

COMPLIANCE AUDIT

Clerk of the Court of Common
Pleas and Collections
Office/Prothonotary
Lycoming County, Pennsylvania
For the Period
January 1, 2018 to December 31, 2021

December 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 and Collections Office/Prothonotary, Lycoming County, Pennsylvania (County Officer), for the period January 1, 2018 to December 31, 2021, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72P.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 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.

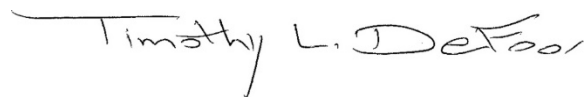
Based on our audit procedures, we conclude that, for the period. January 1, 2018 to December 31, 2021, the County Officer, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the findings listed below and discussed later in this report:

- Incorrect Disbursement Of Municipal Corporation Reimbursement Fees - Clerk of Court - Recurring.
- Inadequate Accountability Over Funds Held In Escrow - Clerk of Court.
- Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - Clerk of Court.

This report includes summaries of the County Officer's receipts and disbursements of funds collected on behalf of the Commonwealth (summaries). We obtained data representing the County Officer's receipts and disbursements from the Pennsylvania Department of Revenue, which obtains data from each of the Commonwealth's clerk of court of common pleas and prothonotary 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 Officer's 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 Officer 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 and Collection Office/Prothonotary, Lycoming 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.



Timothy L. DeFoor
Auditor General
October 13, 2022

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CLERK OF THE COURT OF COMMON PLEAS
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

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 and Collections 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, 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, 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
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
BACKGROUND
FOR THE PERIOD
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Total disbursements during the audit period are comprised as follows:

Clerk Of The Court Of Common Pleas and Collections Office

Clerk of the Court checks issued to:

Department of Revenue	\$ 3,255,669
Attorney General	1,631
State Police	2,446
Department of Transportation	945
Department of Labor & Industry	3,350
Liquor Control Board	231
Total	\$ 3,264,272

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.

Prothonotary

Prothonotary checks issued to:

Department of Revenue	\$ 276,973
Administrative Office of Pennsylvania Courts	4,846
Total	\$ 281,819

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. It does not reflect adjustments disclosed by our audit.

CLERK OF THE COURT OF COMMON PLEAS
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Suzanne Revak-Fedele served as the Clerk of the Court of Common Pleas and Collections Office/Prothonotary for the period January 1, 2018 to December 31, 2019.

Thomas D. Heap served as Clerk of the Court of Common Pleas and Collections Office/Prothonotary for the period January 1, 2020 to December 31, 2021.

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.

Audit Adjustment - Clerk of Court

The \$24,554 audit adjustment represents a prior period amount due to the Clerk of Court. The credit was taken in May 2019.

Audit Adjustment - Prothonotary

The \$418 audit adjustment represents a miscalculation of the Judicial Computer System/Access To Justice Fees in the prior audit period. The office recognized the error and remitted the difference to the Department of Revenue in January 2018.

CLERK OF THE COURT OF COMMON PLEAS AND COLLECTIONS OFFICE
 LYCOMING COUNTY
 SUMMARY OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2018 TO DECEMBER 31, 2021

Receipts:

Department of Transportation	
Title 75 Fines	\$ 326,281
Department of Revenue Court Costs	100,704
Crime Victims' Compensation Costs	245,230
Crime Commission Costs/Victim Witness Services Costs	171,891
Domestic Violence Costs	25,766
Emergency Medical Services Fines	20,557
DUI - ARD/EMS Fees	17,176
CAT/MCARE Fund Surcharges	60,944
Judicial Computer System/Access to Justice Fees	239,831
Offender Supervision Fees	1,099,496
Constable Service Surcharges	571
Criminal Laboratory Users' Fees	83,398
Probation and Parole Officers' Firearm Education Costs	20,548
Substance Abuse Education Costs	163,135
Office of Victims' Services Costs	27,476
Miscellaneous State Fines and Costs	<u>650,748</u>
Total receipts	3,253,752
Disbursements to Commonwealth	<u>(3,264,272)</u>
Balance due Commonwealth (County) per settled reports	(10,520)
Audit adjustments	<u>(24,554)</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2018 to December 31, 2021	<u><u>\$ (35,074)</u></u>

PROTHONOTARY
 LYCOMING COUNTY
 SUMMARY OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2018 TO DECEMBER 31, 2021

Receipts:

Writ Taxes	\$	3,435
Divorce Complaint Surcharges		12,110
Judicial Computer System/Access To Justice Fees		258,711
Protection From Abuse Surcharges and Contempt Fines		3,083
Criminal Charge Information System Fees		<u>4,846</u>
Total Receipts		282,185
Commissions		<u>(101)</u>
Net Receipts		282,084
Disbursements to Commonwealth		<u>(281,819)</u>
Balance due Commonwealth (County) per settled reports		265
Audit adjustments		<u>418</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2018 to December 31, 2021	\$	<u><u>683</u></u>

CLERK OF THE COURT OF COMMON PLEAS
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

**Finding No. 1 - Incorrect Disbursement Of Municipal Corporation Reimbursement Fees -
Clerk of Court - Recurring**

We cited the office for incorrect disbursement of the municipal corporation reimbursement fee in the 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 found that the Clerk of Court incorrectly collected and remitted the Municipal Corporation Reimbursement Fee to the Department of Revenue for cases in which the Pennsylvania State Police (PSP) was the arresting party. During the current audit, the Court remitted fees totaling \$35,074 to the Department of Revenue for the period January 1, 2018 to December 31, 2021.

Pursuant to 75 Pa.C.S. 3807 (b)(vi), the county is legally authorized, as well as through any valid judicial order consistent with the statute, to collect fees in accordance with municipal corporation reimbursements. Such fees require that, “[t]he defendant must pay the reasonable costs of a municipal corporation in connection with the offense. Fees imposed . . . shall be distributed to the affected municipal corporation.” Municipal corporation is further defined in 1 P.a.C.S. § 1991 as:

- (1) When used in any statute finally enacted on or before December 31, 1974, a city, borough or incorporated town.
- (2) When used in any statute finally enacted on or after January 1, 1975, a city, borough, incorporated town or township.

Accordingly, PSP does not constitute a municipal corporation because it is not part of a city, borough, incorporated town, or township. Therefore, the Clerk of Court is not so authorized to collect municipal corporation fees, by both the order of the president judge and 75 Pa.C.S. 3807 (b)(vi), arising out of any arrest made by PSP.

This condition existed because the office failed to discontinue assessing the municipal corporation fee on cases in which the PSP is the arresting party as recommended in our prior audit report.

Recommendations

We strongly recommend that the Clerk of Court discontinue assessing the municipal corporation fee on cases in which the PSP is the arresting party. We further recommend that the Clerk of Court refund those fees to defendants that have paid the fee.

CLERK OF THE COURT OF COMMON PLEAS
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

**Finding No. 1 - Incorrect Disbursement Of Municipal Corporation Reimbursement Fees -
Clerk of Court - Recurring (Continued)**

Management's Response

The County Officer responded as follows:

MC reimbursement fees have been identified and correctly assessed resulting in no further funds distributed to Pennsylvania State Police through Master Account.

Auditor's Conclusion

This is a recurring finding. It is imperative that the office take all steps necessary to comply with our recommendations. During our next audit, we will determine if the office complied with our recommendations.

CLERK OF THE COURT OF COMMON PLEAS
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

Finding No. 2 - Inadequate Accountability Over Funds Held In Escrow - Clerk of Court

Our audit of the accounting records for the office disclosed the following deficiencies in the internal controls over funds held in escrow:

- Bank account adjustments totaling \$6,187 entitled “unknown recipient” existed at December 31, 2020.
- Recorded obligations exceeded funds on hand by \$29,168 as of December 31, 2021.

A good system of internal controls ensures that:

- All liabilities are identified and disbursed timely.
- The ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank account of the office is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.

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

This condition existed because the office failed to establish and implement an adequate system of internal controls over funds held in escrow. The officeholder mentioned that the prior office holder was holding bail money in the Prothonotary account which may account for the shortage.

Recommendations

We recommend that the office attempt to identify all existing liabilities associated with the office bank account and take appropriate action. Any unidentified funds should be accounted for under normal escheat procedures. Furthermore, we recommend that the office should ensure that reconciled cash equals unpaid obligations monthly.

CLERK OF THE COURT OF COMMON PLEAS
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LYCOMING COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

Finding No. 2 - Inadequate Accountability Over Funds Held In Escrow - Clerk of Court
(Continued)

Management's Response

The County Officer responded as follows:

Escrow Fund issue appears to be Bail Fund accountability. Clerk of Courts is attempting to reconcile all escrow funds previously held in prior years.

Auditor's Conclusion

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

CLERK OF THE COURT OF COMMON PLEAS
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

Finding No. 3 - Inadequate Assessment Of Costs, Fees, And Surcharges - Clerk of Court

Our audit disclosed that the office did not assess certain costs, fees, and surcharges as mandated by law. Of the 55 cases tested, we noted the following discrepancies:

- 10 cases in which the Criminal Justice Enhancement Account Fee was assessed incorrectly.
- Two cases in which the Domestic Violence Cost was not assessed.
- One case in which the DUI-ARD-EMS fee was not assessed.
- One case in which Transportation Trust Surcharge was under assessed.
- One case in which OAG/JCP fees were over assessed.

The following state statutes address the assessment of 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.
- 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 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).

CLERK OF THE COURT OF COMMON PLEAS
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LYCOMING COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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**Finding No. 3 - Inadequate Assessment Of Costs, Fees, And Surcharges - Clerk of Court
(Continued)**

- Title 75 P.S. § 6506 PA Transportation Trust Surcharge, November 25, 2013, session 89 of 2013, provides for the collection of \$75 for the 1st Offence of § 1543(b)(1.1) - driving while operating privilege is suspended or revoked.
- 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.

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:

Examples provided by the audit team are being reviewed. Review is ongoing.

Auditor's Conclusion

We appreciate the 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
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

Summary Of Prior Audit Recommendations

During our prior audit, we recommended that the office:

- Establish and implement an adequate system of internal controls over its bank account.
- Establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there any long outstanding checks. If checks remain outstanding and attempts to contact payees after 90 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.
- Discontinue assessing the municipal corporation fee on cases in which the PSP is the arresting party. We further recommended that the Clerk of Court refund those fees to defendants that have paid the fee.

During our current audit, we noted that the office complied with our first and second bulleted recommendations. However, the office did not comply with our third bulleted recommendation. Please see the current year Finding No. 1 for additional information.

CLERK OF THE COURT OF COMMON PLEAS
AND COLLECTIONS OFFICE/PROTHONOTARY
LYCOMING COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2021

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 Thomas D. Heap
Clerk of the Court of Common Pleas/Prothonotary

The Honorable Krista B. Rogers
Controller

The Honorable Scott L. Metzger
Chairperson of the Board of Commissioners

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.