

# COMPLIANCE AUDIT

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## Clerk of the Court of Common Pleas/Prothonotary/ Clerk of Orphans' Court and Adult Probation

Wyoming County, Pennsylvania

For the Period

January 1, 2018 to December 31, 2022

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November 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 Clerk of the Court of Common Pleas/Prothonotary/Clerk of Orphans' Court and Adult Probation, Wyoming County, Pennsylvania (County Officers), for the period January 1, 2018 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 Officers are 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 Officers are 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.

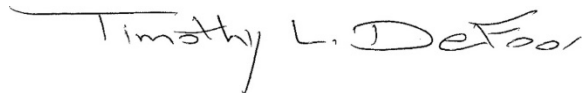
Based on our audit procedures, we conclude that, for the period January 1, 2018 to December 31, 2022, the County Officers, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the findings listed below and discussed later in this report:

- Inadequate Outstanding Check Procedures - Clerk of Courts - Recurring.
- Inadequate Assessment Of Costs, Fees, And Surcharges - Clerk of Courts.

This report includes summaries of the County Officers' receipts and disbursements of funds collected on behalf of the Commonwealth (summaries). We obtained data representing the County Officers' receipts and disbursements from the Pennsylvania Department of Revenue, which obtains data from each of the Commonwealth's clerk of court of common pleas, prothonotary, and clerk of orphans' courts 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 Offices' 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 management of the County Officers and, where appropriate, their response has been included in the report. We appreciate the courtesy extended by the Clerk of the Court of Common Pleas/Prothonotary/Clerk of Orphans' Court and Adult Probation, Wyoming 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 horizontal line above the first name.

Timothy L. DeFoor  
Auditor General  
October 23, 2023

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CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 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 Court of Common Pleas 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 the Court of Common Pleas' Office.

Prothonotary receipts are comprised of taxes, surcharges, and fees 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 THE COURT OF COMMON PLEAS/PROTHONOTARY/  
 CLERK OF ORPHANS' COURT AND ADULT PROBATION  
 WYOMING COUNTY  
 BACKGROUND  
 FOR THE PERIOD  
 JANUARY 1, 2018 TO DECEMBER 31, 2022

Clerk of Orphans' Court receipts consist of monies collected on behalf of the Commonwealth. These include monies collected for the following taxes, surcharges, and fees:

- Marriage License Tax of \$.50 on all marriage licenses filed with the Clerk of Orphans' Court.
- Marriage License Application Surcharge of \$10 imposed on all marriage license applications.
- The Marriage License Declaration Fees of \$13 imposed for the issuance of a marriage license or declaration of which the Commonwealth's portion is \$10.
- 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.

Total disbursements during the audit period are comprised as follows:

Clerk Of The Court Of Common Pleas

Clerk of the Court checks issued to:

Department of Revenue	\$	998,486
State Police		3,770
Department of Human Services		67
 Total	 \$	 <u><u>1,002,323</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 THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

Prothonotary

Prothonotary checks issued to:

Department of Revenue	\$ 117,665
Administrative Office of Pennsylvania Courts	<u>1,882</u>
Total	<u>\$ 119,547</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 disbursed directly to the Administrative Office of Pennsylvania Courts.

Clerk Of Orphans' Court

Clerk of Orphans' Court checks issued to:

Department of Revenue	<u>\$ 23,580</u>
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This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue.

Karen Bishop served as the Clerk of the Court of Common Pleas/Prothonotary/Clerk of Orphans' Court for the period January 1, 2018 to December 31, 2019.

Cindy L. Adams served as the Clerk of the Court of Common Pleas/Prothonotary/Clerk of Orphans' Court for the period January 6, 2020 to December 31, 2022.

Krystal Kowalczyk served as the Director of Adult Probation for the period January 1, 2018 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 THE COURT OF COMMON PLEAS  
WYOMING COUNTY  
SUMMARY OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

Receipts:

Department of Transportation	
Title 75 Fines	\$ 139,783
Department of Revenue Court Costs	36,926
Crime Victims' Compensation Costs	60,098
Crime Commission Costs/Victim Witness Services Costs	41,461
Domestic Violence Costs	7,728
Emergency Medical Services Fines	7,085
DUI - ARD/EMS Fees	6,075
CAT/MCARE Fund Surcharges	12,521
Judicial Computer System/Access to Justice Fees	68,801
Offender Supervision Fees	268,013
Constable Service Surcharges	17
Criminal Laboratory Users' Fees	48,579
Probation and Parole Officers' Firearm Education Costs	7,278
Substance Abuse Education Costs	68,736
Office of Victims' Services Costs	15,381
Miscellaneous State Fines and Costs	<u>213,841</u>
 Total receipts	 1,002,323
 Disbursements to Commonwealth	 <u>(1,002,323)</u>
 Balance due Commonwealth (County) per settled reports	 -
 Audit adjustments	 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2018 to December 31, 2022	 <u><u>\$ -</u></u>



PROTHONOTARY  
WYOMING COUNTY  
SUMMARY OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

Receipts:

Writ Taxes	\$	2,307
Divorce Complaint Surcharges		3,390
Judicial Computer System/Access To Justice Fees		103,030
Protection From Abuse Surcharges and Contempt Fines		9,007
Criminal Charge Information System Fees		<u>1,882</u>
Total Receipts		119,616
Commissions		<u>(69)</u>
Net Receipts		119,547
Disbursements to Commonwealth		<u>(119,547)</u>
Balance due Commonwealth (County) per settled reports		-
Audit adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2018 to December 31, 2022	\$	<u><u>-</u></u>

CLERK OF ORPHANS' COURT  
WYOMING COUNTY  
SUMMARY OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

Receipts:

Marriage License Taxes	\$	394
Marriage License Application Surcharges		7,870
Marriage License Declaration Fees		7,870
Judicial Computer System/Access To Justice Fees		<u>7,446</u>
Total Receipts		23,580
Disbursements to Commonwealth		<u>(23,580)</u>
Balance due Commonwealth (County) per settled reports		-
Audit adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2018 to December 31, 2022	\$	<u><u>-</u></u>

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

**Finding No. 1 - Inadequate Outstanding Check Procedures - Clerk of Courts - Recurring**

We cited the issue of inadequate outstanding check procedures in our prior audit report for the period January 1, 2014 to December 31, 2017. Our current audit found that the office did not correct this issue.

Our audit of the office's checking account disclosed that the office was carrying 105 outstanding checks totaling \$11,753.50, dated from May 9, 2006, to June 3, 2022, that were still outstanding as of December 31, 2022.

This condition existed because the office failed to establish adequate internal controls over its outstanding check procedures as recommended in our prior report.

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 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:

When I came into office, it was noted there were outstanding checks back to 2005 (a finding in the prior audit). I have slowly been working on resolving this issue and have accomplished up to 2008. I will continue to work on resolving the outstanding checks as time permits.

**Auditor's Conclusion**

We appreciate the current officeholder's efforts to correct this issue. This is a recurring finding. During our next audit, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

**Finding No. 2 - Inadequate Assessment Of Costs, Fees, And Surcharges - Clerk of Courts**

Our audit disclosed that the office did not assess certain fines, costs, fees, and surcharges as mandated by law. Of 60 cases tested, we noted the following discrepancies:

- Seven cases in which the Substance Abuse Education Cost was not assessed properly.
- Two cases in which the Criminal Justice Enhancement Account Fee was assessed in error.
- One case in which the DUI-ARD-EMS fee was assessed in error.
- One case in which the Domestic Violence Cost was not properly assessed.
- One case in which the PA transportation Trust Surcharge was not assessed.

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

- Substance Abuse Education Costs amended Title 18 by adding Section 7508. This section imposed a \$100 cost on driving under the influence (DUI) offenses and on all drug related offenses covered in the Controlled Substance, Drug, Device and Cosmetic Act. Also, effective February 1, 2004, DUI offenses in which the offender's blood alcohol level is greater than .16% require an additional \$200 cost. The cost is distributed 50/50 between the County and Commonwealth.
- 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.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

**Finding No. 2 - Inadequate Assessment Of Costs, Fees, And Surcharges - Clerk of Courts  
(Continued)**

- Title 35 P.S. § 6934(b) provides for the collection of a \$25 DUI-ARD EMS Fee on all driving under the influence (DUI) offenses where there is an Accelerated Rehabilitative Disposition (ARD).
- Title 71 P.S. § 611.13(b) authorizes a \$10 Domestic Violence Cost to be assessed against any person who pleads guilty or nolo contendere or who is convicted of a crime as defined in 71 P.S. § 611.13 (e). It should be noted that these fees should not be assessed on Accelerated Rehabilitative Disposition (ARD) cases.
- Title 75 Pa. C.S.A. § 6506(a) provides for the collection of the Catastrophic Fund Surcharge.

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

These incorrect assessments occurred because the office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth costs, fees, and surcharges.

Recommendation

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

Management's Response

The County Officer responded as follows:

I have taken note of the correct assessments, which I was inadvertently trained incorrectly on. This will, and has been, corrected since being advised.

Auditor's Conclusion

We appreciate the current officeholder's efforts to correct these issues. During our next audit, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
SUMMARY OF PRIOR AUDIT RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

Summary Of Prior Audit Recommendation

During our prior audit, we recommended that the Clerk of Courts 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 180 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.

During our current audit, we noted that the office has not complied with our recommendation. Please see the current year Finding No. 1 for additional information.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY/  
CLERK OF ORPHANS' COURT AND ADULT PROBATION  
WYOMING COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2022

This report was initially distributed to:

**The Honorable Pat Browne**  
Secretary  
Pennsylvania Department of Revenue

**The Honorable Stacy Garrity**  
Pennsylvania State Treasurer

**The Honorable H. Geoffrey Moulton, Jr.**  
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 Cindy L. Adams**  
Clerk of the Court of Common Pleas/  
Prothonotary/Clerk of Orphans' Court

**Ms. Krystal Kowalczyk**  
Director of Adult Probation

**The Honorable Russell D. Shurtleff**  
President Judge

**The Honorable Richard Wilbur**  
Chairman of the Board of Commissioners

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).