

ATTESTATION ENGAGEMENT

Clerk of Judicial Records Lackawanna County, Pennsylvania For the Period January 1, 2011 to December 31, 2014

July 2016



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Eileen H. McNulty
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, 2011 to December 31, 2014, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d). The County Office's management is responsible for these Statements. Our responsibility is to express an opinion on these Statements based on our examination.

Except as discussed in the fifth 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 and, accordingly, included 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.

This is a revised report which was previously dated January 14, 2016, and is revised due to an error in classifying one finding as recurring when it was not a recurring finding and not identifying another finding as recurring in the previous report's Independent Auditor's Report.

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 January 1, 2011 to December 31, 2014, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statements; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statements. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. 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 internal control over reporting on the Statements or on compliance and other matters; accordingly, we express no such opinions.

Our consideration of internal control over reporting on the Statements was for the limited purpose of expressing an opinion on whether the Statements are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statements that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

A deficiency in internal control 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 and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies listed below to be material weaknesses.

- Inadequate Internal Controls Over Bank Accounts - Criminal And Civil Divisions - Recurring.
- Inadequate Internal Controls Over Manual Receipts - Criminal Division - Recurring.
- Inadequate Internal Controls Over Bank Deposits - Criminal And Civil Divisions.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Statements are free from material misstatement, we performed tests of the County Office's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

- Incorrect Assessment Of Costs, Fees, And Surcharges - Criminal And Civil Divisions - Recurring.

We are concerned that the County Office failed to correct previously reported findings regarding the inadequate internal controls over the bank accounts, the inadequate internal controls over manual receipts, and the incorrect assessment of costs, fees and surcharges. During our current examination, we noted that there were inadequate internal controls over the bank accounts, inadequate internal controls over manual receipts, inadequate internal controls over bank deposits, and the incorrect assessment of costs, fees and surcharges. These conditions could result in uncollected fines and increase the risk for funds to be lost or misappropriated. The County Office should strive to implement the recommendations and corrective actions noted in this 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.

We appreciate the courtesy extended by the Clerk of Judicial Records, Lackawanna County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale
Auditor General

April 21, 2016

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CLERK OF JUDICIAL RECORDS - CRIMINAL DIVISION
LACKAWANNA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Receipts:

Department of Transportation		
Title 75 Fines	\$	114,565
Overweight Fines		923
Department of Revenue Court Costs		144,305
Crime Victims' Compensation Costs		375,314
Crime Commission Costs/Victim Witness Services Costs		258,134
Domestic Violence Costs		39,928
Emergency Medical Services Fines		14,473
DUI - ARD/EMS Fees		39,681
CAT/MCARE Fund Surcharges		168,964
Judicial Computer System/Access to Justice Fees		261,676
Offender Supervision Fees		2,146,709
Constable Service Surcharges		40
Criminal Laboratory Users' Fees		513
Probation and Parole Officers' Firearm Education Costs		32,419
Substance Abuse Education Costs		198,337
Office of Victims' Services Costs		22,208
Miscellaneous State Fines and Costs		<u>403,170</u>
 Total receipts (Note 2)		 4,221,359
 Disbursements to Commonwealth (Note 4)		 <u>(4,221,359)</u>
 Balance due Commonwealth (County) per settled reports (Note 5)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2011 to December 31, 2014		 <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, 2011 TO DECEMBER 31, 2014

Receipts:

Writ Taxes	\$	11,281
Divorce Complaint Surcharges		21,478
Judicial Computer System/Access To Justice Fees		494,645
Protection From Abuse Surcharges and Contempt Fines		2,026
Criminal Charge Information System Fees		<u>8,482</u>
Total Receipts (Note 2)		537,912
Commissions (Note 3)		<u>(338)</u>
Net Receipts		537,574
Disbursements to Commonwealth (Note 4)		<u>(537,586)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		(12)
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2011 to December 31, 2014	\$	<u><u>(12)</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, 2011 TO DECEMBER 31, 2014

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 Prothonotary.
- 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 increased to \$23.50 for the period December 8, 2009 to July 9, 2014; \$33.50 for the period July 10, 2014 to August 7, 2014; and \$35.50 for the period August 8, 2014 to December 31, 2014.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

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 \$1,000.
- 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 \$7.00 for the period January 1, 2008 to December 31, 2010, and \$7.50 for the period January 1, 2011 to December 31, 2014. 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, 2011 TO DECEMBER 31, 2014

4. Disbursements

Clerk of Judicial Records - Criminal Division

Total disbursements are comprised as follows:

Clerk of Judicial Records checks issued to:

Department of Revenue	\$ 4,195,673
Commonwealth of Pennsylvania	12,428
Department of Revenue	25
Office of Attorney General	13
State Police	200
Department of Transportation	614
Department of Public Welfare	1,771
Department of Labor and Industry	150
Liquor Control Board	2,974
Office of Inspector General	7,511
	7,511

Total	\$ 4,221,359
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Clerk of Judicial Records - Civil Division

Total disbursements are comprised as follows:

Clerk of Judicial Records checks issued to:

Department of Revenue	\$ 529,104
Adminstrative Office of Pennsylvania Courts	8,482
	8,482

Total	\$ 537,586
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CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

5. Balance Due Commonwealth (County) For The Period January 1, 2011 To December 31, 2014

Criminal Division:

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.

Civil Division:

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.

6. Prior Examination Period Balance Due - Civil Division

We noted that there was a prior examination balance due the Commonwealth of \$1,422 which was not paid as of the end of our current examination period.

7. County Officer Serving During Examination Period

Mary F. Rinaldi served as the Clerk of Judicial Records for the period January 1, 2011 to December 31, 2014.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Finding No. 1 - Inadequate Internal Controls Over Bank Accounts - Criminal And Civil Divisions - Recurring

We cited the issue of inadequate internal controls over the bank account for the criminal division in our two prior examination reports, with the most recent for the period January 1, 2007 to December 31, 2010. Our current examination found that the office did not correct this issue. Our examination of the accounting records for the office disclosed the following deficiencies in the internal controls over bank accounts:

Criminal Division:

- Monthly bank reconciliations were not properly prepared.
- There was no accountability over undisbursed funds. The office did not reconcile the check register balance to the undisbursed funds report.
- There were 1,548 long outstanding checks totaling \$65,645.49 dated from March 24, 2005 to June 30, 2014 that were still outstanding as of December 31, 2014.

Civil Division:

- Monthly bank reconciliations were not prepared.
- The office did not maintain a running balance on the check register.
- There was no accountability over undisbursed funds. Because the office didn't maintain a check book balance, the office did not reconcile the check register balance to the undisbursed funds report.
- A list of outstanding checks is not maintained.

These conditions existed because the office failed to establish adequate internal controls over its bank accounts and take action as recommended in our two prior examination reports.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Finding No. 1 - Inadequate Internal Controls Over Bank Accounts - Criminal And Civil Divisions - Recurring (Continued)

A good system of internal controls ensures that:

- Bank statements are properly reconciled to the book balance on a monthly basis.
- A check register is maintained and compared to the reconciled check book balance to ensure adequate accountability over all funds.
- The ending adjusted bank balances are reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank accounts are essentially escrow accounts on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.
- The office follow-up on all outstanding checks. If a check is outstanding for a period 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.

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

Recommendation

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

Management's Response

The former Clerk of Judicial Records responded as follows:

It has been stated in my responses to the recommendations of prior audits by the PA Department of the Auditor General, that given the staff reductions that were imposed on the Clerk of Judicial Records office, my office has utilized all available resources in an effort to comply with the recommendations.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

**Finding No. 1 - Inadequate Internal Controls Over Bank Accounts - Criminal And
Civil Divisions - Recurring (Continued)**

Auditor's Conclusion

We appreciate the former Clerk of Judicial Records concerns regarding staffing reductions. However, it is imperative that the office take the necessary steps to ensure that funds are protected from theft or misappropriation. This is a recurring finding. 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, 2011 TO DECEMBER 31, 2014

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

We cited the issue of inadequate internal controls over manual receipts in our prior examination report for the period January 1, 2007 to December 31, 2010. Our current examination found that the office did not correct this issue. 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. Office staff stated that it is the office's procedure to issue a manual receipt to a customer and the office keeps a copy of the receipt. Once the computer system is running again, the office staff enter the receipt information into the computer and then they discard the copy of the manual receipt.

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.
- A manual receipts log was not maintained to record the issuance of manual receipts. Consequently, a population of manual receipts could not be determined.
- Our testing found that copies of the same manual receipt were used for numerous payments. Because a manual receipt log was not maintained, auditors were unable to determine the number of times the same receipt was used.

These conditions existed because the office failed to establish and implement an adequate system of internal controls over manual receipts and take appropriate action as recommended in our prior examination report.

Good internal accounting controls ensure that:

- Manual receipts are accounted for and maintained.
- A manual receipts 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.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

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

- Each transaction should have a separate, pre-numbered, manual receipt issued and the manual receipt should be retained to ensure the office maintains an adequate examination trail.

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

Management's Response

The former Clerk of Judicial Records responded as follows:

It has been stated in my responses to the recommendations of prior audits by the PA Department of the Auditor General, that given the staff reductions that were imposed on the Clerk of Judicial Records office, my office has utilized all available resources in an effort to comply with the recommendations.

Auditor's Conclusion

We appreciate the former Clerk of Judicial Records concerns regarding staffing reductions. However, it is imperative that the office take the necessary steps to ensure that funds are protected from theft or misappropriation. This is a recurring finding. 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, 2011 TO DECEMBER 31, 2014

Finding No. 3 - Inadequate Internal Controls Over Bank Deposits – Criminal And Civil Divisions

Our examination of the office's accounting records disclosed that the office copy of the bank deposit slip was not validated by the bank in 38 of the 45 criminal division deposits and 39 of 50 civil division deposits tested. The office received a validated receipt from the bank, but this only confirmed the total amount deposited and not the actual make up of the deposit (i.e. cash and check mix).

Good internal accounting controls require that the amount of each check and the total amount of cash deposited are identified on the deposit slip. The office copy of each deposit should be brought to the bank to be validated. If the bank cannot validate the deposit slip, the office should obtain a deposit ticket from the bank that validates total cash and the total deposit. After the office receives the validation from the bank, it should be reconciled to the receipts by someone other than the person preparing or making the deposit.

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

The office was not aware of the internal control weaknesses caused by not obtaining a validated deposit slip or deposit ticket from the bank.

Recommendations

We recommend that the office obtain a validation from the bank as to the mix of cash and checks deposited. We further recommend that the validation is reconciled to receipts by someone other than the person preparing or making the deposit.

Management's Response

The former Clerk of Judicial Records responded as follows:

It has been stated in my responses to the recommendations of prior audits by the PA Department of the Auditor General, that given the staff reductions that were imposed on the Clerk of Judicial Records office, my office has utilized all available resources in an effort to comply with the recommendations.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Finding No. 3 - Inadequate Internal Controls Over Bank Deposits – Criminal And Civil Divisions (Continued)

Auditor's Conclusion

We appreciate the former Clerk of Judicial Records concerns regarding staffing reductions. However, it is imperative that the office take the necessary steps to ensure that funds are protected from theft or misappropriation. During our next examination, we will determine if the office complied with our recommendations.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Finding No. 4 - Incorrect Assessment Of Costs, Fees, And Surcharges - Criminal And Civil Divisions - Recurring

We cited the issue of incorrect assessment of costs, fees and surcharges in our examination report for the period January 1, 2007 to December 31, 2010. Our current examination found that the office did not correct this issue. Our examination disclosed that the office did not assess certain costs, fees, and surcharges as mandated by law. Of 55 criminal cases and 50 civil cases tested, we noted the following discrepancies:

Criminal Division:

- There were two cases in which Department of Revenue Court Costs were not assessed properly.
- There were four cases in which the Substance Abuse Education Cost was not assessed.
- There were two cases in which the Domestic Violence Cost was not assessed.
- There were two cases in which the Catastrophic Fund Surcharge was not assessed.
- There were 15 cases in which the DNA Cost was not assessed.
- There were 11 cases in which the Amber Alert System Cost was not assessed.
- There was one case in which the Criminal Justice Enhancement Account Fee was not assessed and three cases in which the fee was assessed incorrectly.

Civil Division:

- There were three cases in which the Judicial Computer System/Access To Justice (JCS/ATJ) fee was not assessed properly.

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 and failed to take appropriate action as recommended in our prior examination report.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Finding No. 4 - Incorrect Assessment Of Costs, Fees, And Surcharges - Criminal And Civil Divisions - Recurring (Continued)

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

Criminal Division:

- Title 42 Pa. C.S. § 1725.1 provides for the collection of Department of Revenue Court Costs in varying amounts depending on whether the violation is a summary, misdemeanor, or felony.
- 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.
- 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. § 6506(a) provides for the collection of the Catastrophic Fund Surcharge.
- 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.
- 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, 2011 TO DECEMBER 31, 2014

Finding No. 4 - Incorrect Assessment Of Costs, Fees, And Surcharges - Criminal And Civil Divisions - Recurring (Continued)

Criminal Division (Continued):

- 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.

Civil Division:

- Title 42 Pa. C.S. § 3733 provides for the collection of Judicial Computer System/Access to Justice (JCS/ATJ) Fees. It should be noted that these fees should be assessed on each count in a divorce complaint.

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 strongly 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 former Clerk of Judicial Records responded as follows:

It has been stated in my responses to the recommendations of prior audits by the PA Department of the Auditor General, that given the staff reductions that were imposed on the Clerk of Judicial Records office, my office has utilized all available resources in an effort to comply with the recommendations.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Finding No. 4 - Incorrect Assessment Of Costs, Fees, And Surcharges - Criminal And Civil Divisions - Recurring (Continued)

Auditor's Conclusion

We appreciate the former Clerk of Judicial Records concerns regarding staffing reductions. However, it is imperative that the office take the necessary steps to ensure that fees are properly assessed so that the all fees are collected as required by law. This is a recurring finding. During our next examination, we will determine if the office complied with our recommendation.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

Summary of Prior Examination Recommendations:

During our prior examination, we recommended that the office:

- Establish and implement an adequate system of internal controls over the bank account.
- Establish and implement an adequate system of internal controls over manual receipts.
- Review the laws pertaining to costs for divorce counts and amber alert system costs. Additionally we recommended that, fees, taxes, and costs be updated and reviewed to ensure that they are being assessed and disbursed properly.

During our current examination, we noted that the office did not comply with the three bulleted recommendations. Please see the current year findings for additional information.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2011 TO DECEMBER 31, 2014

This report was initially distributed to:

The Honorable Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue

The Honorable Thomas B. Darr
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 Timothy A. Reese
Pennsylvania State Treasurer
Department of Treasury

The Honorable Mauri Kelly
Clerk of Judicial Records

The Honorable Michael J. Barrasse
President Judge

The Honorable Gary Dibileo
Controller

The Honorable Patrick O'Malley
Chairman of the Board of Commissioners

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