

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 G.E.
DATE: September 18, 2017
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, 2015 and 2016. Our audit report number 17-15 is attached.

The result of our audit are:

- The County of Lehigh received the proper amounts due from the Clerk of Judicial Records-Criminal Division.
- Controls over return of cash bail should be strengthened.

Attachment

AUDITS/CJR-CRIMINAL DIVISION

COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS – CRIMINAL DIVISION

*Financial Audit for the Years Ended
December 31, 2015 and 2016*

REPORT NO. 17-15

COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS-CRIMINAL DIVISION

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COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS – CRIMINAL DIVISION

*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)
4. 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 docket 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, 2015 and 2016 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, 2015 and 2016 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, 2015 and 2016, 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 14, 2017 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.

A handwritten signature in black ink, appearing to read 'Glenn Eckhart', with a long horizontal flourish extending to the right.

Glenn Eckhart
County Controller

September 14, 2017
Allentown, Pennsylvania

Audited by: Thomas Schweyer and Anna Kopala

xc: Board of Commissioners
Thomas Muller, County Executive
Timothy Reeves, Fiscal Officer
The Honorable Edward Reibman, President Judge
H. Gordon Roberts, MDJ Court Administrator
John Sikora, Deputy Court Administrator
Kerry Turtzo, Court Administrator

COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS-CRIMINAL DIVISION

*Statement of Receipts, Disbursements, and
Changes in Cash Balance for the
Years ended December 31, 2015 and 2016
(NOTE 1)*

	<u>2015</u>	<u>2016</u>
Bail Account (NOTE 2)		
Receipts:		
Cash Bail	\$ 347,815	\$ 353,790
Disbursements:		
Refunds	277,880	202,973
County of Lehigh (NOTE 3)	136,600	117,320
City of Allentown (NOTE 4)	4,895	0
PA Dept of Revenue (NOTE 4)	<u>3,750</u>	<u>3,000</u>
Total Disbursements	423,125	323,293
Excess of Receipts Over/(Under) Disbursements	(75,310)	30,497
Cash Beginning - Bail	<u>260,658</u>	<u>185,348</u>
Cash Ending- Bail	<u><u>185,348</u></u>	<u><u>215,845</u></u>
Surety Escrow Accounts (NOTE 5)		
Receipts:		
Corporate Surety Deposits	550,000	50,000
Cash Beginning - Surety Escrow	<u>0</u>	<u>550,000</u>
Cash Ending - Surety Escrow	<u><u>550,000</u></u>	<u><u>600,000</u></u>
Fees (NOTE 6)		
Receipts:		
Office Fees	76,222	73,845
Disbursements:		
County of Lehigh	76,222	73,845
Excess of Receipts Over/(Under) Disbursements	0	0
Cash Beginning - Fees	<u>0</u>	<u>0</u>
Cash Ending - Fees	<u><u>\$ 0</u></u>	<u><u>\$ 0</u></u>

The accompanying notes are an integral part of this statement.

COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS-CRIMINAL DIVISION

Notes to Financial Statement
For the Years Ended December 31, 2015 and 2016

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, 2015 and 2016 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. **Bail Account**

The Clerk of Judicial Records – Criminal Division maintains a separate bank account for cash bail transactions.

3. **Disbursements – County of Lehigh**

Disbursements include bail processing fees and bail forfeitures.

4. **Disbursements – City of Allentown and PA Department of Revenue**

Disbursements were for bail forfeitures.

5. **Surety Escrow Accounts**

Effective in 2015 Corporate Sureties were required to post a \$50,000 deposit with the Clerk of Judicial Records-Criminal Division to be qualified to post bond in Lehigh County. The Clerk of Judicial Records-Criminal Division maintains separate bank accounts for each deposit. As of December 31, 2016, there were 12 deposits of \$50,000 from Corporate Sureties.

6. **Fees**

The Clerk of Judicial Records-Criminal Division collects fees for various services including appeals and certifications. These funds are deposited into a separate bank account and swept daily into the County of Lehigh bank account.



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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, 2015 and 2016 and have issued our report thereon dated September 14, 2017. 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.

A handwritten signature in black ink, appearing to read 'Glenn Eckhart', with a stylized, cursive script.

Glenn Eckhart
County Controller

September 14, 2017
Allentown, Pennsylvania

COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS-CRIMINAL DIVISION

Schedule of Audit Findings and Recommendations

1. **Cash Handling Controls**

Condition: There were two instances during the audit period in which cash was returned to the remitter without adequate documentation. The transactions were related to cash bail that had been given to and receipted by the clerk's office. Immediately after the transaction the remitter withdrew their wish to post bail. Since the payment had been receipted, the transaction was voided by a supervisor and the cash returned to the remitter.

The returned cash should be signed for by the recipient and co-signed by a supervisor to document the transfer of funds as part of the transaction audit trail.

Recommendation: Ideally, refunds should be made via check to ensure appropriate approvals, adequate documentation, and a detailed audit trail. However, due to the office's requirement to deduct fees from refunds of bail, and the time-sensitive nature of the transaction, this is not a viable option.

Management has agreed to add a form to be signed by the recipient acknowledging receipt of the funds.

COUNTY OF LEHIGH, PENNSYLVANIA
CLERK OF JUDICIAL RECORDS-CRIMINAL DIVISION

Schedule of Prior 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.

Current Status: Management continues to issue checks without Controller's Office review. Efforts to arrive at a mutually agreeable process in which the Controller would review prior to issue were unsuccessful.

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>	<u>Date Bail Received</u>	<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.

Current Status: The \$20,000 received on October 31, 2011 has been applied to a Common Pleas case. The status of other amounts (\$250 and \$1,000) remains unchanged.

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):

<u>Year Received</u>	<u>12/31/14 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	<u>1,350.00</u>
Total	<u>\$6,350.00</u>

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.

Current Status: Recommendation has not been implemented. Management is monitoring pending state legislation that would provide the option to apply bail to case assessments.

Lehigh County Clerk of Judicial Records

Civil Division
(610) 782-3148

Criminal Division
(610) 782-3077

Recorder of Deeds
Division
(610) 782-3162

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

Register of Wills
Division
(610) 782-3170

September 14, 2017

Hon. Glenn Eckhart, Controller
Lehigh County Government Center
17 S. 7th Street
Allentown PA 18101

RE: Criminal Division Audit – 2015 – 2016

Dear Controller Eckhart:

We offer the following in response to the Lehigh County Controller's Audit of the Clerk of Judicial Records – Criminal Division for the years 2015 – 2016.

We wonder why we even reply to the County Audit Reports because some of our responses to their "draft" audit and completed audit reports go onto deaf ears!

Once again we will answer their - "repeated and not in the Clerk's authority" findings.

Finding Number 1. Warrant Review by Controller –

This is a duplication of the prior audit finding from the 2013 – 2014 Audit. In 2015 this matter was discussed with a Controller's Office staff member. When checks were issued the Controller Staff was notified so they could review. No one from the Controller's Office made any attempt to coordinate any time to accomplish this review. Since there are time restraints established by law to issue these refunds, we have continued to issue the checks properly and according to law. We again must remind the Controller that these bail escrow monies are **NOT** county monies. These funds are held on behalf of the Court for individuals who posted bail and their monies are returned upon completion of their criminal case. Since these funds are **NOT COUNTY MONIES** they are not subject to Controller inspection of checks. All of these deposits and payments are regularly audited by the Controller's Office. All fees collected are also turned over to the County on a regular basis and all records are always available.

Finding Number 2. Bail Held on MDJ Cases

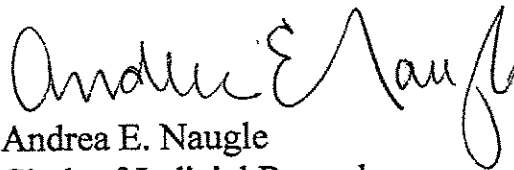
The Clerk of Judicial Records **does not have the authority** to tell a Magisterial District Judge what to do. If the Controller wishes to review the processes of a Magisterial District Judge, then perhaps they should mention this finding in their audits.

Finding Number 3. Bail Held For an Extended Period

The Clerk of Judicial Records **does not have the authority** to tell the District Attorney what to do. If the Controller wishes to review the processes of the District Attorney, then perhaps they should contact the District Attorney directly.

We must comment that the Clerk of Judicial Records – Criminal Division (and all other Divisions) has a history of excellent accounting processes. Whenever there is a legitimate suggestion by the Controller, the Clerk is always agreeable to review and accept. We always seek the opinion of the Controller whenever there is a new procedure involving handling of County monies. However, it is disturbing to have to read comments that are not in the bailiwick of the Clerk and/or have been repeatedly addressed. We hope in the future that these issues are not rehashed at the next audit.

Very truly yours,



Andrea E. Naugle
Clerk of Judicial Records