

# COUNTY OF LEHIGH OFFICE OF THE CONTROLLER

LEHIGH COUNTY GOVERNMENT CENTER
17 SOUTH SEVENTH STREET
ALLENTOWN, PA 18101-2400
(610) 782-3082 FAX: (610) 871-2897

GLENN ECKHART COUNTY CONTROLLER

JOHN A. FALK
DEPUTY CONTROLLER

TO: Final Report Distribution

FROM: Glenn Eckhart, County Controller (F)

**DATE:** September 16, 2015

**RE:** Audit of Clerk of Judicial Records-Criminal Division

We have completed our financial audit of Clerk of Judicial Records-Criminal Division for the years ended December 31, 2013 and 2014. Our audit report number 15-10 is attached.

#### The results of our audit are:

- The County of Lehigh received the proper amounts due from the Clerk of Judicial Records-Criminal Division.
- Checks issued from the escrow account should be reviewed by the Controller prior to issue.
   The Clerk of Judicial Records believes escrow money held by the court is not "county money" and therefore she maintains her own bank account. Escrow money is properly included in the county's financial statements and the county is liable for any shortages.
- Some funds held in escrow (bail money) by the Clerk of Judicial Records require action by Magisterial District Courts or the District Attorney. The Clerk of Judicial Records believes it is beyond her authority to pursue closure of these issues.

Attachment

Financial Audit for the Years Ended December 31, 2013 and 2014

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#### Background\*

The Criminal Division maintains all criminal related Court records and is responsible for the following:

- 1. Process case records for Adult and Juvenile criminal matters;
- 2. Collect bail (cash only for monetary bail), issue and distribute refunds, and maintain all records with respect to bail deposits. Maintain record of bail bond agencies; (Bail guidelines)
- 3. Accept, process and record the filings of appeals to Higher Courts; (Notice of Appeal)
- Assess court costs and prepare Certificate of Costs according to law for Lehigh County Bureau of Collections;
- 5. Accept, process and record the filing of Summary Appeals; (Summary Appeal)
- 6. Accept, process and record the filing of Road Dockets;
- 7. Record and docket Administrative Court Orders;
- 8. Process, issue, and record Private Detective Licenses and Bonds; (Requirements for Private Detective)
- 9. Process Forfeitures;
- 10. Process, issue, and record Constables and Deputy Constables Bonds (appointed and elected);
- 11. Process, issue, and record Tax Collectors Bonds, Oaths, and Appointment (appointed and elected);
- 12. Accept, process and record the filing of criminal Expungements; (Expungement)
- 13. Certify criminal court records;
- 14. Accept, process and record miscellaneous criminal motions and petitions such as liquor license appeals, municipal matters, etc.

Court Clerks perform various Courtroom duties during Court sessions including administering oaths to witnesses and defendants, document the Court's dictation of orders and other proceedings (guilty pleas, ARD, DUI, bail, Gagnon hearings, etc.). Upon completion of the Court proceedings the Clerk immediately dockets the information into the case management system. Lehigh County Criminal, Miscellaneous, and Summary Appeal Dockets can be viewed on the Administrative Office of Pennsylvania Courts website.

\*Source: Lehigh County Web Site www.lehighcounty.org/Departments/ClerkofJudicialRecords/CriminalDivision/tabid/849/Default.aspx



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Andrea E. Naugle, Clerk of Judicial Records Lehigh County Courthouse 455 West Hamilton Street Allentown, PA 18101-1614

We have audited the accompanying Statement of Receipts, Disbursements, and Changes in Cash Balance of the Clerk of Judicial Records-Criminal Division for the years ended December 31, 2013 and 2014 as listed in the Table of Contents. The financial statements are the responsibility of the Clerk of Judicial Records-Criminal Division's management. Our responsibility is to express an opinion on the Statement of Receipts, Disbursements, and Changes in Cash Balance based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the generally accepted government auditing standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statements were prepared on the basis of cash receipts and disbursements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

Also, as discussed in Note 1, the financial statements present only the Clerk of Judicial Records-Criminal Division financial activity and does not purport to, and does not, present fairly the assets, liabilities, and results of operations of the County of Lehigh for the years ended December 31, 2013 and 2014 in conformity with the cash receipts and disbursements basis of accounting.

In our opinion, the Statement of Receipts, Disbursements, and Changes in Cash Balance referred to above present fairly, in all material respects, the financial activity arising from cash transactions of the Clerk of Judicial Records-Criminal Division for the years ended December 31, 2013 and 2014, on the basis of accounting described in Note 1. However, we noted control deficiencies or other management issues that are described in the accompanying "Schedule of Audit Findings and Recommendations".

In accordance with Government Auditing Standards, we have also issued our report dated September 9, 2015 on our consideration of the Clerk of Judicial Records-Criminal Division's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.

Glenn Eckhart County Controller

September 9, 2015 Allentown, Pennsylvania

xc: William Berndt, Court Administrator
Board of Commissioners
Daniel McCarthy, County Administrator
The Honorable Carol McGinley, President Judge
Thomas Muller, County Executive
Timothy Reeves, Fiscal Officer
H. Gordon Roberts, MDJ Court Administrator
Kerry Turtzo, Deputy Court Administrator

#### Statement of Receipts, Disbursements, and Changes in Cash Balance for the Years ended December 31, 2013 and 2014 (NOTE 1)

D	<u>2013</u>	<u>2014</u>
Receipts:	6 445 601	0 101054
Cash Bail	\$ 447,631	
Common Pleas Fees	73,799	<u>77,740</u>
Total Receipts	_521,430	512,096
Disbursements:		
Refund of Cash Bail and Customer Overages	168,734	290,144
County of Lehigh (NOTE 2)	245,187	287,463
Total Disbursements	413,921	_577,607
Excess of Receipts Over/(Under) Disbursements	107,509	(65,511)
Cash Balance, January 1	218,660	326,169
Cash Balance, December 31 (NOTE 3)	<u>\$ 326,169</u>	<u>\$ 260,658</u>

The accompanying notes are an integral part of this statement.

## Notes to Financial Statement For the Years Ended December 31, 2013 and 2014

#### 1. Summary of Significant Accounting Policies

#### A. Reporting Entity

The Clerk of Judicial Records-Criminal Division's financial activity is a part of the County of Lehigh's reporting entity, included in the general fund and is subject to annual financial audit by external auditors. This report is only for internal audit purposes.

#### B. Basis of Accounting

The accounting records of the County of Lehigh and the Statement of Receipts, Disbursements and Changes in Cash Balance for the years ended December 31, 2013 and 2014 are maintained on the cash receipts and disbursements basis of accounting. Under this basis of accounting, revenue is recognized when cash is received and expenditures are recognized when paid. This differs from Generally Accepted Accounting Principles (GAAP) which requires the accrual basis of accounting.

#### 2. County of Lehigh

Disbursements to the County of Lehigh include 10% bail program fees, office fees, handling fees for bail money paid into court, bail forfeitures and private detective licenses.

#### 3. Cash Balance, December 31

The December 31 cash balance is comprised of:

2013 2014

Escrow Checking Account \$ 326,169 \$260,658



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GLENN ECKHART
COUNTY CONTROLLER

JOHN A. FALK
DEPUTY CONTROLLER

Andrea E. Naugle Clerk of Judicial Records Lehigh County Courthouse 455 West Hamilton Street Allentown, PA 18101-1614

We have audited the financial statements of the Clerk of Judicial Records-Criminal Division for the years ended December 31, 2013 and 2014 and have issued our report thereon dated September 9, 2015. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the generally accepted government auditing standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

In planning and performing our audit, we considered Clerk of Judicial Records-Criminal Division's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the Statement of Receipts, Disbursements, and Changes in Cash Balance, but not for the purpose of expressing an opinion on the effectiveness of the Clerk of Judicial Records-Criminal Division's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Clerk of Judicial Records-Criminal Division's internal control over financial reporting.

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 misstatements on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. As part of obtaining reasonable assurance about whether Clerk of Judicial Records-Criminal Division's financial statements are free of material misstatement, we performed tests of its 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 financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, 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*.

We noted certain matters that we reported to management of Clerk of Judicial Records-Criminal Division in a separate section titled "Schedule of Audit Findings and Recommendations".

Clerk of Judicial Records-Criminal Division's response to the findings identified in our audit are included in this report. We did not audit Clerk of Judicial Records-Criminal Division's response and, accordingly, we do not express an opinion on it.

This report is intended solely for the information and use of management and other affected county offices and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Glenn Eckhart County Controller

September 9, 2015 Allentown, Pennsylvania

#### Schedule of Audit Findings and Recommendations

#### 1. Warrant Review by Controller

Condition: The Criminal Division escrow account is included in the county's agency funds with the Clerk of Judicial Records as the account signatory. The Controller does not review or sign checks (warrants) issued from this account prior to payment. Section 502 (1) b. of the Lehigh County Administrative Code authorizes the controller to: "Review all warrants for the expenditures of County monies and review the bidding, contract, and other documents constituting the basis for the expenditures and if satisfied that such expenditures are within the budget allotment pertaining thereto and otherwise conform to the applicable legal requirements, shall sign said warrant before it is paid".

**Recommendation**: Management should provide all checks issued from the Criminal Division escrow account to the Controller for review and authorization before payment is issued. Documentation supporting the basis for payment should also be provided.

Since this recommendation will add additional steps to the process we will work with management to develop a routine to expedite the Controller's review and approval.

#### 2. Bail Held on MDJ Cases

**Condition**: Funds in the Criminal Division escrow account include bail for cases currently under the Magisterial Discount Court (MDC) jurisdiction:

<u>Amount</u>	Date Bail Received	<u>MDC</u>
\$ 250.00	08/05/08	31-1-02
\$ 1,000.00	04/25/11	31-1-02
\$20,000.00	10/31/11	31-2-01

Until the cases are transferred to The Common Pleas Court, the funds are assigned to miscellaneous case numbers and not subject to case management oversight.

**Recommendation**: Management should establish a process whereby the affected MDC's are reminded on an ongoing basis (i.e. monthly email) that funds are being held for cases currently in their jurisdiction. This will ensure that funds are kept under court scrutiny.

#### 3. Bail Held For An Extended Period

**Condition**: Funds in the escrow account include bail held from 2011 and earlier (excluding the amounts listed in the preceding finding):

Year Received	<u>Amount</u>
2002	\$ 200.00
2003	0.00
2004	0.00
2005	100.00
2006	1,600.00
2007	0.00
2008	1,000.00
2009	1,600.00
2010	500.00
2011	1,350.00
Total	\$6,350.00

Most of the corresponding cases are subject to Rule 586 conditions whereby the court will dismiss the case under specific circumstances, including satisfaction made to the aggrieved party. Funds held for long periods of time could be subject to unauthorized use.

**Recommendation**: Management should bring the cases to the attention of the appropriate judicial authority to determine appropriate disposition. Subsequent to case adjudication, the Clerk of Judicial Records should determine if any funds are subject to escheatment to the Commonwealth of PA.

#### Schedule of Prior Audit Findings and Recommendations

#### 1. Stale checks

<u>Condition:</u> Seven out of 842 checks issued between 2010 and 2012 were outstanding for over six months.

Good cash handling practice includes voiding stale checks in a timely manner.

<u>Recommendation:</u> Management should ensure checks not cashed after two months from issue date are voided and either re-issued or escheated.

Management's Response: No response.

**Current Status:** Management has adequately addressed this condition.

### Lehigh County Clerk of Judicial Records

Civil Division (610) 782-3148

Criminal Division (610) 782-3077

## Andrea E. Naugle

Recorder of Deeds
Division

(610) 782-3162

Lehigh County Courthouse 455 W. Hamilton Street - Room 122 Allentown, PA 18101-1614

Register of Wills
Division
(610) 782-3170

September 9, 2015

Glenn Eckhart, Controller Lehigh County Government Center 17 S. 7<sup>th</sup> Street Allentown PA 18101

RE: Criminal Division Audit – 2013 – 2014 – Draft Received September 1, 2015

Dear Controller Eckhart:

We offer the following in response to the Lehigh County Controller's Draft Audit of the Clerk of Judicial Records – Criminal Division for the years 2013 - 2014.

The Lehigh County Controller's Audit of the Clerk of Judicial Records – Criminal Division for the years 2013-2014 is based upon a misunderstanding of the scope and authority of the Clerk of Judicial Records and the Pennsylvania Statutes which relate to the manner in which Bail Escrow Monies are to be handled by the Clerk's Office.

Finding #1 recommends that the Clerk of Judicial Records provide all checks issued from the escrow account to the Controller for review and authorization before payment is issued. The Controller cites Section 502 from the Administrative Code which authorizes the Controller to do this; however, what the Controller refuses to recognize is that the Administrative Code refers to all "County monies". The characterization of Bail Escrow Monies as County monies is erroneous. It has long been the position of the Court of Common Pleas that the Criminal Division Bail Escrow Monies are not County money and therefore not subject to the Controller's review and approval before payment being issued. The Bail Escrow Money is distributed pursuant to Court Order and the laws governing those matters. (Copies of President Judges' comments are attached.)

Findings #2 and #3 go beyond the scope and authority of the Clerk of Judicial Records – Criminal Division.

Finding #2 recommends that the Clerk of Judicial Records should routinely remind Magisterial District Court (MDC) Judges that the Clerk continues to hold funds for various bails under the MDC jurisdiction and that the MDC Judges should forfeit the bail and/or transfer the cases to the Common Pleas Court level.

Finding #3 recommends that the Clerk of Judicial Records should remind the appropriate judicial authority (Common Pleas Court Judges and/or the Lehigh County District Attorney) to determine appropriate dispositions in cases subject to Criminal Rule 586.

It is not the Clerk of Judicial Records' responsibility to remind Judges or the District Attorney nor does the Clerk of Judicial Records have authority to do so.

The Clerk of Judicial Records provides records concerning all financial matters to the County Controller for review. Copies are provided to the Controller's Office on a regular basis and are reconciled daily, monthly and yearly. Surprise office cash audits are also conducted by County auditors. Access to all accounting records is given at any time.

After a preliminary audit meeting, we responded in writing to Controller Glenn Eckhart and requested that these findings be removed from the official audit. (Copy of response attached.) Again we request these findings be removed.

Very truly yours,

Andrea E. Naugle

Clerk of Judicial Records

Attachments: Lehigh County President Judge comments

August 28, 2015 response to Preliminary Audit

cc: The Hon. Edward Reibman, Acting President Judge

The Hon. Carol K. McGinley James Martin, District Attorney

E. Keller Kline, III, Esquire, Solicitor

Charles Smith, Esquire, Solicitor

Toni A. Remer, Chief Deputy, Criminal Division

Karen Collura, Asst. Chief Deputy, Criminal Division



COURT OF COMMON PLEAS THIRTY-FIRST JUDICIAL DISTRICT LEHIGH COUNTY COURTHOUSE 455 W. HAMILTON ST. ALLENTOWN, PA 18101-1614

CAROL K. McGINLEY
PRESIDENT JUDGE

TELEPHONE: (610) 782-3120

August 28, 2015

Andrea E. Naugle, Clerk of Judicial Records Lehigh County Courthouse 455 West Hamilton Street Allentown, PA 18101

RE: Escrow Funds Held by the Court

Dear Andrea:

This letter is to confirm the Court's position expressed to you in a letter from then-President Judge Platt and dated December 1, 2010. That letter specifically rejected the recommendation of the County Controller's Office that monies deposited in escrow with the Court and held by your office be turned over to the Lehigh County Fiscal Office.

Such monies are deposited with the clerk pursuant to the court orders and are in no way County money. They must, under the law, be maintained in escrow with the Clerk and may only be disbursed by an order of court.

The Court has no objection to the Controller reviewing the records kept by your office with regard to escrow monies. However, we cannot authorize you, nor will we permit you, to release any escrow funds to the County. By statute, all monies paid into court are to be held in the custody of your office, subject to disbursement by court order only. See 42 Pa.C.S. § 3561.

C - 1 V McGinlo

CKM/tmb

cc: E. Keller Kline, Esquire



# COURT OF COMMON PLEAS THIRTY-FIRST JUDICIAL DISTRICT LEHIGH COUNTY COURTHOUSE 455 HAMILTON STREET ALLENTOWN, PENNSYLVANIA 18101-1614

WILLIAM H. PLATT
PRESIDENT JUDGE

TELEPHONE 610-782-3393 FACSIMILE 610-770-6734 E-MAIL pj31@ptd.net

December 1, 2010

Andrea Naugle, Clerk of Judicial Records Lehigh County Courthouse 455 West Hamilton Street Allentown, PA 18101

Re: Escrow Funds Held by the Court

Dear Andrea:

This letter is to confirm the Court's position expressed to you in a letter from then-President Judge Black and dated March 16, 2007. That letter specifically rejected the recommendation of the County Controller's Office that monies deposited in escrow with the Court and held by your office be turned over to the Lehigh County Fiscal Office.

Such monies are deposited with the Clerk pursuant to court orders and are in no way County money. They must under the law be maintained in escrow with the Clerk and may only be disbursed by an order of court.

The court has no objection to the Controller reviewing the records kept by your office with regard to escrow monies. However, we cannot authorize you, nor will we permit you, to release any escrow funds to the County. By statute, all moneys paid into court are to be held in the custody of your office, subject to disbursement by court order only. See 42 Pa.C.S. §3561.

Very truly yours

William H. Platt

WHP\*lsf

cc: E. Keller Kline. Esquire. County Solicitor's Office





# COURT OF COMMON PLEAS THIRTY-FIRST JUDICIAL DISTRICT LEHIGH COUNTY COURTHOUSE 455 HAMILTON STREET ALLENTOWN, PENNSYLVANIA 18101-1614

ALAN M. BLACK PRESIDENT JUDGE TELEPHONE (610) 782-3207 FACSIMILE (610) 782-3984

March 16, 2007

Andrea Naugle, Clerk of Courts Lehigh County Courthouse 455 W. Hamilton Street Allentown, PA 18101

In re: Schedule of Audit Findings and Recommendations

#### Dear Andrea:

I reviewed with my colleagues the draft Schedule of Audit Findings and Recommendations regarding escrow funds held by the Court. All of us are in agreement that moneys deposited in escrow with the Clerk's office pursuant to court order are not county moneys and cannot be turned over to the Lehigh County Office of Fiscal Affairs. Disbursement of these funds can be accomplished only by a court order.

We have no objection to the controller reviewing the records kept by your office with regard to escrow moneys. However, we must object to your release of any escrow funds to the county. By statute, all moneys paid into court are to be held in the custody of your office, subject to disbursement only by court order. See 42 Pa.C.S. § 3561.

Very truly yours.

Alan M. Black

AMB:pm

cc: Matt Croslis, Esq., County Solicitor's Office

### Lehigh County Clerk of Judicial Records

Civil Division

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Criminal Division (610) 782-3077

# Andrea E. Naugle

Recorder of Deeds

<u>Division</u>

Lehigh County Courthouse 455 W. Hamilton Street - Room 122 Allentown, PA 18101-1614

Register of Wills
Division
(610) 782-3170

August 28, 2015

Mr. Glenn Eckhart Lehigh County Controller Government Center 17 S. Seventh Street Allentown PA 18101-1617

RE: Preliminary Findings of Criminal Division Audit – 2013 - 2014

Dear Controller Eckhart:

In response to our recent meeting concerning the Criminal Division audit, we offer the following comments.

#### Warrant Review by Controller

It has long been the position of the Court that Criminal Division Bail Escrow Monies are <u>not</u> County monies, therefore, they do not fall under the Lehigh County's Administrative Code requiring the signature of the Controller staff and/or review and approval of expenditures before they are paid. (Please see attached letter from President Judge.)

All records, including accounting records, of the Criminal Division are available for inspection by the County Controller at any requested time. Various surprise Cash audits are completed by your staff; monthly reports are completed and sent to the County Controller; an annual release for verification of bank balances is given by the Clerk of Judicial Records to the County Controller; and significant fiscal controls including segregation of duties have all been established within the Clerk of Judicial Records Offices.

#### Bail Held on MDJ cases

Bail collected by the Clerk of Judicial Records Division on behalf of the Magisterial District Judges' Offices is deposited and held in the bail escrow account until final disposition of those cases. In the event a case is not waived to Court and does not have a disposition, the Clerk continues to maintain those monies. The Clerk reviews monthly the accounting records for disposition of those cases, however, it is not the responsibility of the Clerk "to establish a process whereby the affected MDC's are reminded on an ongoing basis . . . that funds are being held for cases . . .".

#### Bail Held for an Extended Period

Bail monies held subject to Criminal Rule 586 are noted as being held for long periods of time. These cases have outstanding costs, fines or restitution and, therefore, cannot be dismissed or finalized and the bail monies cannot be returned.

It is not the responsibility of the Clerk "to bring the cases to the attention of the appropriate judicial authority to determine appropriate disposition."

If the Controller has financial issues with authorities outside of the Clerk of Judicial Records Office, it the responsibility of the Controller to bring it to the attention of the appropriate authority. We respectfully request that you remove these "findings" from your audit of the Criminal Division.

Very truly yours,

Andrea E. Naugle

Clerk of Judicial Records

cc: The Hon. Carol K. McGinley, President Judge E. Keller Kline, III, Esquire, Solicitor Charles Smith, Esquire, Solicitor