

# ATTESTATION ENGAGEMENT

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## Clerk of Judicial Records Lackawanna County, Pennsylvania For the Period January 1, 2015 to December 31, 2015

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July 2020



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 C. Daniel Hassell  
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, 2015 to December 31, 2015, 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 presenting these statements in accordance with the criteria set forth in Note 1. Our responsibility is to express an opinion on these Statements based on our examination.

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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statements are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statements of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statements, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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)

In our opinion, the Statements referred to above, for the period January 1, 2015 to December 31, 2015 is presented in accordance with the criteria set forth in Note 1, in all material respects.

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

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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Independent Auditor's Report (Continued)

The two examination findings contained in this report cite conditions that existed in the operation of the County Offices during the previous engagement period and were not corrected during the current examination period. The County Offices should strive to implement the recommendations and corrective actions noted in this report.

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.

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



Eugene A. DePasquale  
Auditor General

January 30, 2020

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CLERK OF JUDICIAL RECORDS - CRIMINAL DIVISION  
LACKAWANNA COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

Receipts:

Department of Transportation		
Title 75 Fines	\$	31,732
Overweight Fines		7
Department of Revenue Court Costs		38,616
Crime Victims' Compensation Costs		90,701
Crime Commission Costs/Victim Witness Services Costs		64,639
Domestic Violence Costs		10,785
Emergency Medical Services Fines		3,852
DUI - ARD/EMS Fees		8,103
CAT/MCARE Fund Surcharges		24,679
Judicial Computer System/Access to Justice Fees		90,277
Offender Supervision Fees		542,734
Constable Service Surcharges		3
Criminal Laboratory Users' Fees		3,479
Probation and Parole Officers' Firearm Education Costs		8,114
Substance Abuse Education Costs		51,391
Office of Victims' Services Costs		7,077
Miscellaneous State Fines and Costs		<u>160,058</u>
 Total receipts (Note 2)		 1,136,247
 Disbursements to Commonwealth (Note 3)		 <u>(1,136,247)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2015 to December 31, 2015		 <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, 2015 TO DECEMBER 31, 2015

Receipts:

Writ Taxes	\$	2,560
Divorce Complaint Surcharges		5,020
Judicial Computer System/Access To Justice Fees		171,187
Protection From Abuse Surcharges and Contempt Fines		560
Criminal Charge Information System Fees		<u>2,022</u>
Total Receipts (Note 2)		181,349
Commissions (Note 3)		<u>(77)</u>
Net Receipts		181,272
Disbursements to Commonwealth (Note 4)		<u>(181,272)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		-
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2015 to December 31, 2015	\$	<u><u>-</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, 2015 TO DECEMBER 31, 2015

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.

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 - Civil Division.
- Divorce Complaint Surcharges represent a \$10 surcharge imposed on all divorce decrees.
- Judicial Computer System/Access To Justice Fees represent a \$33.50 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. Effective October 30, 2017, Acts 40 and 44 increased the fee to \$40.25.
- Protection From Abuse Surcharges represent a \$100 surcharge imposed against defendants when a protection order is granted as a result of a hearing. Protection From Abuse Contempt Fines represent 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.



CLERK OF JUDICIAL RECORDS  
 LACKAWANNA COUNTY  
 NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2015 TO DECEMBER 31, 2015

2. Receipts (Continued)

Clerk of Judicial Records - Civil Division (Continued)

- 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 \$8.00 for the period January 1, 2015 to December 31, 2015. 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.

4. Disbursements

Clerk of Judicial Records - Criminal Division

Total disbursements are comprised as follows:

Clerk of Judicial Records checks issued to:

Department of Revenue	\$ 1,133,838
State Police	105
Department of Environmental Protection	33
Department of Transportation	213
Department of Public Welfare	330
Department of Labor and Industry	78
Liquior Control Board	7
Office of Inspector General	1,643
 Total	 \$ 1,136,247

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

4. Disbursements (Continued)

Clerk of Judicial Records - Civil Division

Total disbursements are comprised as follows:

Department of Revenue	\$	179,250
Adminstrative Office of Pennsylvania Courts		2,022
 Total	 \$	 181,272

5. Balance Due Commonwealth (County) For The Period January 1, 2015 To December 31, 2015

Clerk of Judicial Records - 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.

Clerk of Judicial Records - 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 County of \$12 which was not taken 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, 2015 to December 31, 2015.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

**Finding No. 1 - Inadequate Internal Controls Over Bank Accounts - Criminal Division -  
Recurring**

We cited the issue of inadequate internal controls over the bank account for the criminal division in our three prior examination reports, with the most recent being for the period January 1, 2011 to December 31, 2014. 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:**

- There were 1,823 long outstanding checks totaling \$81,577.76 dated from September 9, 2008 to June 22, 2015 that were still outstanding as of December 31, 2015.

**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 did not maintain a checkbook balance, the office did not reconcile the check register balance to the undisbursed funds report.
- A list of outstanding checks was 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, 2015 TO DECEMBER 31, 2015

**Finding No. 1 - Inadequate Internal Controls Over Bank Accounts - Criminal Division -  
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 account is essentially escrow an account on behalf of the Commonwealth, County and other participating entities, all available funds on hand should equal unpaid obligations.
- The office follows-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 check list, 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

No formal response was offered at this time.

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, 2015 TO DECEMBER 31, 2015

**Finding No. 2 - Inadequate Internal Controls Over Bank Deposits - Criminal And Civil Divisions - Recurring**

We cited the issue of inadequate internal controls over the bank deposits for the criminal and civil divisions in our prior examination report. Our current examination found that the offices did not correct this issue. Our examination of the offices' accounting records disclosed that the office copy of the bank deposit slip was not validated by the bank in four of the 11 criminal division deposits and in all 14 civil division deposits tested. The offices received a validated receipt from the bank, but this only confirmed the total amount deposited and not the actual makeup of the deposit (i.e. cash and check mix).

This condition existed because the offices did not obtain a validation from the bank as to the mix of cash and checks deposited as recommended in the prior examination report. In addition, the offices were not aware of the internal control weaknesses caused by not obtaining a validated deposit slip or deposit ticket from the bank.

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 offices should obtain a deposit ticket from the bank that validates total cash and the total deposit. After the offices receive 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 offices, the possibility of funds being lost or misappropriated increases significantly.

**Recommendations**

We recommend that the offices 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**

No formal response was offered at this time.

**Auditor's Conclusion**

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

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
OBSERVATION  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

**Observation - Inadequate Community Service Credit Adjustments - Criminal Division**

Our examination of the Lackawanna County Clerk of Judicial Records office found that the County Judges permitted any individual with a case recorded in the Clerk of Judicial Records office who defaulted on payment of fines, costs, or fees to perform community service in lieu of paying those fines, costs, fees and surcharges, including charges that were to be remitted to the Commonwealth. After a contempt hearing before a County Judge for non-payment, each individual was given the choice of either paying the fines, costs, fees and surcharges or performing community service.

We reviewed 18 cases in which there was a community service adjustment during the examination period and found the following:

- The case files did not contain documentation that the judge determined that the defendant was indigent and thus unable to pay fines, costs, fees and surcharges at a hearing or proceeding before the court prior to completing community service, as required by statute. Additionally, these orders suggest that the defendant could resolve the contempt by making a payment, which would contradict any finding of indigency.
- In all 18 cases, the defendants were assigned to work at the local recycling center which is operated by a private entity.

A review of the office's records found that there were 160 cases that had community service adjustments to compensate for payment of fines, costs, fees and surcharges. These adjustments represent a total of \$71,482.10 in fines, costs, fees and surcharges that were not collected over a year period. The Commonwealth's portion of the uncollected funds/lost revenue totaled \$35,377.32 for the same period.<sup>1</sup>

This condition existed because the Clerk of Judicial Records was required to comply with the judges' orders/directives in crediting the defendant's account for community service in lieu of paying fines, costs, fees and surcharges.

**Recommendation**

We recommend that Lackawanna County revise their community service credit adjustment program to ensure that it does not contradict the requirements of applicable state statutes.

**Management's Response**

No formal response was offered at this time.

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<sup>1</sup> 42 Pa.C.S. § 3571 (indicating that "the Commonwealth shall be entitled to receive all fines . . . and costs which by law have heretofore been paid or credited to, or which by statute are payable or creditable to, the Commonwealth.")

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that:

- The Criminal and Civil Divisions establish and implement an adequate system of internal controls over the bank accounts.
- The Criminal Division establish and implement an adequate system of internal controls over manual receipts.
- The Criminal and Civil Divisions obtain a validation from the bank as to the mix of cash and checks deposited. We further recommended that the validation is reconciled to receipts by someone other than the person preparing or making the deposit.
- The Criminal and Civil Divisions review the laws to ensure that costs, fees and surcharges are assessed as mandated by law.

During our current examination, we noted that the offices complied with our second and fourth bulleted recommendations. However, the offices did not comply with our first and third bulleted recommendations. Please see the current year findings for additional information.

CLERK OF JUDICIAL RECORDS  
LACKAWANNA COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

This report was initially distributed to:

**The Honorable C. Daniel Hassell**  
Secretary  
Pennsylvania Department of Revenue

**The Honorable H. Geoffrey Moulton, Jr.**  
Court Administrator of Pennsylvania  
Supreme Court of Pennsylvania  
Administrative Office of Pennsylvania Courts

**The Honorable Michael J. Barrasse**  
President Judge

**The Honorable Gary A. DiBileo**  
Controller

**The Honorable Jerry Notarianni**  
Chairperson of the Board of Commissioners

**The Honorable Mauri B. Kelly**  
Clerk of Judicial Records

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)