

COMPLIANCE AUDIT

Clerk of the Court of Common Pleas Carbon County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

June 2022



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have conducted a compliance audit of the Clerk of the Court of Common Pleas, Carbon County, Pennsylvania (County Officer), for the period January 1, 2017 to December 31, 2020, pursuant to the requirements of Section 401(b) of *The Fiscal Code*, 72 P.S. § 401(b).

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 Officers' account. Our audit was limited to areas related to the objective identified above and was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

The County Officer is responsible for establishing and maintaining effective internal controls to provide reasonable assurance of compliance with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted. The County Officer is also responsible for complying with those laws and regulations. It is our responsibility to perform procedures to obtain sufficient, appropriate evidence to the extent necessary to satisfy the audit objective. We believe that our audit provides a reasonable basis for our conclusions.

Based on our audit procedures, we conclude that, for the period January 1, 2017 to December 31, 2020, the County Officer, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the findings listed below and discussed later in this report:

- Inadequate Assessment of Fines, Costs, Fees, And Surcharges - Recurring.
- Inadequate Internal Controls Over Receipts-Bail Account - Recurring.

This report includes a summary of the County Officers' receipts and disbursements of funds collected on behalf of the Commonwealth (summary). 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 offices and used the data to create the summary in the format required by the Department of Revenue. We also evaluated the accuracy of the data as part of our audit to conclude on the County Officers' 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 summary; however, the scope of our audit does not include the issuance of an opinion on the accuracy of the amounts reported in the summary.

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 Officer and, where appropriate, their response has been included in the report. We appreciate the courtesy extended to us by the Clerk of the Court of Common Pleas, Carbon County, during the course of our audit. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
May 25, 2022

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CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

The Department of Auditor General is mandated by Article IV, Section 401(b) 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.

Total disbursements during the audit period are comprised as follows:

Clerk of the Court Office checks issued to:

Department of Revenue	\$ 1,933,908
Department of Environmental Protection	2,171
Department of Human Services	223
Department of Labor and Industry	1,125
Fish and Boat Commission	275
Department of General Services	1,540
State Police	995
Office of Inspector General	532
Bureau of Victims' Services	5
Department of Veteran's Affairs	1,648
Department of Transportation	<u>1,421</u>
Total	<u><u>\$ 1,943,843</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. It does not reflect adjustments disclosed by our audit.

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
BACKGROUND
FOR THE PERIOD
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William McGinley served as the Clerk of the Court of Common Pleas for the period January 1, 2017 to March 1, 2018.

Julie Harris served as acting Clerk of the Court of Common Pleas for the period March 2, 2018 to October 21, 2018.

Francine Heaney served as acting Clerk of the Court of Common Pleas for the period October 22, 2018 to December 31, 2019.

Tyra L. Boni served as the Clerk of the Court of Common Pleas for the period January 1, 2020 to December 31, 2020.

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

The summary was 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.

Audit Adjustments

The \$3,915 audit adjustment represents bail account funds that were remitted to the Department of Revenue in error. This error was corrected during our audit period.

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Receipts:

Department of Transportation	
Title 75 Fines	\$ 173,088
Overweight Fines	29,062
Department of Revenue Court Costs	55,852
Crime Victims' Compensation Costs	149,229
Crime Commission Costs/Victim Witness Services Costs	103,156
Domestic Violence Costs	11,240
Emergency Medical Services Fines	16,566
DUI - ARD/EMS Fees	13,975
CAT/MCARE Fund Surcharges	51,417
Judicial Computer System/Access to Justice Fees	153,498
Offender Supervision Fees	654,602
Constable Service Surcharges	36
Criminal Laboratory Users' Fees	41,033
Probation and Parole Officers' Firearm Education Costs	10,987
Substance Abuse Education Costs	140,937
Office of Victims' Services Costs	27,214
Miscellaneous State Fines and Costs	<u>315,866</u>
 Total receipts	 1,947,758
 Disbursements to Commonwealth	 <u>(1,943,843)</u>
 Balance due Commonwealth (County) per settled reports	 3,915
 Audit adjustments	 <u>(3,915)</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2017 to December 31, 2020	 \$ <u><u>-</u></u>

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Finding No. 1 - Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - Recurring

We cited the office for inadequate assessments of fines, costs, fees, and surcharges in the prior audit report for the period January 1, 2013 to December 31, 2016. Our current audit found that the office did not correct this issue.

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:

- There were 12 cases in which the Criminal Justice Enhancement Account Fee was assessed in error.
- There were four cases in which the DNA Cost was not assessed properly.
- There were two cases in which the Judicial Computer System/Access To Justice (JCS/ATJ) Fees were not assessed properly.
- There was one case in which the Offender Supervision Fee was not assessed.
- There was one case in which the DUI-ARD-EMS fee was assessed in error.
- There was one case in which the EMS Fine and the Catastrophic Fund Surcharge were not assessed.
- There was one case in which Department of Revenue Court Costs were not assessed.
- There was one case in which the Amber Alert System Cost was not assessed.

This condition existed because the office failed to review the laws pertaining to the proper assessment of fines, costs, fees, and surcharges as recommended in our prior audit report.

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Finding No. 1 - Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - Recurring
(Continued)

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

- Effective November 10, 2007, Title 42 Pa.C.S. § 3575 (b) provides for the collection of a \$50 Criminal Justice Enhancement Account (CJEA) Fee if a defendant accepts Accelerated Rehabilitative Disposition, is convicted of or enters a plea of guilt or nolo contendere for a felony, misdemeanor of the first degree or misdemeanor of the second degree as set forth in Title 18 PA.C.S. (relating to crimes and offenses), or is convicted of or enters a plea of guilt or nolo contendere for a violation of Title 35, Section 780-113(a)(16), known as The Controlled Substance, Drug, Device and Cosmetic Act.
- Effective January 31, 2005, Title 44 P.S. § 2322, specifies that all felonies, regardless of offense, and misdemeanors for § 2910 (relating to luring a child into a motor vehicle) and § 3126 (relating to indecent assault), authorizes the automatic assessment of a \$250 DNA cost when a DNA sample is taken.
- Title 42 Pa. C.S.A. § 3733 provides for the collection of Judicial Computer System/Access to Justice (JCS/ATJ) Fees. It should be noted that these fees should not be assessed on Accelerated Rehabilitative Disposition (ARD) cases prior to December 8, 2009.
- Title 18 P.S. § 11.1102 provides for the collection of the Offender Supervision Fee.
- 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 35 P.S. § 6934 authorizes the collection for the Emergency Medical Services Fine. Title 75 Pa. C.S.A. § 6506(a) provides for the collection of the Catastrophic Fund Surcharge.
- Title 42 Pa. C.S.A. § 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.

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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**Finding No. 1 - Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - Recurring
(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.

The improper assessing of these costs and fees resulted in the defendant not being assessed the proper amount of fines, costs, fees, and surcharges 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 fines, costs, fees, and surcharges are assessed as mandated by law.

Management's Response

The County Officer responded as follows:

I was elected into office on January 6, 2020. Upon taking office, the inadequate assessments of fines, costs, fees, and surcharges was rectified by providing additional training to the staff, as well as changes in procedures to ensure proper assessments.

Auditor's Conclusion

We appreciate the current officeholder's efforts to correct these issues. 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
CARBON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Finding No. 2 - Inadequate Internal Controls Over Receipts-Bail Account - Recurring

We cited the office for inadequate internal controls over bail account receipts in the prior audit report for the period January 1, 2013 to December 31, 2016. Our current audit found that the office did not correct this issue.

Our audit disclosed that the receipt documents for bail money collected at the county jail were not available for testing. The county jail is not entering cash received for bail into the CPCMS system. Office staff stated that cash received at the jail is dropped off at the Clerk of the Courts office on the next business day and office staff record the funds received into CPCMS. Therefore, the auditors were unable to determine if receipts were issued and monies were deposited on a timely basis.

This condition existed because the office failed to establish and implement an adequate system of internal controls over bail receipts as recommended in the prior audit report.

A good system of internal accounting controls ensures that all monies collected are recorded when received and deposited intact at the bank on the same day as collected.

Without a good system of internal controls over funds received by the office, 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 bail receipts.

Management's Response

The County Officer responded as follows:

I was elected into office on January 6, 2020. The inadequate internal controls over receipts - Bail has been an area that is being addressed since I came into office and new policies are being created and procedures are being put into place to ensure that proper controls for bail are in place at the Carbon County Correctional Facility to match those that have been in place in the Clerk of Courts office.

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

**Finding No. 2 - Inadequate Internal Controls Over Receipts-Bail Account - Recurring
(Continued)**

Auditor's Conclusion

We appreciate the current officeholder's efforts to correct these issues. This is a recurring finding. It is imperative that the office comply with our recommendations. During our next audit, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Summary Of Prior Audit Recommendations

During our prior audit, we recommended that the office:

- Assess fines, costs, fees, and surcharges on all cases accurately and timely. We further recommended that after the office assesses the funds to be collected, the office should immediately remit any funds collected to the appropriate parties.
- Establish and implement an adequate system of internal controls over receipts.
- Establish and implement an adequate system of internal controls over the bank account.
- Review the laws to ensure that fines, costs, fees, and surcharges are assessed as mandated by law.

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

CLERK OF THE COURT OF COMMON PLEAS
CARBON COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

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

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

The Honorable Tyra L. Boni
Clerk of the Court of Common Pleas

The Honorable Mark A. Svercek
Controller

The Honorable Wayne E. Nothstein
Chairperson of the Board of Commissioners

The Honorable Roger N. Nanovic, P.J.
President Judge

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.