

ATTESTATION ENGAGEMENT

Clerk of the Court of Common Pleas and Probation Department/Prothonotary Tioga County, Pennsylvania For the Period January 1, 2014 to December 31, 2017

November 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 statements of receipts and disbursements (Statements) of the Clerk of the Court of Common Pleas And Probation Department/Prothonotary, Tioga County, Pennsylvania (County Officer), for the period January 1, 2014 to December 31, 2017, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d). The County Office's management is responsible for presenting these statements in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statements are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statements 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 Statements, 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 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, for the period January 1, 2014 to December 31, 2017, are 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 Statements; 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 Statements. 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 Statements are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Statements or on compliance and other matters; accordingly, we express no such opinions.

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 Statements will not be prevented, or detected and corrected on a timely basis. 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.

Our consideration of internal control over reporting on the Statements was for the limited purpose of expressing an opinion on whether the Statements are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statements that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Statements are 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*. 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 Costs And Fees.

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/Prothonotary, Tioga 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.

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

October 9, 2018

Eugene A. DePasquale
Auditor General

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CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT
TIOGA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Receipts:

| | | |
|---|--------|----------------------|
| Department of Transportation | | |
| Title 75 Fines | \$ | 81,462 |
| Department of Revenue Court Costs | | 25,396 |
| Crime Victims' Compensation Costs | | 54,149 |
| Crime Commission Costs/Victim Witness Services Costs | | 37,094 |
| Domestic Violence Costs | | 5,248 |
| Emergency Medical Services Fines | | 2,433 |
| DUI - ARD/EMS Fees | | 9,399 |
| CAT/MCARE Fund Surcharges | | 28,059 |
| Judicial Computer System/Access to Justice Fees | | 41,580 |
| Offender Supervision Fees | | 343,003 |
| Constable Service Surcharges | | 3 |
| Criminal Laboratory Users' Fees | | 59,421 |
| Probation and Parole Officers' Firearm Education Costs | | 5,474 |
| Substance Abuse Education Costs | | 65,005 |
| Office of Victims' Services Costs | | 18,456 |
| Miscellaneous State Fines and Costs | | <u>160,449</u> |
| Total receipts (Note 2) | | 936,631 |
| Disbursements to Commonwealth (Note 4) | | <u>(936,631)</u> |
| Balance due Commonwealth (County) per settled reports (Note 5) | | - |
| Examination adjustments | | <u>-</u> |
| Adjusted balance due Commonwealth (County) for the period January 1, 2014 to December 31, 2017 | \$ | <u><u>-</u></u> |

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

PROTHONOTARY
TIOGA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Receipts:

| | | |
|---|----|-------------------|
| Writ Taxes | \$ | 2,141 |
| Divorce Complaint Surcharges | | 5,630 |
| Judicial Computer System/Access To Justice Fees | | 99,302 |
| Criminal Charge Information System Fees | | <u>2,650</u> |
| Total Receipts (Note 2) | | 109,723 |
| Commissions (Note 3) | | <u>(64)</u> |
| Net Receipts | | 109,659 |
| Disbursements to Commonwealth (Note 4) | | <u>(109,310)</u> |
| Balance due Commonwealth (County) per settled reports (Note 5) | | 349 |
| Examination adjustments (Note 6) | | <u>(167)</u> |
| Adjusted balance due Commonwealth (County) for the period January 1, 2014 to December 31, 2017 | \$ | <u><u>182</u></u> |

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

CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT/
PROTHONOTARY
TIOGA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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 And Probation Department

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 \$23.50 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. Effective July 10, 2014, Act 126 increased the fee to \$33.50. Effective August 8, 2014, Act 113 increased the fee to \$35.50.

CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT/
PROTHONOTARY
TIOGA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

2. Receipts (Continued)

Prothonotary (Continued)

- 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 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 AND PROBATION DEPARTMENT/
 PROTHONOTARY
 TIOGA COUNTY
 NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2014 TO DECEMBER 31, 2017

4. Disbursements

Clerk Of The Court Of Common Pleas

Total disbursements are comprised as follows:

Clerk of the Court checks issued to:

| | |
|-----------------------|------------|
| Department of Revenue | \$ 936,431 |
| State Police | 200 |
| Total | \$ 936,631 |

Prothonotary

Total disbursements are comprised as follows:

Prothonotary checks issued to:

| | |
|---|------------|
| Department of Revenue | \$ 106,660 |
| Adminstrative Office of Pennsylvania Courts | 2,650 |
| Total | \$ 109,310 |

5. Balance Due Commonwealth (County) For The Period January 1, 2014 To December 31, 2017

Clerk Of The Court Of Common Pleas

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.

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. It does not reflect adjustments disclosed by our examination.

CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT/
PROTHONOTARY
TIOGA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

6. Examination Adjustment - Prothonotary

The examination adjustment represents an error in the amount of writ tax and JCP fees that were incorrectly calculated for the months of January through December 2014; January and June, 2015 and June 2016.

7. County Officer Serving During Examination Period

Marie Seymour served as the Clerk of the Court of Common Pleas/Prothonotary for the period January 1, 2014 to December 31, 2017.

David L. Stager served as Chief Probation Officer of the Probation Department for the period January 1, 2014 to December 31, 2017.

CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT/
PROTHONOTARY
TIOGA COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Finding - Inadequate Assessment Of Costs And Fees

Our examination disclosed that the office did not assess certain costs and fees as mandated by law. The auditor examined 54 cases that included fines and costs, an additional 42 cases that included DNA costs, and three cases that included Amber Alert costs. Our examination found the following:

- There were 42 cases in which the DNA Cost was not assessed.
- There were three cases in which the Amber Alert System Cost was not assessed.
- There were nine of 41 cases in which the Criminal Justice Enhancement Account Fee was assessed in error.

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

- Effective January 31, 2005, Title 44 P.S. § 2322, specifies that all felonies, regardless of offense, and misdemeanors for § 2910 (relating to luring a child into a motor vehicle) and § 3126 (relating to indecent assault), authorizes the automatic assessment of a \$250 DNA cost when a DNA sample is taken.
- Title 35 P.S. § 7025.4 provides for the collection of the Amber Alert System Cost. Unless the court finds that undue hardship would result, in addition to any other cost imposed by law, a cost of \$25 shall automatically be assessed on each person convicted, adjudicated delinquent or granted accelerated rehabilitative disposition (ARD) of the offenses in 18 Pa.C.S. § 2901 -2910.
- 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.

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.

CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT/
PROTHONOTARY
TIOGA COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Finding - Inadequate Assessment Of Costs And Fees (Continued)

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

Recommendation

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

Management's Response

The Chief Probation Officer responded as follows:

I agree with the findings that were found and we will make appropriate changes to allow for compliance in the future for all fines, costs and fees.

Auditor's Conclusion

During our next examination, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS AND PROBATION DEPARTMENT/
PROTHONOTARY
TIOGA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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 Marie Seymour
Clerk of the Court of Common Pleas/Prothonotary

Mr. David L. Stager
Chief Probation Officer

The Honorable Roger C. Bunn
Chairperson of the Board of Commissioners

The Honorable George W. Wheeler
President Judge

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.