



**CLERK OF THE COURT OF COMMON PLEAS
AND ADULT PROBATION DEPARTMENT/
PROTHONOTARY/
CLERK OF ORPHANS' COURT**

MONTOUR COUNTY

EXAMINATION REPORT

**FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012**

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statements of receipts and disbursements (Statements) of the Clerk of the Court of Common Pleas And Adult Probation Department/Prothonotary/Clerk of Orphans' Court, Montour County, Pennsylvania (County Officers), for the period January 1, 2010 to December 31, 2012, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S § 401(b) and § 401(d). These Statements are the responsibility of the county office's management. Our responsibility is to express an opinion on these Statements based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the Statements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Sections 401(b) and 401(d) of *The Fiscal Code* 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. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Sections 401(b) and 401(d) of *The Fiscal Code*.

Independent Auditor's Report (Continued)

In our opinion, the Statements referred to above present, in all material respects, the operations of the County Officer's as it pertains to receipts made on behalf of the Commonwealth for the period January 1, 2010 to December 31, 2012, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Statements and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Statements are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Statements or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency 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 control deficiency, or combination of control deficiencies, that adversely affects the County Officer's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the County Officer's Statements that is more than inconsequential will not be prevented or detected by the County Officer's internal control.

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statements will not be prevented or detected by the County Officer's internal control.

Our consideration of internal control over reporting on the Statement 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 significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Statements.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note a matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Fees and Costs Were Not Correctly Assessed - Clerk Of The Court Of Common Pleas - Recurring.

Independent Auditor's Report (Continued)

This report is intended solely for the information and use of the Pennsylvania Department of Revenue, the Administrative Office of Pennsylvania Courts, and the County Officer and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

March 5, 2014

EUGENE A. DEPASQUALE
Auditor General

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CLERK OF THE COURT OF COMMON PLEAS
 MONTOUR COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2010 TO DECEMBER 31, 2012

Receipts:

Department of Transportation		
Title 75 Fines	\$	16,857
Overweight Fines		1,749
Department of Revenue Court Costs		10,123
Crime Victims' Compensation Costs		19,162
Crime Commission Costs/Victim Witness Services Costs		12,605
Domestic Violence Costs		2,533
Emergency Medical Services Fines		1,118
DUI - ARD/EMS Fees		3,300
CAT/MCARE Fund Surcharges		16,063
Judicial Computer System/Access to Justice Fees		10,007
Offender Supervision Fees		75,196
Criminal Laboratory Users' Fees		840
Probation and Parole Officers' Firearm Education Costs		2,310
Substance Abuse Education Costs		19,149
Office of Victims' Services Costs		7,559
Miscellaneous State Fines and Costs		<u>47,202</u>
 Total receipts (Note 2)		 245,773
 Disbursements to Commonwealth (Note 4)		 <u>(245,773)</u>
 Balance due Commonwealth (County) per settled reports (Note 5)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2010 to December 31, 2012	 \$	 <u><u>-</u></u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

PROTHONOTARY
 MONTOUR COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2010 TO DECEMBER 31, 2012

Receipts:

Writ Taxes	\$	498
Divorce Complaint Surcharges		6,000
Judicial Computer System/Access To Justice Fees		21,314
Protection From Abuse Surcharges and Contempt Fines		1,110
Criminal Charge Information System Fees		<u>805</u>
Total Receipts (Note 2)		29,727
Commissions (Note 3)		<u>(15)</u>
Net Receipts		29,712
Disbursements to Commonwealth (Note 4)		<u>(29,712)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		-
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2010 to December 31, 2012	\$	<u><u>-</u></u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

CLERK OF ORPHANS' COURT
 MONTOUR COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2010 TO DECEMBER 31, 2012

Receipts:

Marriage License Taxes	\$	177
Marriage License Application Surcharges		3,530
Marriage License Declaration Fees		3,530
Judicial Computer System/Access To Justice Fees		<u>1,809</u>
Total Receipts (Note 2)		9,046
Disbursements to Commonwealth (Note 4)		<u>(9,046)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		-
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2010 to December 31, 2012	\$	<u><u>-</u></u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTGOMERY COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

1. Criteria

The Statements 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 Statements 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.

2. Receipts

Clerk Of The Court Of Common Pleas

Receipts are comprised of fines, costs, fees, and surcharges collected on behalf of the Commonwealth. These fines, costs, fees, and surcharges represent collections made on summary and criminal cases filed with the Clerk of the Court of Common Pleas' Office.

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, fees, and fines:

- Writ Taxes represent a \$.50 or \$.25 tax imposed on taxable instruments filed with the Prothonotary.
- Divorce Complaint Surcharges represent a \$10 surcharge imposed on all divorce decrees.
- Judicial Computer System/Access To Justice Fees represent a \$10 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. These fees were increased to \$23.50 for the period December 8, 2009 to December 31, 2014.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTGOMERY COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

2. Receipts (Continued)

Prothonotary (Continued)

- Protection From Abuse Surcharges represent a \$25 surcharge imposed against defendants when a protection order is granted as a result of a hearing. Effective May 9, 2006, the surcharge was increased to \$100. Protection From Abuse Contempt Fines represent fines of not less than \$100 nor more than \$1,000 imposed against a defendant who is found to be in violation of a protection from abuse order. Effective May 9, 2006, the fine was increased to a minimum of \$300 and maximum of \$1000.
- Criminal Charge Information System Fees represent a fee 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 fee was \$7.00 for the period January 1, 2008 to December 31, 2010, and \$7.50 for the period January 1, 2011 to December 31, 2013. The statement of receipts and disbursements only reflects the portion collected on behalf of the AOPC.

Clerk Of Orphans' Court

Receipts consist of monies collected on behalf of the Commonwealth. These include monies collected for the following taxes, surcharges, and fees:

- The Marriage License Tax is a \$.50 tax on all marriage licenses filed with the Clerk of Orphans' Court.
- The Marriage License Application Surcharge is a \$10 surcharge imposed on all marriage license applications.
- The Marriage License Declaration Fees is a \$13 fee imposed for the issuance of a marriage license or declaration and for returns thereof to the Department of Health, \$2.50 of which shall be for the use of the county where the license is issued, and \$.50 for the use of the Commonwealth (Marriage License Tax), plus \$10 (Marriage License/Declaration Fees). The statement of receipts and disbursements only reflects the portion collected on behalf of the Commonwealth.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTOUR COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

2. Receipts (Continued)

Clerk Of Orphans' Court (Continued)

- Judicial Computer System/Access To Justice Fees represent a \$10 fee imposed on all petitions for grant of letters, and first filings in petitions concerning adoptions, incompetents' estates, minors' estates, and inter vivos trusts. These fees were increased to \$23.50 for the period December 8, 2009 to December 31, 2014.

3. Commissions - Prothonotary

Acting in the capacity of an agent for the Commonwealth, the Prothonotary is authorized to collect a commission of 3 percent on the Commonwealth portion of writ taxes. Accordingly, commissions owed the county are not included in the balance due the Commonwealth.

4. Disbursements

Clerk Of The Court Of Common Pleas

Total disbursements are comprised as follows:

Clerk of the Court checks issued to:	
Department of Revenue	\$ 236,202
State Police	15
Office of Inspector General	7,243
Treasury	<u>2,313</u>
Total	<u><u>\$ 245,773</u></u>

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTOUR COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

4. Disbursements (Continued)

Prothonotary

Total disbursements are comprised as follows:

Prothonotary checks issued to:

Department of Revenue	\$ 28,907
Adminstrative Office of Pennsylvania Courts	805
	805
 Total	 \$ 29,712

Clerk Of Orphans' Court

Total disbursements are comprised as follows

Clerk of Orphans' Court checks issued to:

Department of Revenue	\$ 9,046
	9,046

5. Balance Due Commonwealth (County) For The Period January 1, 2010 To December 31, 2012

Clerk Of The Court Of Common Pleas/Prothonotary

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.

Clerk Of Orphans' Court

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTOUR COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

6. County Officers Serving During Examination Period

Susan M. Kauwell served as the Clerk of the Court of Common Pleas/Prothonotary/Clerk of Orphans' Court for the period January 1, 2010 to December 31, 2012.

James Miller served as Chief Probation Officer of the Adult Probation Department for the period January 1, 2010 to December 31, 2012.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTGOMERY COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding - Fees and Costs Were Not Correctly Assessed - Clerk Of The Court Of Common Pleas -
Recurring

We cited the issue of fees and costs not being correctly assessed in our prior examination for the period ending December 31, 2009. However, our current examination found that the office once again did not correct this issue. Our current examination disclosed that the office did not correctly assess certain fees and costs as mandated by law. Of 57 cases tested, we noted the following discrepancies:

- There were 12 cases in which the Criminal Justice Enhancement Account (CJEA) Fee was assessed in error.
- There was one case in which the DUI-ARD EMS fee was assessed on a non-ARD case in error.
- There were three cases in which the Substance Abuse Education Cost was over-assessed in error.

These incorrect assessments occurred because the office ignored our prior examination recommendation and was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth fees and costs.

The following statutes address the assessment of fees 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 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 AND ADULT PROBATION
DEPARTMENT/PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTOUR COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding - Fees and Costs Were Not Correctly Assessed - Clerk Of The Court Of Common Pleas -
Recurring (Continued)

- Substance Abuse Education Costs amended Title 18 by adding Section 7508. This section imposed a \$100 cost on driving under the influence (DUI) offenses and on all drug related offenses covered in the Controlled Substance, Drug, Device and Cosmetic Act. Also, effective February 1, 2004, DUI offenses in which the offender's blood alcohol level is greater than .16% require an additional \$200 cost. The cost is distributed 50/50 between the County and Commonwealth.

The incorrect assessing of these fees resulted in the defendant not being assessed the proper amount of fees associated with the violation; and/or a loss of revenue to the Commonwealth and County.

Recommendation

Once again, we strongly recommend that the office review the laws noted above to ensure that fees are assessed as mandated by law.

Management's Response

Management stated they will comply with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS
MONTOUR COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Comment - Compliance With Prior Examination Recommendation

During our prior examination, we recommended that the office establish and implement an adequate system of internal controls over manual receipts.

During our current examination, we noted that the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION
DEPARTMENT PROTHONOTARY/CLERK OF ORPHANS' COURT
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

This report was initially distributed to:

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue

The Honorable Zygmunt Pines
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 Robert M. McCord
Pennsylvania State Treasurer
Pennsylvania State Treasury

The Honorable Susan M. Kuawell Clerk of the Court of Common Pleas/
Prothonotary/Clerk of Orphans' Court

Mr. James Miller Chief Probation Officer

The Honorable Trevor S. Finn Chairperson of the Board of Commissioners

This report is a matter of public record and is available online at <http://www.auditorgen.state.pa.us>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.