

# ATTESTATION ENGAGEMENT

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## Clerk of the Court of Common Pleas Erie County, Pennsylvania For the Period January 1, 2011 to December 31, 2014

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October 2016



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 H. 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, Erie County, Pennsylvania (County Officer), for the period January 1, 2011 to December 31, 2014, pursuant to the requirements of Section 401(b) of *The Fiscal Code*, 72 P.S. § 401(b). The county office's 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*.

In our opinion, the Statement referred to above presents, in all material respects, the operations of the County Officer as it pertains to receipts made on behalf of the Commonwealth for the period January 1, 2011 to December 31, 2014, in conformity with the criteria set forth in Note 1.

## Independent Auditor's Report (Continued)

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 and significant deficiencies.

*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.

- Inadequate Accountability Over Funds Held In Escrow.
- Inadequate Segregation Of Duties.

*A significant deficiency* is a deficiency, or a 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. We consider the deficiencies listed below to be significant deficiencies.

- Inadequate Outstanding Check Procedures.

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 Office's 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 the following instance of noncompliance that is required to be reported under *Government Auditing Standards*.

- Incorrect Assessment Of Fees - Recurring.

We are concerned that the County Office failed to correct previously reported finding regarding the incorrect assessment of state fees. This deficiency could result in uncollected fees and increase the risk for funds to be lost or misappropriated. The County Office should strive to implement the recommendations and corrective actions noted in this report.

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.

We appreciate the courtesy extended by the Clerk of the Court of Common Pleas, Erie 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

August 18, 2016

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CLERK OF THE COURT OF COMMON PLEAS  
 ERIE COUNTY  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2011 TO DECEMBER 31, 2014

Receipts:

Department of Transportation		
Title 75 Fines	\$	592,480
Overweight Fines		2,809
Department of Revenue Court Costs		159,633
Crime Victims' Compensation Costs		417,138
Crime Commission Costs/Victim Witness Services Costs		277,953
Domestic Violence Costs		40,538
Emergency Medical Services Fines		37,303
DUI - ARD/EMS Fees		52,452
CAT/MCARE Fund Surcharges		278,900
Judicial Computer System/Access to Justice Fees		269,475
Offender Supervision Fees		1,704,807
Constable Service Surcharges		5,193
Criminal Laboratory Users' Fees		439,763
Probation and Parole Officers' Firearm Education Costs		34,785
Substance Abuse Education Costs		428,699
Office of Victims' Services Costs		113,728
Miscellaneous State Fines and Costs		<u>589,068</u>
 Total receipts (Note 2)		 5,444,724
 Disbursements to Commonwealth (Note 3)		 <u>(5,444,724)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2011 to December 31, 2014		 <u><u>\$ -</u></u>

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

CLERK OF THE COURT OF COMMON PLEAS  
 ERIE COUNTY  
 NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2011 TO DECEMBER 31, 2014

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:

Clerk of the Court checks issued to:

Department of Revenue	\$ 5,430,899
Commonwealth of Pennsylvania	240
Department of Transportation	782
Office of Attorney General	2,540
Pennsylvania State Police	3,482
Pennsylvania Commission on Crime and Delinquency	<u>6,781</u>
Total	<u>\$ 5,444,724</u>

4. Balance Due Commonwealth (County) For The Period January 1, 2011 To December 31, 2014

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 THE COURT OF COMMON PLEAS  
ERIE COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

5. County Officers Serving During Examination Period

Patrick L. Fetzner served as the Clerk of the Court of Common Pleas for the period January 1, 2011 to December 31, 2014.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

**Finding No. 1 - Inadequate Accountability Over Funds Held In Escrow**

Our examination disclosed that there was inadequate accountability over funds held in escrow. At December 31, 2014, funds on hand exceeded recorded obligations in the checking account by \$20,098.

Good internal accounting control procedures ensure that the ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the office bank account is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.

Without a good system of internal controls over funds held in escrow, the possibility of funds being lost or misappropriated increases significantly.

This condition existed because the office failed to establish and implement an adequate system of internal controls over funds held in escrow.

**Recommendations**

We recommend that the office attempt to identify all existing liabilities associated with the office bank account and take appropriate action. Any unidentified funds should be accounted for under normal escheat procedures. Furthermore, we recommend that the office should ensure that reconciled cash equals unpaid obligations monthly.

**Management Response**

No formal response was offered at this time.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

**Finding No. 2 - Inadequate Segregation Of Duties**

Our examination disclosed that one employee in the office was responsible for performing the following functions:

- Balancing the cash drawer.
- Preparing deposit slips.
- Reconciling the bank accounts.
- Reconciling collections to the accounting recordings and/or receipts.
- Preparing checks.
- Summarizing accounting records.

A good system of internal controls requires adequate segregation of duties.

In order to achieve adequate segregation of duties, one employee should not have custody of cash and at the same time maintain the accounting records for the cash. These duties should be segregated and rotated daily. As an alternative control, someone independent from maintaining the accounting records and handling cash should review the employee's work daily. The reviewer should sign and date the records and documents reviewed.

Without adequate segregation of duties, the possibility of funds being lost or misappropriated increases significantly.

This condition existed because the office failed to establish and implement adequate segregation of duties.

**Recommendations**

We recommend that the office provide for greater segregation of duties within the office. This can be done by cross-training personnel and rotating job functions that include the handling of cash and maintaining the accounting records for the cash. As an alternative and/or additional control, someone independent from the handling of cash and the accounting records should review the employee's work at the end of each day. Reviewed records should be signed and dated.

**Management Response**

No formal response was offered at this time.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

**Finding No. 3 - Incorrect Assessment Of Fees - Recurring**

We cited the issue of the incorrect assessment of state fees in the prior examination report dated August 2, 2005 to December 31, 2010. Our current examination found that the office did not correct this issue.

Our examination disclosed that the office did not assess certain state fees as mandated by law. Of 80 cases tested, we noted the following discrepancies:

- There were 10 cases in which Judicial Computer System/Access to Justice (JCS/ATJ) fees were not assessed on Accelerated Rehabilitative Disposition (ARD) cases.
- There were 3 cases in which DNA fees were not assessed.

These conditions existed because the office failed to ensure that fees assessed as mandated by law as recommended in our prior examination report.

The following state statutes address the assessment of fees that were not properly assessed:

- Title 42 Pa. C.S.A. § 3733 provides for the collection of Judicial Computer System/Access to Justice (JCS/ATJ) Fees for Accelerated Rehabilitative Disposition (ARD).
- Title 42 P.S. §2322 provides for the collection of a one-time DNA fee on certain felony charges.

The incorrect assessment of these state fees resulted in the defendant not being assessed the proper amount of state fees associated with the violation and the loss of revenue to the Commonwealth.

**Recommendation**

We strongly recommend that the office review the laws noted above to ensure that fees are assessed as mandated by law.

**Management Response**

No formal response was offered at this time.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

**Finding No. 3 - Incorrect Assessment Of Fees - Recurring (Continued)**

Auditor's Conclusion

This is a recurring finding. It is imperative that the Clerk of Courts take all steps necessary to comply with our recommendations. During our next examination, we will determine if the office complied with our recommendations

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

**Finding No. 4 - Inadequate Outstanding Check Procedures**

Our examination of the Clerk of Court's checking account disclosed that the office was carrying 183 outstanding general fund checks totaling \$8,572 dated from March 6, 2013 to May 5, 2014 and 20 outstanding bail fund checks totaling \$1,350 dated from October 1, 2012 to January 6, 2014 that were still outstanding as of December 31, 2014.

Good internal accounting controls require that the office follow-up on all outstanding checks. If a check is outstanding for a period over 90 days, efforts should be made to locate the payee. If efforts to locate the payee are unsuccessful, the amount of the check should be removed from the outstanding checklist, added back to the checkbook balance, and subsequently held in escrow for unclaimed escheatable funds.

The failure to follow these procedures results in a weakening of internal control over the cash account and creates inefficiency caused by the needless record-keeping of long outstanding checks.

Adherence to the uniform internal control policies and procedures, as set forth in the AOPC recommendations, would have ensured that there were adequate internal controls over outstanding checks.

This condition existed because the office failed to establish adequate internal controls over its outstanding check procedures.

**Recommendations**

We recommend that the office establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there are any long outstanding checks. If checks remain outstanding and attempts to contact payees after 90 days are unsuccessful, the office should reinstate the amount of outstanding checks to the checking account and subsequently hold these monies in escrow for unclaimed escheatable funds.

**Management's Response**

No formal response was offered at this time.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

Summary of Prior Examination Recommendation

During our prior examination, we recommended that the office:

- Review the laws to ensure that all fees are assessed as mandated by law.

During our current examination, we noted that the office did not comply with our recommendation. Please see the current year Finding No. 3 for additional information.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2014

This report was initially distributed to:

**The Honorable Eileen H. McNulty**  
Secretary  
Pennsylvania Department of Revenue

**The Honorable Thomas B. Darr**  
Court Administrator of Pennsylvania  
Supreme Court of Pennsylvania  
Administrative Office of Pennsylvania Courts

**The Honorable Timothy A. Reese**  
Pennsylvania State Treasurer

**Mr. Thomas J. Dougherty**  
Director  
Division of Grants and Standards  
Pennsylvania Board of Probation and Parole

**The Honorable Robert Catalde, Esq**  
Clerk of the Court of Common Pleas

**The Honorable Mary E. Schaaf**  
Controller

**The Honorable André Horton**  
Chair of County Council

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