

ATTESTATION ENGAGEMENT

Clerk of the Court of Common Pleas and Department of Probation Services

Luzerne County, Pennsylvania

For the Period

January 1, 2010 to December 31, 2013

August 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Eileen McNulty
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of the Clerk of the Court of Common Pleas and Department of Probation Services, Luzerne County, Pennsylvania (County Officers), for the period January 1, 2010 to December 31, 2013, pursuant to the requirements of Section 401(b) of *The Fiscal Code*, 72 P.S. § 401(b). The County Officers' management is responsible for this Statement. Our responsibility is to express an opinion on this Statement 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 and, accordingly, included examining, on a test basis, evidence supporting the Statement 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 Section 401(b) 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 Section 401(b) of *The Fiscal Code*.

Independent Auditor's Report (Continued)

As discussed in Findings No. 1 and No. 2 respectively, some funds were misappropriated and internal controls over manual receipts were inadequate. Due to these issues, we could not perform some of our standard examination procedures. As a result, the scope of our examination of the County Officers' Statement was limited, and we were unable to achieve all of the objectives of the standard examination by performing other examination procedures.

In our opinion, except for the effects of the matters noted in the preceding paragraph, the Statement referred to above presents, in all material respects, the operations of the County Officers as it pertains to receipts made on behalf of the Commonwealth for the period January 1, 2010 to December 31, 2013, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statement; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statement. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Statement is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

Our consideration of internal control over reporting on the Statement was for the limited purpose of expressing an opinion on whether the Statement is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statement that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

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 and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies listed below to be material weaknesses.

- Misappropriation Of Funds Totaling \$23,596 - Department Of Probation Services.
- Inadequate Internal Controls Over Manual Receipts - Department Of Probation Services.
- Bank Deposit Slips Were Not Validated - Department Of Probation Services.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Statement is free from material misstatement, we performed tests of the County Offices' 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 Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, 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*. However, we did note another matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Improper Bail Forfeiture Procedures - Clerk Of The Court Of Common Pleas.

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 Officers and is not intended to be and should not be used by anyone other than these specified parties.

We appreciate the courtesy extended by the Clerk of the Court of Common Pleas and Department of Probation Services, Luzerne County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale
Auditor General

June 11, 2015

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CLERK OF THE COURT OF COMMON PLEAS
AND DEPARTMENT OF PROBATION SERVICES
LUZERNE COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Receipts:

Department of Transportation		
Title 75 Fines	\$	342,127
Department of Revenue Court Costs		150,753
Crime Victims' Compensation Costs		448,141
Crime Commission Costs/Victim Witness Services Costs		312,285
Domestic Violence Costs		31,046
Emergency Medical Services Fines		31,500
DUI - ARD/EMS Fees		46,245
CAT/MCARE Fund Surcharges		266,670
Judicial Computer System/Access to Justice Fees		264,597
Offender Supervision Fees		1,524,539
Constable Service Surcharges		103
Criminal Laboratory Users' Fees		106,627
Probation and Parole Officers' Firearm Education Costs		29,706
Substance Abuse Education Costs		401,664
Office of Victims' Services Costs		42,405
Miscellaneous State Fines and Costs		<u>743,356</u>
Total receipts (Note 2)		4,741,764
Disbursements to Commonwealth (Note 3)		<u>(4,741,764)</u>
Balance due Commonwealth (County) per settled reports (Note 4)		-
Examination adjustments (Note 5)		<u>3,070</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2010 to December 31, 2013	\$	<u><u>3,070</u></u>

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

CLERK OF THE COURT OF COMMON PLEAS
AND DEPARTMENT OF PROBATION SERVICES
LUZERNE COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

1. Criteria

The Statement of Receipts and Disbursements provides a summary of receipts and disbursements by category. The categories and the amounts of fines, costs, fees, and surcharges assessed are based on Pennsylvania laws and regulations.

The Statement was 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

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.

3. Disbursements

Total disbursements are comprised as follows:

Department of Probation Services checks issued to:

Department of Revenue	\$ 4,718,736
Commonwealth of Pennsylvania	8,856
Lottery Commission	235
Turnpike Commission	122
Game Commission	3,906
Office of Attorney General	26
State Police	4,837
Office of Inspector General	331
Department of Environmental Protection	485
Fish and Boat Commission	323
Department of Public Welfare	3,714
Department of Labor and Industry	108
Liquor Control Board	85
Total	<u>\$ 4,741,764</u>

CLERK OF THE COURT OF COMMON PLEAS
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NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
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4. Balance Due Commonwealth (County) For The Period January 1, 2010 To December 31, 2013

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.

5. Examination Adjustment

The examination adjustment represents \$1,820 of interest earned on Commonwealth funds during the examination period that was not remitted to the Department of Revenue and \$1,250 in bail forfeitures that were paid to the county in error.

6. Prior Examination Period Balance Due

We noted that there was a prior examination balance due the Commonwealth of \$6,494 that was not paid as of the end of our current examination period.

7. County Officers Serving During Examination Period

Robert Reilly served as the Clerk of the Court of Common Pleas for the period January 1, 2010 to June 3, 2010.

Thomas Pizano served as the acting Clerk of the Court of Common Pleas for the period June 4, 2010 to October 25 2010.

Will Conyngham served as the Clerk of the Court of Common Pleas for the period October 26, 2010 to January 3, 2012.

Luzerne County adopted a Home Rule Charter effective January 3, 2012. The position of an officeholder for the Clerk of the Court of Common Pleas Office was eliminated with the adoption of a Home Rule Charter. An appointed County Manager oversees all functions of the formerly elected Luzerne County row offices. The Clerk of the Court of Common Pleas' Office function is under the Luzerne County's Division of Judicial Services and Records. A division head was appointed to oversee the Clerk of Courts Office function.

CLERK OF THE COURT OF COMMON PLEAS
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7. County Officers Serving During Examination Period (Continued)

Thomas Pizano served as the acting division head of the Clerk of the Court of Common Pleas for the period January 4, 2012 to September 27, 2013.

Joan Hoggarth served as the division head of the Clerk of the Court of Common Pleas for the period September 28, 2013 to December 31, 2013.

Michael A. Vecchio served as Director of Probation Services for the period January 1, 2010 to December 31, 2013.

CLERK OF THE COURT OF COMMON PLEAS
AND DEPARTMENT OF PROBATION SERVICES
LUZERNE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Finding No. 1 - Misappropriation Of Funds Totaling \$23,596 - Department Of Probation Services

The United States Attorney's office conducted an investigation of the Luzerne County Department of Probation Services and found that a former clerk misappropriated funds totaling \$23,596 during the period January 2009 to March 2014. The misappropriated funds were not recorded into the office's computer system, and because the funds were not recorded in the offices' computer system, we could not determine the amount of Commonwealth Funds misappropriated. The Luzerne County Probation Department stated that they will allocate all restitution received related to the misappropriated funds to the appropriate accounts.

The former clerk was responsible for the collection of funds from individuals receiving services associated with the Luzerne County Department of Probation Services, as well as debts owed by those individuals, including fines, costs and restitution debts incurred in connection with court proceedings. The former clerk was also responsible for the documentation of all funds received, and ensuring the deposit of the collected funds into a bank account maintained by the Luzerne County Department of Probation Services.

The misappropriation of funds occurred when the former clerk did not record cash payments from defendants into the Court of Common Pleas Case Management System (CPCMS). Instead, the former clerk would issue an unofficial receipt, take the cash, and document the individual's payment in a personal notebook. The former clerk used the personal notebook in the event someone inquired about the missing payment, at which time the former clerk would enter the payment into CPCMS while providing a response to the individual that it was an oversight. The former clerk properly recorded all payments received in the form of a check or money order into the CPCMS.

This condition existed because the office failed to establish and implement an adequate system of internal controls over manual receipts as explained in more detail in Finding 2.

Good internal accounting controls ensure that:

- All collections are receipted through the accounting system.
- All manual receipts are accounted for and maintained.

The former clerk pled guilty to theft from a program receiving federal funds on October 9, 2014 and was sentenced to seven months in prison.

CLERK OF THE COURT OF COMMON PLEAS
AND DEPARTMENT OF PROBATION SERVICES
LUZERNE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Finding No. 1 - Misappropriation Of Funds Totaling \$23,596 - Department Of Probation Services (Continued)

Recommendations

We recommend that the office establish and implement an adequate system of internal controls over receipts as noted above.

Management's Response

The Director of Probation Services responded as follows:

Upon discovery of the irregularities regarding payments, this department immediately secured all documentation and secured the satellite office where the activities occurred. All information was subsequently surrendered to law enforcement authorities.

On October 9, 2014, the former employee of the Department of Probation Services, Administrative Services/Court Collections Division plead guilty to a charge of theft from program receiving federal funds. The former employee was sentenced to a term of 7 months incarceration and 3 years of probation. Subsequent to the former employee's sentencing, the Luzerne County Employee's Retirement Board held the former employee's pension until final determination of restitution in the case. The pension coordinator was advised of the order of court concerning restitution and on March 24, 2015, the Luzerne County Employee's Retirement System forwarded full restitution in the amount of \$23,596 to the Department of Probation Services. The distribution was a combination of the former employee's contributions and partial interest from the retirement account in order to complete payment as directed by the court.

Upon receipt of the monies via check, processing was prepared for each account referenced in the investigation of this matter. Investigative documentation was again reviewed and confirmed for processing in computer systems. All amounts have been applied upon direction and verification. All specific amounts referenced per accounts have been applied and notations with regard to the circumstances and adjustments have been noted and the amounts have been applied to accounts in the computer system and have been distributed according to the Administrative Office of Pennsylvania Courts protocols. As such, after due diligence and investigation, this matter is considered resolved and all identifiable defendant accounts have been reconciled accordingly.

CLERK OF THE COURT OF COMMON PLEAS
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LUZERNE COUNTY
FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Inadequate Internal Controls Over Manual Receipts - Department Of Probation Services

Manual receipts are available to be issued in the event of a temporary power loss to the office's computer system. When the computer system is operating again, the manual receipt should be replaced by an official computer-generated receipt and included in the daily receipts.

Our examination disclosed the following deficiencies in the internal controls over manual receipts:

- There were 25 unissued manual CPCMS receipts that could not be located and were not available for our examination.
- There were four instances in which the computer receipt was not generated timely after the issuance of the corresponding manual receipt. The time lapse from the date of the manual receipt to the corresponding computer receipt was four days for three of the four receipts. The time lapse for the remaining receipt could not be determined because it did not contain a date on the manual receipt.
- The date issued, source, method of payment, docket number, and remitter's name were not recorded on 16 manual receipts.
- There were 13 instances in which the manual receipt number was not entered into the computer system when the corresponding computer receipt was generated.
- There were nine instances in which the manual receipt was not issued in numerical sequence.
- The docket number for eight manual receipts was not recorded on the receipts log.

In addition, we noted that there were other non-CPCMS manual receipt books used for payments. A former clerk used a number of these books to misappropriate funds. The former clerk took payments for fines, costs, fees, and restitution, kept the cash and did not enter the receipt information into computer system. (Finding No. 1)

CLERK OF THE COURT OF COMMON PLEAS
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FINDINGS AND RECOMMENDATIONS
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Finding No. 2 - Inadequate Internal Controls Over Manual Receipts - Department Of Probation Services (Continued)

Good internal accounting controls ensure that:

- Manual receipts are accounted for and maintained.
- Computer receipts are generated timely after the issuance of the corresponding manual receipts.
- All required information is recorded on the manual receipt, including date issued, date filed, and signature of the person receiving the payment, remitter name, docket number, payment source, and payment method.
- Manual receipt numbers are entered in the manual receipt number field in the computer when the corresponding computer receipts are generated.
- Manual receipts are issued in numerical sequence.
- All required docket information is recorded on the manual receipts log sheet.
- Only official Common Pleas Case Management System (CPCMS) manual receipts and log that are available through the CPCMS are used.

Without a good system of internal controls over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

Adherence to good internal accounting controls would have ensured adequate internal controls over receipts.

These conditions existed because the office failed to establish and implement an adequate system of internal controls over manual receipts.

CLERK OF THE COURT OF COMMON PLEAS
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LUZERNE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 2 - Inadequate Internal Controls Over Manual Receipts - Department Of Probation
Services (Continued)

Recommendation

We recommend that the office establish and implement an adequate system of internal controls over manual receipts as noted above.

Management's Response

The Director of Probation Services responded as follows:

It should be noted that the former employee violated existing internal control policy with regard to manual receipts. The receipts that were to be utilized by policy were receipts generated and numbered through the Court of Common Please Case Management System (CPCMS).

The former employee violated both Administrative Office of Pennsylvania Courts policy and internal policy in writing receipts from unauthorized (pre-CPCMS) receipt books. Receipt books are no longer accessible to employees. Though rarely utilized at this juncture, the Office Manager will review CPCMS manual receipt logs on a weekly basis to ensure that all manual receipts have been forwarded to criminal defendants. Monies will be posted and deposited through normal procedures.

The former employee had a duty to ensure that reasonable care of monies collected from defendants were properly documented and deposited accordingly. Luzerne County defendants had the expectation that any monies collected from them for payments for court-ordered fines, costs, fees and restitution was credited to their appropriate accounts.

CLERK OF THE COURT OF COMMON PLEAS
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LUZERNE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Finding No. 3 - Bank Deposit Slips Were Not Validated - Department Of Probation Services

Our examination of the office's accounting records disclosed that the office copy of the bank deposit slip was not validated by the bank in 18 of the 45 deposits tested. The office received a validated receipt from the bank, but this only confirmed the total amount deposited and not the actual make up of the deposit (i.e. cash and check mix).

Good internal accounting controls require that the amount of each check and the total amount of cash deposited are identified on the deposit slip. The office copy of each deposit should be brought to the bank to be validated. If the bank cannot validate the deposit slip, the office should obtain a deposit ticket from the bank that validates total cash and the total deposit. After the office receives the validation from the bank, it should be reconciled to the receipts by someone other than the person preparing or making the deposit

Without a good system of internal controls over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

The office was not aware of the potential internal control weaknesses caused by not having a validated deposit slip.

Recommendation

We recommend that the office obtain a validation from the bank as to the mix of cash and checks deposited. We further recommend that the validation is reconciled to receipts by someone other than the person preparing or making the deposit.

Management's Response

The Director of Probation Services responded as follows:

It is noted that bank deposit slips and reconciliations did not reflect irregularities as monies were never documented per policy. The former employee violated policy and failed everyone's expectations and pursued a path that was self-serving and criminal in nature. Deposit procedures mirrored those in the Wilkes Barre Office and deposit slips, bank verifications and CPCMS transaction logs were compiled in a register, however, there were no supervisor sign-off. This matter is now resolved, in that the Hazelton Satellite court collections service is no longer operational.

CLERK OF THE COURT OF COMMON PLEAS
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FINDINGS AND RECOMMENDATIONS
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Finding No. 4 - Improper Bail Forfeiture Procedures - Clerk Of The Court Of Common Pleas

Our examination disclosed that, of the three bail forfeiture cases during the audit period, there were two cases in which bail forfeitures were erroneously remitted to the county, resulting in a balance due the Commonwealth of \$1,250.

When bail is posted and the defendant fails to appear for his/her hearing, bail is forfeited and, according to 42 Pa. C.S.A. Section 3571 (B), should be disbursed in the same manner as fines.

The failure to properly remit bail forfeitures resulted in a loss of revenue to the Commonwealth.

This condition existed because the office failed to establish and implement an adequate system of internal controls over bail forfeiture procedures.

Recommendation

We recommend that the office ensure that all bail forfeitures due the Commonwealth are disbursed to the Commonwealth according to 42 Pa. C.S.A. Section 3571 (B).

We further recommend that the office remit the balance due the Commonwealth of \$1,250 upon notification from the Department of Revenue.

Management's Response

The County Officer responded as follows:

The examination found two instances in which proper bail forfeiture procedures were not followed. In both instances the Clerk of Court Office staff followed an Order from a Court of Common Pleas Judge. In the future, if the office finds that an Order is different from Statute, they will contact Court Administration and/or the Judge to communicate their findings.

CLERK OF THE COURT OF COMMON PLEAS
AND DEPARTMENT OF PROBATION SERVICES
LUZERNE COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

Summary of Prior Examination Recommendation

During our prior examination, we recommended:

- That the Department of Probation Services establish and implement an adequate system of internal controls over the bank account.

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

CLERK OF THE COURT OF COMMON PLEAS
AND DEPARTMENT OF PROBATION SERVICES
LUZERNE COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Eileen McNulty
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 Thomas F. Burke	President Judge
Mr. Michael A. Vecchio	Director of Department of Probation Services
Ms. Joan Hoggarth	Director of Judicial Services and Records
The Honorable Michelle Bednar	Luzerne County Controller
Mr. Robert Lawton	Luzerne County Manager

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