



County of Allegheny

Office of the Controller

PERFORMANCE AUDIT REPORT
ON THE OPERATION OF THE
COURT REPORTING FUNCTION OF
THE COURT OF COMMON PLEAS
FOR THE PERIOD JULY 1, 2017
THROUGH OCTOBER 31, 2019

September 28, 2020

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September 2, 2020

Mr. Chris Connors
District Court Administrator
Fifth Judicial District of Pennsylvania
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PERFORMANCE AUDIT REPORT
ON THE OPERATION OF THE
COURT REPORTING FUNCTION OF
THE COURT OF COMMON PLEAS
FOR THE PERIOD JULY 1, 2017
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Dear Mr. Connors:

We have conducted a performance audit to evaluate the operation of the court reporting function of the Court of Common Pleas. Our performance audit covers the period from July 1, 2017 through October 31, 2019 and was performed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

The results of our procedures revealed that the \$50 transcription fee deposit requirement instituted by the Office of the Court Reporters of Allegheny County and the preferential payment terms offered to local law firms have resulted in a significant unnecessary cost to Allegheny County. We also observed that the Court of Common Pleas is not taking advantage of all of the opportunities available to it to ensure that compensation for transcription services is paid in the proper amounts. The detailed results of our performance audit are included in the attached report.

Mr. Chris Connors
September 2, 2020

We would like to thank the management and staff of the Court of Common Pleas for their courtesy and cooperation during the performance of our procedures.

Kind regards,



Chelsa Wagner
Controller



Lori A. Churilla
Assistant Deputy Controller, Auditing

cc: Honorable Patrick Catena, President, County Council
Honorable Robert J. Macey, Vice President, County Council
Honorable Rich Fitzgerald, Allegheny County Executive
Mr. William D. McKain, County Manager, Allegheny County
Ms. Jennifer Liptak, Chief of Staff, County Executive
Ms. Mary C. Soroka, Director, Office of Budget and Finance
Mr. Kenneth J. Varhola, Chief of Staff, County Council
Ms. Sarah Roka, Budget Manager, County Council

I. Introduction

Complete and verbatim notes of testimony and transcripts are integral to the official record of court proceedings. Accordingly, most Court proceedings that require transcripts are recorded by certified court reporters who may later transcribe the notes into transcripts. While Court Reporters do not record family court proceedings as they are not physically present during the proceedings, the Court Reporters can prepare transcriptions when they are needed from the audio recordings which are maintained for each proceeding. Individuals, law firms, and counsel for litigants can request and receive transcripts. Deposits on the estimated cost of the transcript are sometimes required of parties that request transcripts. County Departments that request transcripts are billed twice per month. The reporting function in the Court of Common Pleas is governed by the policy of the Unified Judicial System of the Commonwealth of Pennsylvania which ensures that (1) qualified court reporting services are available in each judicial district and that court reporters are fairly compensated, (2) transcripts are timely produced and are affordable to all litigants, and (3) efficient technologies are employed to reduce litigation costs and conserve public resources.

The Rules of Judicial Administration govern the making, preserving and transcribing of the record of proceedings before any trial court of record within the Unified Judicial System. The rules include procedures for requesting transcripts, cost of transcripts, and employment and duties of court personnel. The Rules of Judicial Administration also empower the President Judge of each District to select, appoint and supervise court reporting personnel for the district, as well as formulate and publish fees to be paid for all court reporting products and procedure for requesting a full or partial fee waiver. The President Judge of the Fifth Judicial District of Pennsylvania, County of Allegheny supervises court reporting personnel of the District.

Prior to 2017, Court Reporters billed and were paid directly by outside parties that requested transcripts. However, in 2017, the rules governing court reporting were revised by the Administrative Office of Pennsylvania Courts (AOPC) pursuant to the administrative and supervisory authority granted to the Pennsylvania Supreme Court by Article V, Section 10 of the Pennsylvania Constitution. Rules 4001 through 4016 were issued. Rule 4007 requires that all payments for transcription fees be made to Judicial Districts or Counties and not to individual Court Reporters. Consequently, the County now compensates Court Reporters at the established transcription fee rates for preparing requested transcripts when the transcripts are completed and seeks to collect the transcription fees at those same rates from the requestors as cost reimbursements. Compensation that Court Reporters earn for providing transcription services is now treated as pensionable wages.

Allegheny County employed approximately 35 full-time and 2 part-time Court Reporters during our audit period. While many retired Court Reporters have declined to prepare transcripts during their retirement, some retired Court Reporters have agreed to continue to prepare transcripts for court proceedings that they took notes on as Allegheny County employees before they retired. The Office of the Court Reporters of Allegheny County assigns Court Reporters to prepare particular transcripts upon the receipt of Transcript Request Forms for such transcripts and the required deposits. While requestors typically

I. Introduction

have the option to pay a higher fee for expedited service, all transcripts are intended to be provided within a window of no longer than 30 days. Although note-taking and transcription procedure is generally consistent, there may be subtle variations in the styles and techniques used by various Court Reporters. For this reason, Court Reporters who initially took the notes on the applicable court proceedings are also asked to generate any requested transcripts to the extent possible, even if the Court Reporter is now retired. A Court Reporter's awareness that they may be called upon to prepare a transcript at some point in the future using proceeding notes that they have taken also serves as an additional incentive to take high quality proceeding notes. Court Reporters use County equipment and software to perform their court reporting duties and provide transcription services. The Court Reporters are permitted to prepare requested transcripts during regular work hours to the extent that they have downtime.

The active Court Reporters' salaries, transcription fees, and other compensation (sick time buybacks, wellness program rewards, etc.) for the period from July 1, 2017 through October 31, 2019 totaled \$6,418,298. The chart below summarizes the Court Reporters' compensation during the audit period.

Category	7/1/17- 12/31/17	1/1/18 - 12/31/18	1/1/19 - 10/31/19	TOTAL
Salaries	\$1,014,539	\$2,065,870	\$1,686,570	\$4,766,979
Transcription Fees	322,633	740,309	556,754	1,619,696
Other Compensation	3,375	12,090	16,158	31,623
Total	<u>\$1,340,547</u>	<u>\$2,818,269</u>	<u>\$2,259,482</u>	<u>\$6,418,298</u>

II. Objectives, Scope, and Methodology

Objectives

Our objectives were to:

- Determine whether processes and internal controls over the processing of transcription requests, the payment of Court Reporter compensation, and the collection of transcription fees from requestors have been properly designed and implemented.
- Determine whether pension contributions have been made on all transcription fee compensation earned by Court Reporters on or after July 1, 2017, the point from which such compensation was to be treated as pensionable wages.
- Evaluate the effectiveness of the collection procedures implemented by the Court of Common Pleas during our audit period applicable to transcription fees due from requestors.

Scope

Our audit procedures covered the period from July 1, 2017 through October 31, 2019. We conducted the performance audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Methodology

Methodologies used to accomplish our objectives included, but were not limited to the following:

- Reviewed Pennsylvania's Uniform Rules Governing Court Reporting and Transcripts and the Allegheny County Local Rules of Judicial Administration.
- Interviewed Court of Common Pleas personnel to gain an understanding of the operation of the court reporting function within the Court of Common Pleas, including the processes and internal controls in place over the processing of transcription requests, the payment of Court Reporter compensation, and the collection of transcription fees from requestors.
- Gained an understanding of the internally-developed CRT-TRIPT software application that is used in the processing and tracking of transcription requests and walked a judgmentally-selected sample of transcription requests through the system to assess whether they were properly processed.

II. Objectives, Scope, and Methodology

- Reviewed the accounting records to determine whether pension contributions have been made on all transcription fee compensation earned by Court Reporters on or after July 1, 2017, the point from which such compensation is to be treated as pensionable wages.
- Evaluated the effectiveness of the collection procedures implemented by the Court of Common Pleas during our audit period applicable to transcription fees due from requestors.
- Our audit also included an assessment of internal controls that are significant within the context of our audit objectives. Any significant findings related to internal control are included in the findings and recommendations.

We provided a draft copy of this report to the District Court Administrator of the Fifth Judicial District for response. His response begins on page 14.

III. Findings and Recommendations

Finding #1

Transcription Fee Payment Terms Including Required Deposits Should be Modified to Increase the Likelihood of Collection

Criteria: The Allegheny County Local Rules of Judicial Administration address both transcript requests and payment for transcripts. Section (D) of Rule 4007, *Requests for Transcripts*, prescribes procedures for all parties requesting transcripts other than the Commonwealth of Pennsylvania or one of its subdivisions. Section (D)(1) stipulates that “the requesting party shall make a deposit of 50% of the estimated cost of the transcript as determined by the Allegheny County Office of Court Reporters, unless the requesting party is in arrears regarding payment for transcripts previously ordered, in which case a deposit equal to the full amount of the estimated cost of the transcript may be required. The Office of Court Reporters, in its discretion, may require a flat deposit of \$50 rather than the percentage-based deposit ordinarily required”. Section (D)(4) further stipulates that “delivery of the transcript to the parties will be made after final payment is received”.

Condition: The Office of the Court Reporters of Allegheny County in its discretion elected to utilize a \$50 deposit requirement instead of the 50% deposit requirement that was also provided for in the Allegheny County Local Rules of Judicial Administration. (The \$50 deposit requirement has not been applied to local law firms – see below.) The records maintained by the Court of Common Pleas indicate that the total transcription fees receivable as of February 18, 2020 (the date that we used to conduct our most recent analysis) were \$67,696. Almost half of the amount due, \$31,862, pertains to transcripts that were never actually picked up by or delivered to the requestors. This suggests that the \$50 deposit requirement is too low.

We acknowledge that many transcript requests may initially be submitted with the required deposits in good faith, and that with the occurrence of certain events or the passage of time, or both, it may not be possible, practical, or advantageous for the requestors to actually utilize the transcripts for the originally intended purpose. However, because all parties to proceedings are notified when transcript requests are received, such a low deposit amount could be influencing some individuals to request transcripts as a tactic to encourage counterparties to settle or take some other action. While the cost to these individuals would only be \$50, Allegheny County is obligated to pay Court Reporters to prepare the transcripts which could cost thousands of dollars.

III. Findings and Recommendations

Local law firms have also generally not been required to make deposits when they submit transcript requests and have not been required to pay for transcripts in full before the transcripts are delivered to them. The amount of transcription fees that have not been collected from them in connection with transcripts that have been picked up or delivered is significant, \$29,574 as of February 18, 2020.

We noted that the remainder of the receivables, \$6,260, are primarily attributable to the fact that Court Reporters were not instructed to hold transcripts until they were paid in full until near the very end of 2018. Only a small number of transcripts have been erroneously issued to requestors prior to being paid in full since that time.

<u>Amount</u>	<u>%</u>	<u>Description</u>
\$31,862	47%	Transcripts that were never picked up or delivered
29,574	44%	Transcripts that were picked up or delivered but not paid for by local law firms
6,260	9%	Transcripts that were picked up or delivered but not paid for by others
<hr/>		
\$67,696		Total Accounts Receivable

Cause: The Office of the Court Reporters of Allegheny County most likely elected to utilize a \$50 deposit requirement instead of a 50% deposit requirement because it makes the processing of transcription requests simpler and faster. We were also advised that the Court of Common Pleas wants to ensure that potential requestors do not forego requesting transcripts that they truly need because the deposit requirement is too high. We were advised that local law firms have been offered favorable payment terms because they generally have a history of paying for their transcripts.

Effect: The Court of Common Pleas pays Court Reporters when they complete requested transcripts. The transcription fees collected by the Court of Common Pleas from requestors are intended to be reimbursements for the payments that have already been made to the Court Reporters. Uncollected transcription fees therefore represent an unnecessary cost to Allegheny County.

While the use of the \$50 deposit requirement technically did not violate the local rules, it does not appear to have been the best alternative in that it has not minimized the cost to Allegheny County

III. Findings and Recommendations

(taxpayers). If the Court of Common Pleas had used the same payment terms for local law firms that it has imposed on other payers, it should have been fully reimbursed for at least all of the delivered transcripts (some transcripts are unfortunately never picked up or delivered).

Because local law firms have been offered more favorable terms, the amount of transcript fees that have not been collected from them is significant, \$29,574 as of February 18, 2020. A large portion of the transcription fee receivables have been outstanding for several years and are likely uncollectible. The oldest receivable pertains to a transcript request received on July 17, 2017.

Recommendations: We recommend that the Court of Common Pleas:

- Exert collection efforts to collect all of the outstanding transcription fee receivables.
- Utilize a 50% deposit requirement as provided for in the Allegheny County Local Rules of Judicial Administration, or otherwise modify the Local Rules to provide for a deposit requirement that will minimize the cost to Allegheny County (taxpayers).
- Require local law firms to make deposits when they submit transcript requests, and to pay for the transcripts in full before the transcripts are delivered to them.
- Moving forward, consider having local law firms that frequently request transcripts establish drawdown accounts with the Court of Common Pleas. This would help to ensure that the County will recover its costs while still providing local law firms with timely access to transcripts. This could possibly be coordinated with the Department of Court Records which has already enabled local law firms to establish drawdown accounts for the payment of court costs.

Management's
Response:

The District Court Administrator's response begins on page 14.

III. Findings and Recommendations

Finding #2

The Court of Common Pleas Should Take Advantage of the Opportunities to Ensure That Compensation for Transcription Services is Paid in the Proper Amounts

Criteria: The Court of Common Pleas should be taking appropriate measures to ensure that compensation for transcription services is paid in the proper amounts.

Condition: As we conducted our test work, we identified a couple of conditions that indicate that the Court of Common Pleas is not taking advantage of opportunities available to it to ensure that compensation for transcription services is being paid in the proper amounts.

Application Data not Leveraged to Match Transcription Fee Receipts and Payments

Upon our request, the Court of Common Pleas information technology group generated a report designed to identify any discrepancies between the amounts that requestors were charged for their transcripts and the amounts paid to the Court Reporters for preparing the transcripts for our audit period. Discrepancies were identified, and it was ultimately determined that two Court Reporters had been underpaid, one for one transcript and the other for three transcripts. The Court Reporters were underpaid \$307 in total. It was determined that the application used to process transcription requests was incorrectly calculating the fees for original/copy combo transactions, a rare type of transaction. In an original/copy Combo transaction, a prior privately paying requestor has asked for a portion of a proceeding and has paid a transcription rate of \$3/page. A new privately paying requestor asks for a *copy* of the portion previously requested and additional testimony that has not been transcribed yet. The second requestor is charged the copy rate for the portion previously transcribed (\$2/page) and the full transcription rate (\$3/page) for the pages that need to be transcribed. Had the Court of Common Pleas designed such a report on its own beforehand, it would have identified the underpayments and could have corrected them.

No Verification That Required Payroll Adjustment Forms Have Been Submitted

Requesters that assert that they have inadequate financial means to purchase transcripts that they need can apply to receive free or reduced cost transcripts. When these applications are approved, the

III. Findings and Recommendations

rate of compensation that Court Reporters are entitled to for preparing the transcripts is reduced. The Court Reporter Manager is alerted when free or reduced-price transcripts have been approved. If the requests for such transcripts were initially processed as a full-price transcript requests, the Court Reporter Manager alerts the Court Reporters preparing the transcripts that they need to prepare and submit to him Payroll Adjustment Forms, which serve to indicate the Court Reporters' acknowledgement of the appropriateness of and their agreement with the change in compensation rate. Court of Common Pleas information technology staff use the signed Payroll Adjustment forms to modify the compensation initially calculated by the application used to process transcript requests. While the Court Reporter Manager notifies the Court Reporters that they need to prepare and submit to him Payroll Adjustment Forms, no steps are taken to ensure that all of the Payroll Adjustment Forms that were supposed to be prepared and submitted were actually prepared and submitted. While we did not identify any missing Payroll Adjustment Forms during our audit period, there is always the potential for a Court Reporter to intentionally or unintentionally fail to submit a required Payroll Adjustment Form.

Cause: It appears that it had not occurred to the Court of Common Pleas that it could have leveraged the application data to identify any discrepancies between the transcription fee receipts and the corresponding payments made to the Court Reporters.

We were advised that no steps were taken to ensure that all of the Payroll Adjustment Forms that were supposed to be prepared and submitted were actually prepared and submitted because all of the Court Reporters are very familiar with the Allegheny County Local Rules of Judicial Administration, and are aware that the consequences of not adhering to the rules could be significant.

Effect: Taking insufficient measures to ensure that compensation for transcription services is paid in the proper amounts could result in overpayments or underpayments of compensation for those services. Overpayments would represent an inappropriate cost to Allegheny County while underpayments would deprive Court Reporters of a portion of their earned compensation.

Recommendations: We recommend that Court of Common Pleas management:

- Utilize the discrepancy report that was recently developed by the Court of Common Pleas information technology group on an ongoing basis to help identify any potential compensation errors.

III. Findings and Recommendations

- Institute a procedure designed to routinely ensure that all required Payroll Adjustment Forms have been prepared and submitted to the Court Reporter Manager.

Management's
Response:

The District Court Administrator's response begins on page 14.

IV. Conclusion

The transcription services being provided by the Office of the Court Reporters of Allegheny County are a direct benefit to the attorneys and litigants involved in the court case and do not benefit Allegheny County taxpayers as a whole. Therefore, to the extent possible, the costs of those services should be allocated exclusively to those who seek to benefit from the services. The \$50 deposit requirement and preferential payment terms for local law firms currently in effect do not serve to minimize the cost of the services to Allegheny County taxpayers. There are a variety of ways in which the Court of Common Pleas can address our findings. However, the focus should be on making Allegheny County government more effective by working to enable more taxpayer-provided resources to be spent in a manner that benefits County taxpayers.

Moving forward, the Courts should consider having local law firms that frequently request transcripts establish drawdown accounts with the Court of Common Pleas. This would help to ensure that the County will recover its costs while still providing local law firms with timely access to transcripts. This could possibly be coordinated with the Department of Court Records which has already enabled local law firms to establish drawdown accounts for the payment of court costs.

FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
COUNTY OF ALLEGHENY



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CHRISTOPHER H. CONNORS, ESQUIRE
DISTRICT COURT ADMINISTRATOR

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September 23, 2020

The Honorable Chelsa Wagner
Allegheny County Controller
104 County Courthouse
436 Grant Street
Pittsburgh, PA 15219

Dear Controller Wagner:

Thank you for the opportunity to respond to the recommendations in the Performance Audit Report regarding the operation of the court reporting function of the Court of Common Pleas for the period July 1, 2017 through October 31, 2019. Please find our responses below.

RESPONSE TO FINDING #1

The vast majority of transcript requests are made so that a litigant may use the transcript in furtherance of a case or an appeal. Given the large volume of cases in Allegheny County, it is important to begin production of transcripts quickly so that they can be provided to the litigant as soon as possible. It is difficult to accurately estimate the final cost of a transcript at the time it is ordered, as the number of pages may vary depending upon the length, nature, and pace of the proceeding, and the court reporter is not ordinarily present at the time a transcript request and deposit is received.

Prior to implementation of the new statewide rules which mandated centralization of the collection of transcript fees, many court reporters accepted reduced deposits from local law firms and attorneys. They knew that local law firms and attorneys who regularly purchased transcripts would pay for them and would return to request more. Consequently, the risk of non-payment was less than it would be for out-of-town law firms or unknown individuals and, prior to the new statewide rules, court reporters themselves absorbed any losses from failure to pay. This system worked well for many years and allowed transcripts to be processed more quickly. When the statewide rules became effective, Court Administration developed a computer system to manage the new business process but largely maintained past practices regarding deposits by local law firms in an effort to minimize disruption to attorneys and the court system.

Under the new system, monthly letters have been sent to attorneys, law firms, and litigants for delinquent accounts that are 30, 60, and 90 days past due. Additionally, phone calls are made to law firms and/or litigants with higher balances who fail to respond to written correspondence regarding collection. We will require payment in full prior to delivery. We agree with the recommendations in the report, as despite these efforts, some local law firms continue to lag in payments and this loss or delay is now borne by the County. Consistent with the recommendations in the audit report, we intend to implement the following modifications to the Office of the Court Reporter's processes:

- A minimum \$50 deposit will be permitted only for transcripts of proceedings less than one hour;
- A 50 percent deposit of the estimated cost of a transcript that exceeds one hour will be required of all requestors, including local law firms;
- To the extent that it is not inconsistent with a particular litigant's ability to obtain a timely transcript, the Office of the Court Reporters will require law firms and attorneys to pay their prior outstanding balances in full whenever a request for a new transcript is submitted. In the alternative, the Court Reporter's Office may require a deposit of 100 percent of the estimated cost for the new transcript, as permitted by Local Rule 4007(D)(1);
- As recommended, Court Administration is determining how to modify its computer system to allow for draw-down accounts that attorneys or local law firms may use to provide for the more timely and efficient payment for transcripts; and
- Court Administration will consider the option of referring cases involving law firms with large outstanding balances to a collection agency when they have not responded to repeated correspondence and phone calls.

We would like to note, as indicated in the report, that while the outstanding amount of receivables currently owed/not collected by local law firms is \$29,574, since the inception of the new rules in July 2017, a total of over \$1.2 million dollars has been collected from all private parties including local law firms.

RESPONSE TO FINDING #2

Condition #1: Application data not leveraged to match transcription fee receipts and payments

Except for court ordered alterations to payments, which are very rare, payments for transcripts are calculated by the computer system. It is noted, while four erroneous underpayments were identified, this was after the discrepancy report checked a total of 18,538 payment transactions processed by the computer system since the inception of new rules and these four payments totaled \$307 out of total payments of over \$1.2 million dollars. We agree with the recommendation, and the computer-generated

The Honorable Chelsa Wagner
September 23, 2020
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discrepancy report used to identify these transactions has been added as a permanent feature of the computer system and will be monitored on an ongoing basis to prevent future discrepancies.

Condition #2: No verification that required Payroll Adjustment Forms have been submitted

Although no missing Payroll Adjustment Forms were identified, we agree with this recommendation. The Office of the Court Reporters will create a Payroll Adjustment Form Management Sheet. A date will be entered when a Payroll Adjustment Form is issued to a court reporter, and another date will be entered when the form is returned to the Manager of the Office of Court Reporters. The Manager will then review payroll activity in the computer system to ensure that all Payroll Adjustment Forms have been processed.

The Fifth Judicial District would like to thank the audit team for their professionalism while conducting the audit and for their recommendations to improve our system.

Sincerely,



Christopher H. Connors
District Court Administrator