

ATTESTATION ENGAGEMENT

Clerk of the Court of Common Pleas Butler County, Pennsylvania For the Period January 1, 2013 to December 31, 2016

March 2018



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 C. Daniel Hassell
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, Butler County, Pennsylvania (County Officer), for the period January 1, 2013 to December 31, 2016, 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 presenting this Statement in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statement is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statement of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statement, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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)

In our opinion, the Statement referred to above, for the period January 1, 2013 to December 31, 2016, is presented in accordance with the criteria set forth in Note 1, in all material respects.

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 a certain deficiency in internal control that we consider to be a material weakness.

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 deficiency listed below to be a material weakness:

- Improper Use Of The Community Service, Jail Time Compensation And Work Credit Adjustments.

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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Independent Auditor's Report (Continued)

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

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

January 31, 2018

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CLERK OF THE COURT OF COMMON PLEAS
 BUTLER COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2013 TO DECEMBER 31, 2016

Receipts:

Department of Transportation		
Title 75 Fines	\$	575,994
Overweight Fines		973
Department of Revenue Court Costs		155,626
Crime Victims' Compensation Costs		313,636
Crime Commission Costs/Victim Witness Services Costs		243,103
Domestic Violence Costs		35,889
Emergency Medical Services Fines		23,729
DUI - ARD/EMS Fees		37,849
CAT/MCARE Fund Surcharges		170,212
Judicial Computer System/Access to Justice Fees		217,318
Offender Supervision Fees		558,191
Constable Service Surcharges		367
Criminal Laboratory Users' Fees		78,663
Probation and Parole Officers' Firearm Education Costs		29,926
Substance Abuse Education Costs		241,141
Office of Victims' Services Costs		59,761
Miscellaneous State Fines and Costs		<u>599,941</u>
 Total receipts (Note 2)		 3,342,319
 Disbursements to Commonwealth (Note 3)		 <u>(3,343,221)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)		 (902)
 Examination adjustments (Note 5)		 <u>902</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2013 to December 31, 2016		 <u>\$ -</u>

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

CLERK OF THE COURT OF COMMON PLEAS
 BUTLER COUNTY
 NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2013 TO DECEMBER 31, 2016

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	\$ 3,336,942
Office of Attorney General	2,458
State Police	3,721
Department of Public Welfare	<u>100</u>
Total	<u><u>\$ 3,343,221</u></u>

4. Balance Due Commonwealth (County) For The Period January 1, 2013 To December 31, 2016

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
BUTLER COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

5. Examination Adjustment

During our prior audit, January 1, 2010 to December 31, 2012, we determined that there was a balance due to the Commonwealth of \$902. This balance due was paid to the Department of Revenue in June 2014.

6. County Officer Serving During Examination Period

Lisa Weiland Lotz served as the Clerk of the Court of Common Pleas for the period January 1, 2013 to December 31, 2016.

CLERK OF THE COURT OF COMMON PLEAS
BUTLER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding - Improper Use Of The Community Service, Jail Time Compensation And Work Credit Adjustments

Our examination of Butler County Clerk of Court of Common Pleas found that the Butler County Probation Office established a community service program to adjust cases with amounts due for fines, costs, fees and surcharges in an effort to dispose of these cases. The Probation Department's community service program permitted any individual with a case recorded in the Probation Office that was in default of payment, to perform community service in lieu of paying fines, costs, fees and surcharges, including charges that were to be remitted to the Commonwealth. The Probation office would obtain an order from the Butler County President Judge authorizing the adjustment of costs based on the number of community service hours performed only after the individual completed the agreed upon community service. Additionally, the Butler County Jail administered a Work Credit/Jail Time Compensation program which permitted Butler County Correctional Facility inmates who performed work within the Butler County Jail, to receive credit for work performed and have the work credits applied to their cases in lieu of paying fines, costs, fees and surcharges.

We reviewed 40 cases in which there was Community Service, Jail Time Compensation, or Work Credit adjustments and found that in all 40 cases:

- The original sentencing orders of the court did not include language supporting the authorization of alternate sentencing.
- The case files did not contain documentation that the judge determined that the defendant was indigent and thus unable to pay costs, fines and fees at a hearing or proceeding before the court prior to completing community service, as required by statute.
- The case files did not have sufficient documentation to support the authorization of community service in lieu of payment of fines, costs, fees and surcharges. The President Judge's authorization orders were granted after the completion of the community service.
- Participation in this program is determined after sentencing and the decision as to who can participate in the program is made by Probation Office personnel and not the county judges.

CLERK OF THE COURT OF COMMON PLEAS
 BUTLER COUNTY
 FINDING AND RECOMMENDATIONS
 FOR THE PERIOD
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Finding - Improper Use Of The Community Service, Jail Time Compensation And Work Credit Adjustments (Continued)

A review of the Clerk of Court office records found that there were 516 counts that documented the use of “community service credits,” 91 counts of “jail time compensation” and 3,686 counts that documented the use of the “work credits” to compensate for payment of fines, costs, fees and surcharges. These adjustments represent a total of \$349,667.94 of fines, costs, fees and surcharges that were not collected over a four-year period. The Commonwealth’s portion of the uncollected funds/lost revenue totaled \$196,054.76 for the same period as detailed in the table below.

Loss of Commonwealth Fines, Costs, Fees and Surcharges	Amount
Driving Under the Influence Fee	\$ 54,935.06
Motor Vehicle Code Fine	19,178.36
ARD-DUI Emergency Medical Service Fee	1,025.00
Emergency Medical Service Fee	729.86
Catastrophic Loss Benefits Continuation Fund Surcharge	7,609.07
Probation Supervision Fee	12,815.27
Restitution	28,994.96
DNA cost	12,696.67
Criminal Justice Enhancement Account Fee	7,592.06
Firearm Education Cost	1,313.33
Constable Surcharge	35.19
Crime Laboratory User Fee	1,813.80
Access to Justice Fee	11,480.98
Judicial Computer Project Surcharge	6,097.36
Substance Abuse Education Cost	16,464.09
Department of Revenue	6,008.46
Crime Victims Compensation Fee	2,764.49
Domestic Violence Cost	1,920.99
Victim Witness Services Cost	<u>2,579.76</u>
 Total	 <u>\$196,054.76</u>

CLERK OF THE COURT OF COMMON PLEAS
BUTLER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

**Finding - Improper Use Of The Community Service, Jail Time Compensation And Work
Credit Adjustments (Continued)**

The Butler County community service program, which included applying compensation for jail time and work credits, effectively rescinded the responsibilities that the county has to assess, collect and remit mandatory fines, costs, fees and surcharges to the Commonwealth as required by the applicable statutes.¹ Therefore, the Commonwealth lost approximately \$196,054.76 in revenue that should have been remitted.

Without a good system of internal controls over community service, work credits, and jail time credit adjustments, which include authorization and documentation of the modification of sentence by a judge at a hearing or preceding before the court prior to completing community service,² there will continue to be funds lost and not remitted to the Commonwealth.

Recommendations

We recommend that the Butler County Clerk of the Courts of Common Pleas revise their community service, jail time compensation, and work credit adjustments program to ensure that it does not contradict the requirements of the applicable state statutes.

We further recommend that the office properly document the justification when using community service credits in lieu of payment for fines, costs, fees and surcharges to ensure that the decision was in accordance with applicable statutes.

¹ 42 Pa.C.S. § 3571 (indicating that “the Commonwealth shall be entitled to receive all fines . . . and costs which by law have heretofore been paid or credited to, or which by statute are payable or creditable to, the Commonwealth.”); 42 Pa.C.S. § 1520 (specifies circumstances under which Magisterial District Judges may create an Adjudication Alternative Program for which community service may be a sentence); 42 Pa.C.S. § 9730(b)(3) (identifying how the court is to handle a sentenced offender’s default on payment of fines, costs, or restitution including a hearing requirement prior to permitting community service in lieu of fines and costs.)

² 42 Pa.C.S. § 9730(b)(3) (identifying how the court is to handle a sentenced offender’s default on payment of fines, costs, or restitution including a hearing requirement prior to permitting community service in lieu of fines and costs.)

CLERK OF THE COURT OF COMMON PLEAS
BUTLER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
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Finding - Improper Use Of The Community Service, Jail Time Compensation And Work Credit Adjustments (Continued)

Management's Response

The Clerk of the Courts of Common Pleas responded as follows:

Prior to April 1, 2013, Work Credit Adjustments were only applied to County costs and fines. After Refresh in the CPCMS system on April 1, 2013, unknown to the Clerk of Courts until later that year, monies were then being applied in the system to both county and state monies. The Clerk of Courts' Office made numerous attempts to question the system change to no avail. System was discovered to have changed in December 2017 when processing the monthly prison work credits to now only apply prison work credits to county monies only.

Community Service Orders of Court are being received by the Clerk of Courts' Office directing Community Service payments to be applied to the case. The Clerk has complied with the Court Orders. Our newly appointed Administrative Judge Marilyn Horan has been apprised of the fact that David Price, Esquire (AOPC) and Counsel for DAG met and that they are in agreement that community service may be used to offset fines and costs distributable to the Commonwealth so long as the indigence protocols of the Judicial Code, 42 Pa. C.S. 9730 are followed.

Jail Time Compensation Orders were only utilized sparingly by one judge in dire situations after conducting enforcement hearings. I am being told this will no longer be used.

The Butler County Adult Probation Office is now sending the documentation to the Clerk of Courts' Office when defendant has completed the punitive community service. When remunerative community service is completed, documentation will be presented to the sentencing judge with the Application to enable the signing of the Order of Court.

Auditor's Conclusion

We appreciate the officeholder's efforts to correct these issues. Without the proper application and documentation of applicable statutes, for modified sentences, there will continue to be funds lost and not remitted to the Commonwealth. During our next examination, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS
BUTLER COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

This report was initially distributed to:

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue

The Honorable Thomas B. Darr
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 Lisa Weiland Lotz
Clerk of the Court of Common Pleas

The Honorable Benjamin A. Holland
Controller

The Honorable Leslie A. Osche
Chairperson of the Board of Commissioners

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.