



**CLERK OF THE COURT OF COMMON
PLEAS/PROTHONOTARY AND
PROBATION OFFICE**

JUNIATA COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2007 TO DECEMBER 31, 2011

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL



Commonwealth of Pennsylvania
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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/Prothonotary and Probation Office, Juniata County, Pennsylvania (County Officer), for the period January 1, 2007 to December 31, 2011, 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 as it pertains to receipts made on behalf of the Commonwealth for the period January 1, 2007 to December 31, 2011, 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. We consider the deficiencies described in the findings below to be significant deficiencies in internal control over reporting on the Statements:

- Inadequate Internal Controls Over Computer System - Prothonotary - Recurring.
- Inadequate Outstanding Check Procedures - Clerk Of The Court Of Common Pleas.

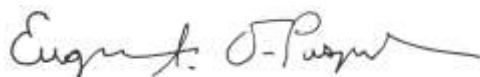
Independent Auditor's Report (Continued)

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 the internal control over reporting on the Statements would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, of the significant deficiencies described above, we consider the first bulleted deficiency to be a material weakness.

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:

- Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - 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 Officer and is not intended to be and should not be used by anyone other than these specified parties.



EUGENE A. DEPASQUALE
Auditor General

July 25, 2013

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CLERK OF THE COURT OF COMMON PLEAS AND PROBATION OFFICE
 JUNIATA COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2007 TO DECEMBER 31, 2011

Receipts:

Department of Transportation		
Title 75 Fines	\$	101,087
Department of Revenue Court Costs		20,246
Crime Victims' Compensation Costs		44,734
Crime Commission Costs/Victim Witness Services Costs		28,985
Domestic Violence Costs		4,791
Emergency Medical Services Fines		7,373
DUI - ARD/EMS Fees		8,468
CAT/MCARE Fund Surcharges		32,913
Judicial Computer System/Access to Justice Fees		16,923
Offender Supervision Fees		214,022
Constable Service Surcharges		7
Criminal Laboratory Users' Fees		1,945
Probation and Parole Officers' Firearm Education Costs		4,035
Substance Abuse Education Costs		38,943
Office of Victims' Services Costs		10,355
Miscellaneous State Fines and Costs		<u>51,838</u>
 Total receipts (Note 2)		 586,665
 Disbursements and credits to Commonwealth (Note 4)		 <u>(586,665)</u>
 Balance due Commonwealth (County) per settled reports (Note 5)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2007 to December 31, 2011	 \$	 <u><u>-</u></u>

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

PROTHONOTARY
 JUNIATA COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2007 TO DECEMBER 31, 2011

Receipts:

Writ Taxes	\$	1,251
Divorce Complaint Surcharges		3,280
Judicial Computer System/Access To Justice Fees		24,950
Criminal Charge Information System Fees		<u>1,430</u>
Total Receipts (Note 2)		30,911
Commissions (Note 3)		<u>(38)</u>
Net Receipts		30,873
Disbursements to Commonwealth (Note 4)		<u>(30,873)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		-
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2007 to December 31, 2011	\$	<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/PROTHONOTARY
AND PROBATION OFFICE
JUNIATA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

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/PROTHONOTARY
AND PROBATION OFFICE
JUNIATA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

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 \$1,000.
- 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 \$6.50 for the period January 1, 2006 to December 31, 2007, \$7.00 for the period January 1, 2008 to December 31, 2010, and \$7.50 for the period January 1, 2011 to December 31, 2012. The statement of receipts and disbursements only reflects the portion collected on behalf of the AOPC. .

3. Commissions

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.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
AND PROBATION OFFICE
JUNIATA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
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4. Disbursements And Credits

Clerk Of The Court Of Common Pleas

Total disbursements and credits are comprised as follows:

Clerk of the Court checks issued to:

Department of Revenue	\$ 585,265
Commonwealth of Pennsylvania	230
Attorney General	385
State Police	700
Department of Transportation	69

Credit taken on the current examination for
the prior examination periods:

January 1, 2003 to December 31, 2006	<u>16</u>
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Total	<u><u>\$ 586,665</u></u>
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Prothonotary

Total disbursements are comprised as follows:

Prothonotary checks issued to:

Department of Revenue	\$ 29,443
Administrative Office of Pennsylvania Courts	<u>1,430</u>

Total	<u><u>\$ 30,873</u></u>
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CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
AND PROBATION OFFICE
JUNIATA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

5. Balance Due Commonwealth (County) For The Period January 1, 2007 To December 31, 2011

Clerk Of The Court Of Common Pleas

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

Prothonotary

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue. The balance also reflects a summary of receipts that were disbursed directly to the Administrative Office of Pennsylvania Courts.

6. County Officers Serving During Examination Period

Joan E. Clark served as the Clerk of The Court of Common Pleas/Prothonotary for the period of January 1, 2007 to January 6, 2008.

Lori A. Ferry served as the Clerk of The Court of Common Pleas/Prothonotary for the period January 7, 2008 to December 31, 2011.

Michelle A. Beaver served as the Chief Probation Officer of the Probation Office for the period of January 1, 2007 to December 31, 2011.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
JUNIATA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 1 - Inadequate Internal Controls Over Computer System - Prothonotary - Recurring

We cited the office's inadequate internal controls over the computer system in the prior examination for the period ending December 31, 2006. However, our current examination found that the office did not correct this issue. Once again, our examination disclosed that Juniata County uses software purchased from and supported by an outsider service organization (Vendor) to account for transactions in the Prothonotary's office. The Vendor has remote access to the County's computer system and data. The County initiates and approves transactions from remote terminals in the County. These transactions are then transmitted electronically to the Vendor's computer system. The Vendor is responsible for processing all of the transactions and producing the necessary reports and accounting entries to record the receipt and distribution of funds and to prepare the financial statements.

During discussions with Vendor personnel, we learned that the Vendor has the ability to make changes to the County's data in a manner that would not be recorded through the normal accounting processes and, therefore, would not generate a normal examination trail.

We also noted the following weaknesses:

- The contract agreement between the County and the Vendor relieves the Vendor of any liability concerning loss of data or system functionality that may be caused by the Vendor's actions. The contract states, in part, "The client agrees to limit the vendor's liability to the corrections of the application software."
- The Vendor is using group user IDs and passwords instead of unique user IDs and passwords for each employee. Use of the group user IDs eliminates the ability to isolate and track the Vendor employee(s) who changed the County's data.
- The Vendor has unmonitored access to the County's data.
- County's users are not required to periodically change their passwords after initial password selection.

Effective security policy and practice requires the County's approval and monitoring of any computer data changes made by the Vendor, particularly because of the Vendor's access to critical applications. Furthermore, to ensure confidentiality, passwords should be changed periodically and not exchanged between employees.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
JUNIATA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 1 - Inadequate Internal Controls Over Computer System - Prothonotary – Recurring
(Continued)

According to the Computer Emergency Response Team (CERT) of Carnegie Mellon University, inadequate contractor security policies and practices can result in undetected intrusions or security violations, lack of data integrity, and loss of privacy.

These conditions existed because the County ignored our prior recommendations and failed to establish adequate internal controls over its computer system.

Recommendations

We again strongly recommend:

- That the County establish procedures to periodically generate monitoring reports that include the date, time, reason for change(s), change(s) made, and who made the change(s). The County should routinely review these reports to determine that access was appropriate and that data was not improperly altered.
- That the County should continue to take prudent steps to properly secure their production servers from unauthorized access using the remote access software installed on their system. We recommend consideration of security practices published by respected authorities in the field, such as the CERT Security Module entitled:

Outsourcing Managed Security Services
(<http://www.cert.org/archive/pdf/omss.pdf>)

- That the County negotiate an updated contract and software maintenance agreement with the Vendor. During this process the County's legal counsel should consider how to protect the County's interests in the event that errors or fraud occur as a result of Vendor employees accessing the County's data. Further, in accordance with the CERT document cited above, the following computer security issues should be considered for inclusion in the contract:
 - Assurances that vulnerabilities to known forms of attack have been addressed in the contractor software (i.e., all security patches have been updated and applied), assertions that contractor software is installed and configured to operate securely, and warranties that no malicious code (i.e., Trojan Horses) or viruses exist in contractor software.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
JUNIATA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 1 - Inadequate Internal Controls Over Computer System - Prothonotary – Recurring
(Continued)

Recommendations (Continued)

- The remote access method, the user authentication process, and a requirement that the contractor communicate securely with the County's site when operating remotely.
- The ability to restrict systems administrator-level access to authorized users, as well as the ability to log appropriate activities for purposes of detecting intrusions and attempted intrusions.
- A recently completed security evaluation of the contractor encompassing the technology being selected.
- A non-disclosure agreement if the contractor may encounter proprietary information on the County's systems.
- That the County always maintain an updated contract so as to provide appropriate legal recourse in the event of disputes with the Vendor.
- That the County office users be required to periodically change their passwords.

Management's Response

The County Officer responded as follows:

Will discuss with vendor.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the county officer take all corrective actions necessary to comply with our recommendations.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
JUNIATA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 2 - Inadequate Outstanding Check Procedures – Clerk Of The Court Of Common Pleas/Prothonotary

Our examination of the Clerk of Court's checking account disclosed that the office was carrying 94 outstanding checks totaling \$4,213.18, dated from March 25, 2005 to June 16, 2011, that were still outstanding as of December 31, 2011. The Prothonotary's checking account was carrying 54 outstanding checks totaling \$640.00, dated from October 4, 2007 to June 24, 2011, that were still outstanding as of December 31, 2011.

The office did not take appropriate follow-up action on long outstanding checks.

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 controls over the cash account and inefficiency caused by the needless record-keeping of outstanding checks.

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

Recommendation

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

The County Officer responded as follows:

I was not aware of the time frame to escheat. I am now taking care of this matter by escheating to Treasurer.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
JUNIATA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 3 - Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - Clerk Of The
Court Of Common Pleas

Our examination disclosed that the office did not assess certain fines, costs, fees, and surcharges as mandated by law. Of 57 cases tested, we noted the following discrepancies:

- There was one case in which the Judicial Computer System/Access To Justice (JCS/ATJ) Fees were not assessed.
- There were four cases in which the Judicial Computer System/Access To Justice (JCS/ATJ) Fees were assessed in error.
- There were 14 cases in which the DUI-ARD-EMS fee was assessed in error.
- There were five cases in which the Substance Abuse Education Cost was not assessed.
- There were 8 cases in which the additional \$200 cost for the Substance Abuse Education Cost was assessed in error.
- There were 13 cases in which the Criminal Justice Enhancement (CJEA) fee was assessed in error.
- There were six cases in which the CJEA fee was not assessed.
- There was one case in which the Emergency Medical Services (EMS) fine was assessed in error.
- There was one case in which the Domestic Violence Cost was assessed in error.

The following state statutes address the assessment of fines, costs, fees, and surcharges 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. It should be noted that these fees should not be assessed on Accelerated Rehabilitative Disposition (ARD) cases prior to December 8, 2009.
- 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) disposition.

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
JUNIATA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 3 - Inadequate Assessment Of Fines, Costs, Fes, And Surcharges - Clerk Of The Court Of Common Pleas (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.
- 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 authorizes the collection for the Emergency Medical Services Fine.
- 71 P.S. 611.13 (b) authorizes a \$10 Domestic Violence Cost to be assessed against any person who pleads guilty or nolo contendere or who is convicted of a crime as defined in 71 P.S. 611.13 (e).

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

These incorrect assessments occurred because the office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth fines, costs, fees, and surcharges.

Recommendation

We recommend that the office review the laws noted above to ensure that fines, costs, fees, and surcharges are assessed as mandated by law.

Management's Response

The County Officer responded as follows:

Discussed with auditor and has been corrected.

CLERK OF THE COURT OF COMMON PLEAS/
PROTHONOTARY
JUNIATA COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Comment - Compliance With Prior Examination Recommendation

During our prior examination, we recommended that the Clerk of the Court of Common Pleas maintain all records until after they have been subject to examination by the Department of the Auditor General.

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

CLERK OF THE COURT OF COMMON PLEAS/PROTHONOTARY
AND PROBATION OFFICE
JUNIATA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

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 Lori A. Ferry	Clerk of the Court of Common Pleas/ Prothonotary
Ms. Michelle A. Beaver	Chief Probation Officer, Probation Office
The Honorable Jeffrey M. Zimmerman	Chairperson of the Board of Commissioners
The Honorable Kathy A. Morrow	President Judge

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.