controls Over Manual Receipts – Criminal Division.

### Independent Auditor's Report (Continued)

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statements will not be prevented or detected by the County Officer's internal control. Our consideration of the internal control over reporting on the Statements would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider all the significant deficiencies described above to be material weaknesses.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

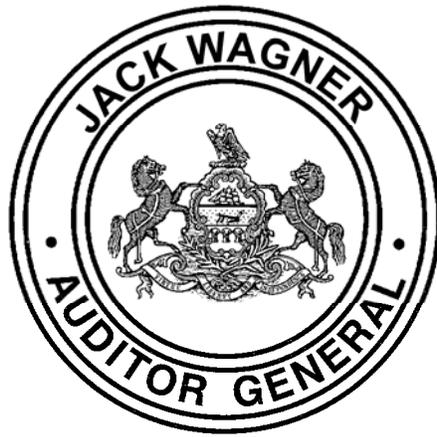
- Incorrect Assessment And Disbursement Of Fees, Taxes, And Costs - Criminal And Civil Divisions.

We are concerned in light of the County Officer's failure to correct a previously reported finding regarding inadequate outstanding check procedures. Additionally, during our current examination, we noted several significant weaknesses in the internal controls over the bank account, manual receipts, and the assessment and disbursement of fees, taxes, and costs. These significant deficiencies increase the risk for funds to be lost or misappropriated. The County Officer should strive to implement the recommendations and corrective action noted in this examination report.

This report is intended solely for the information and use of the Pennsylvania Department of Revenue, the Administrative Office of Pennsylvania Courts, and the County Officer and is not intended to be and should not be used by anyone other than these specified parties.

November 7, 2011

JACK WAGNER  
Auditor General



CLERK OF JUDICIAL RECORDS – CRIMINAL DIVISION  
LACKAWANNA COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Receipts:

Department of Transportation		
Title 75 Fines	\$	90,696
Overweight Fines		326
Department of Revenue Court Costs		130,275
Crime Victims' Compensation Costs		374,308
Crime Commission Costs/Victim Witness Services Costs		264,891
Domestic Violence Costs		36,287
Emergency Medical Services Fines		14,048
DUI - ARD/EMS Fees		49,480
CAT/MCARE Fund Surcharges		190,650
Judicial Computer System/Access to Justice Fees		122,336
Offender Supervision Fees		1,485,474
Constable Service Surcharges		19
Criminal Laboratory Users' Fees		863
Probation and Parole Officers' Firearm Education Costs		32,072
Substance Abuse Education Costs		196,615
Office of Victims' Services Costs		20,321
Miscellaneous State Fines and Costs		<u>218,706</u>
 Total receipts (Note 2)	 \$	 3,227,367
 Disbursements and credits to Commonwealth (Note 4)		 <u>(3,227,367)</u>
 Balance due Commonwealth (County) per settled reports (Note 5)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2007 to December 31, 2010	 \$	 <u><u>-</u></u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

CLERK OF JUDICIAL RECORDS – CIVIL DIVISION  
LACKAWANNA COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Receipts:

Writ Taxes	\$ 13,523
Divorce Complaint Surcharges	22,400
Judicial Computer System/Access To Justice Fees	363,760
Protection From Abuse Surcharges and Contempt Fines	3,851
Criminal Charge Information System Fees	<u>8,030</u>
Total Receipts (Note 2)	411,564
Commissions (Note 3)	<u>(406)</u>
Net Receipts	411,158
Disbursements to Commonwealth (Note 4)	<u>(411,153)</u>
Balance due Commonwealth (County) per settled reports (Note 5)	5
Examination adjustment (Note 6)	<u>1,437</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2007 to December 31, 2010	<u><u>\$ 1,442</u></u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

1. Criteria

The Statements 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 Statements 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.

2. Receipts

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 – Criminal Division 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, fees, and fines:

- Writ Taxes represent a \$.50 or \$.25 tax imposed on taxable instruments filed with the Clerk of Judicial Records.
- Divorce Complaint Surcharges represent a \$10 surcharge imposed on all divorce decrees.
- Judicial Computer System/Access To Justice Fees represent a \$10 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. These fees were temporarily increased to \$23.50 for the period December 8, 2009 to January 7, 2014.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

2. Receipts (Continued)

Clerk Of Judicial Records – Civil Division (Continued)

- Protection From Abuse Surcharges represent a \$25 surcharge imposed against defendants when a protection order is granted as a result of a hearing. Effective May 9, 2006, the surcharge was increased to \$100. Protection From Abuse Contempt Fines represent fines of not less than \$100 nor more than \$1,000 imposed against a defendant who is found to be in violation of a protection from abuse order. Effective May 9, 2006, the fine was increased to a minimum of \$300 and maximum of \$1000.
- Criminal Charge Information System Fees represent a fee 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 fee was \$6.50 for the period January 1, 2007 to December 31, 2007, and \$7.00 for the period January 1, 2008 to December 31, 2010. The statement of receipts and disbursements only reflects the portion collected on behalf of the AOPC.

3. Commissions

Acting in the capacity of an agent for the Commonwealth, the Clerk of Judicial Records – Civil Division is authorized to collect a commission of 3 percent on the Commonwealth portion of writ taxes. Accordingly, commissions owed the county are not included in the balance due the Commonwealth.

CLERK OF JUDICIAL RECORDS  
 LACKAWANNA COUNTY  
 NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2007 TO DECEMBER 31, 2010

4. Disbursements And Credits

Clerk Of Judicial Records – Criminal Division

Total disbursements and credits are comprised as follows:

Clerk of Judicial Records checks issued to:

Department of Revenue	\$ 3,195,140
Office of the Attorney General	4,048
Commonwealth of Pennsylvania	3,464
Department of Transportation	1,535
Department of Public Welfare	584
State Workers Insurance Fund	6,275
Office of Inspector General	10,287
State Police	3,961
Department of Corrections	1,971

Credit taken on the current examination for  
 the prior examination period:

January 1, 2003 to December 31, 2006	<u>102</u>
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Total	<u><u>\$ 3,227,367</u></u>
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CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

4. Disbursements (Continued)

Clerk Of Judicial Records – Civil Division

Total disbursements are comprised as follows:

Clerk of Judicial Records checks issued to:

Department of Revenue	\$	403,123
Adminstrative Office of Pennsylvania Courts		8,030
Total	\$	411,153

5. Balance Due Commonwealth (County) For The Period January 1, 2007 To December 31, 2010

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.

6. Examination Adjustment - Civil Division

Due to a programming error by the County's computer vendor, writ taxes collected on custody cases were remitted to the County instead of the Commonwealth. The total amount due the Commonwealth is \$1,437. (See Finding No. 3.)

7. County Officer Serving During Examination Period

Mary F. Rinaldi served as the Clerk of Judicial Records for the period January 1, 2007 to December 31, 2010.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 1 - Inadequate Internal Controls Over The Bank Account – Criminal Division

Our examination 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. There were 47 outstanding adjustments totaling approximately \$12,690, dated from March 1, 2005 to August 3, 2008, that were still outstanding as of December 31, 2010.
- The accountability over funds held in escrow was inadequate. Recorded obligations exceeded available funds by approximately \$12,388.
- There were 286 long outstanding checks totaling approximately \$17,528, dated from June 4, 2008 to June 29, 2010, that were still outstanding as of December 31, 2010.

These conditions existed because the office failed to establish adequate internal controls over its bank account.

A good system of internal controls ensures that:

- Bank statements are reconciled to the book balance on a monthly basis and any discrepancies are immediately investigated and resolved.
- The ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank account of the office is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.
- Outstanding adjustments should be cleared at the end of each month.
- Adequate procedures are established to follow-up on all outstanding checks. If a check is outstanding for over 90 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.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 1 - Inadequate Internal Controls Over The Bank Account – Criminal Division  
(Continued)

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

The condition relating to long outstanding checks was cited in the prior examination for the period ending December 31, 2006.

Recommendation

We again 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:

A new Chief Clerk has been put in place since January 2011 and this will become part of his duties.

For the outstanding checks from 2008 to 2010,

- A) New addresses were found and new checks were issued.
- B) No new checks were issued with old addresses.
- C) Incorrect addresses were voided.

Auditor's Conclusion

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

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 2 - Inadequate Internal Controls Over Manual Receipts – Criminal Division

Manual receipts are available to be issued in the event of a temporary power loss to the office's computer system. When the computer system is operating again, the manual receipt is replaced by an official computer-generated receipt and included in the daily receipts.

Our examination disclosed the following deficiencies in the internal controls over manual receipts:

- Manual receipts issued could not be located and were not available for examination.
- Manual receipts were not pre-numbered.
- Manual receipt numbers were not always entered into the computer system.
- A manual receipts log was not maintained to record the issuance of manual receipts. Consequently, a population of manual receipts could not be determined.
- Per an interview with the staff, the procedure was to issue a manual receipt and when the computer system was back up, the computer-generated receipt would be recorded and the manual receipt was discarded.
- The County Officer did not utilize official pre-numbered receipts that are provided by the Common Pleas Case Management System (CPCMS).

These conditions existed because the office failed to establish and implement an adequate system of internal controls over manual receipts.

Good internal accounting controls ensure that:

- Manual receipts are accounted for and maintained.
- Manual receipts are pre-numbered and issued in numerical sequence.
- Manual receipt numbers are entered into the computer system.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 2- Inadequate Internal Controls Over Manual Receipts – Criminal Division  
(Continued)

- A manual receipt log is maintained to document information that is recorded on the manual receipt, including date issued, date filed, case number, signature of the person receiving the payment, remitter name, payment source, and payment method. This will provide an audit trail on the issuance of the manual receipt.
- All manual receipts should be kept until audited by the Department of the Auditor General.
- Only official CPCMS manual receipts and log, that are available through the computer system, are used.

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

Adherence to good internal accounting controls would have ensured adequate internal controls over receipts.

Recommendation

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

Management's Response

The Criminal Staff has been advised that AOPC [Administrative Office of Pennsylvania Courts] receipts are the only acceptable Manual receipts to be used in the office.

Auditor's Conclusion

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

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 3 - Incorrect Assessment And Disbursement Of Fees, Taxes, And Costs – Criminal  
And Civil Divisions

Our examination disclosed that the office did not assess and/or disburse certain fees, taxes, and costs as mandated by law. We noted the following discrepancies:

- Additional counts in divorce cases were assessed \$10.00 and \$10.50 Judicial Computer System/Access To Justice Fees per count instead of the required cost per additional count of \$23.50. There were 52 counts assessed and collected at \$10 and 1,038 counts assessed and collected at \$10.50 for total collections of \$11,419 during the examination period. The amount that should have been collected was \$25,615 (1,090 counts @ \$23.50 per count), resulting in a loss of revenue to the Commonwealth of \$14,196. The fee was increased from \$10 to \$23.50 on December 8, 2009. The above assessments occurred after this date.
- The office did not remit writ taxes to the Commonwealth collected on custody cases, vehicle appeals, and tax compromises as mandated by law. There were 2,873 cases in which the writ tax was remitted to the County instead of the Commonwealth for a total loss of revenue to the Commonwealth of \$1,437, which is reflected in an examination adjustment to the statement of account.
- There were five cases in which the Amber Alert System Cost was not assessed.

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

- Title 42 Pa. C.S.A. § 3733 provides for the collection of Judicial Computer System/Access to Justice (JCS/ATJ) Fees. These fees represent a fee imposed for the filing of any legal paper to initiate a civil action or proceeding. These fees were increased to \$23.50 for the period December 8, 2009 to January 7, 2014.
- Section 3172 of the Fiscal Code, 72 P.S. § 3172 provides for the collection of writ taxes. Writ Taxes represent a \$.50 or \$.25 tax imposed on taxable instruments filed with the Prothonotary (Clerk of Judicial Records) and payable to the Commonwealth.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 3 - Incorrect Assessment And Disbursement Of Fees, Taxes, And Costs – Criminal  
And Civil Divisions (Continued)

- 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.

Divorce counts were improperly assessed because the office misunderstood the actual amount of the fee increase. Writ taxes were remitted to the County instead of the Commonwealth because the office's computer system was not properly programmed to remit the tax to the Commonwealth. Amber Alert System Costs were not assessed because the office only assessed the costs if it was noted on the sentencing order.

The improper assessing and/or disbursement of these fees, taxes, and costs 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.

Good internal controls ensure that fees, taxes, and costs are assessed and disbursed as mandated by law.

Recommendations

We recommend that the office review the laws pertaining to costs for divorce counts and amber alert system costs. Additionally, we recommend that when fees, taxes, or costs are changed or updated, these updates should be reviewed and tested to ensure that they are being assessed and disbursed properly.

Management's Response

The County Officer stated:

The issues stated above have been identified and are already fixed.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendations.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

This report was initially distributed to:

The Honorable Daniel P. Meuser  
Secretary  
Pennsylvania Department of Revenue

The Honorable Zygmunt Pines  
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 Mary F. Rinaldi	Clerk of Judicial Records
The Honorable Gary DiBileo	Controller
The Honorable Thomas J. Munley	President Judge
The Honorable Jim Wansacz	Chairman of the Board of Commissioners

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