

ATTESTATION ENGAGEMENT

Clerk of the Court of Common Pleas/Adult Probation and Parole /Prothonotary/Clerk of Orphans' Court

Lawrence County, Pennsylvania

For the Period

January 1, 2014 to December 31, 2017

July 2019



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov

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/Adult Probation and Parole/Prothonotary/Clerk of Orphans' Court, Lawrence 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 and therefore, material weaknesses or significant deficiencies may exist that were not identified. 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 the following instances of noncompliance:

- Inadequate Assessment Of Fines, Costs, Fees, And Surcharges - Clerk of Court - Recurring.

Independent Auditor's Report (Continued)

The examination finding contained in this report cites conditions that existed in the operation of the County Offices during the previous engagement period and were not corrected during the current examination period. The County Offices should strive to implement the recommendations and corrective actions noted in this report.

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/Adult Probation and Parole/Prothonotary/Clerk of Orphans' Court, Lawrence 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 6, 2019

CONTENTS

Page

Financial Section:

Statements Of Receipts And Disbursements:

Clerk Of The Court Of Common Pleas and Adult Probation and Parole1

Prothonotary2

Clerk Of Orphans' Court.....3

Notes To The Statements Of Receipts And Disbursements4

Finding And Recommendation:

Finding - Inadequate Assessment Of Fines, Costs, Fees And Surcharges - Clerk of Court -
Recurring9

Summary Of Prior Examination Recommendation12

Report Distribution13

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

Receipts:

Department of Transportation		
Title 75 Fines	\$	94,729
Department of Revenue Court Costs		40,638
Crime Victims' Compensation Costs		140,561
Crime Commission Costs/Victim Witness Services Costs		94,792
Domestic Violence Costs		8,505
Emergency Medical Services Fines		6,679
DUI - ARD/EMS Fees		18,351
CAT/MCARE Fund Surcharges		29,223
Judicial Computer System/Access to Justice Fees		92,667
Offender Supervision Fees		442,920
Constable Service Surcharges		16
Criminal Laboratory Users' Fees		10,135
Probation and Parole Officers' Firearm Education Costs		8,481
Substance Abuse Education Costs		89,184
Office of Victims' Services Costs		13,366
Miscellaneous State Fines and Costs		<u>260,139</u>
 Total receipts (Note 2)		 1,350,386
 Disbursements to Commonwealth (Note 4)		 <u>(1,350,092)</u>
 Balance due Commonwealth (County) per settled reports (Note 5)		 294
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2014 to December 31, 2017	 \$	 <u>294</u>

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

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

Receipts:

Writ Taxes	\$ 3,427
Divorce Complaint Surcharges	8,809
Judicial Computer System/Access To Justice Fees	182,546
Protection From Abuse Surcharges and Contempt Fines	775
Criminal Charge Information System Fees	<u>2,795</u>
Total Receipts (Note 2)	198,352
Commissions (Note 3)	<u>(103)</u>
Net Receipts	198,249
Disbursements to Commonwealth (Note 4)	<u>(198,082)</u>
Balance due Commonwealth (County) per settled reports (Note 5)	167
Examination adjustments	<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2014 to December 31, 2017	<u><u>\$ 167</u></u>

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

CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Receipts:

Marriage License Taxes	\$	951
Marriage License Application Surcharges		19,010
Marriage License Declaration Fees		19,010
Judicial Computer System/Access To Justice Fees		<u>20,809</u>
Total Receipts (Note 2)		59,780
Disbursements to Commonwealth (Note 4)		<u>(59,759)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		21
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2014 to December 31, 2017	\$	<u><u>21</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 ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE 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 Adult Probation and Parole

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. Effective October 30, 2017 Act 40 and Act 44 of 2017 increased the fee to \$40.25.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

2. Receipts (Continued)

Prothonotary (Continued)

- Protection From Abuse Surcharges represent a \$100 surcharge imposed against defendants when a protection order is granted as a result of a hearing. Protection From Abuse Contempt Fines represent fines of not less than \$300 nor more than \$1,000 imposed against a defendant who is found to be in violation of a protection from abuse order.
- 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 \$7.00 for the period January 1, 2008 to December 31, 2010, and \$7.50 for the period January 1, 2011 to December 31, 2013. The statement of receipts and disbursements only reflects the portion collected on behalf of the AOPC.

Clerk Of Orphans' Court

Receipts consist of monies collected on behalf of the Commonwealth. These include monies collected for the following taxes, surcharges, and fees:

- The Marriage License Tax is a \$.50 tax on all marriage licenses filed with the Clerk of Orphans' Court.
- The Marriage License Application Surcharge is a \$10 surcharge imposed on all marriage license applications.
- The Marriage License Declaration Fees is a \$13 fee imposed for the issuance of a marriage license or declaration and for returns thereof to the Department of Health, \$2.50 of which shall be for the use of the county where the license is issued, and \$.50 for the use of the Commonwealth (Marriage License Tax), plus \$10 (Marriage License/Declaration Fees). The statement of receipts and disbursements only reflects the portion collected on behalf of the Commonwealth.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
 PROTHONOTARY/CLERK OF ORPHANS' COURT
 LAWRENCE COUNTY
 NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2014 TO DECEMBER 31, 2017

2. Receipts (Continued)

Clerk Of Orphans' Court (Continued)

- Judicial Computer System/Access To Justice Fees represent a \$23.50 fee imposed on all petitions for grant of letters, and first filings in petitions concerning adoptions, incompetents' estates, minors' estates, and inter vivos trusts. Effective July 10, 2014, Act 126 increased the fee to \$33.50. Effective August 8, 2014, Act 113 increased the fee to \$35.50. Effective October 30, 2017 Act 40 and Act 44 of 2017 increased the fee to \$40.25.

3. Commissions - Prothonotary

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.

4. Disbursements

Clerk Of The Court Of Common Pleas and Adult Probation and Parole

Total disbursements are comprised as follows:

Clerk of the Courts Office checks issued to:

Department of Revenue	\$ 1,335,091
Department of Environmental Protection	135
Department of Welfare	40
Office of Attorney General	2,353
State Police	1,270
Office of Inspector General	10,613
Bureau of Victims' Services	350
Department of Corrections	21
Liquor Control Board	<u>219</u>
Total	<u><u>\$ 1,350,092</u></u>

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
 PROTHONOTARY/CLERK OF ORPHANS' COURT
 LAWRENCE COUNTY
 NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2014 TO DECEMBER 31, 2017

4. Disbursements (Continued)

Prothonotary

Total disbursements are comprised as follows:

Prothonotary checks issued to:

Department of Revenue	\$ 195,287
Adminstrative Office of Pennsylvania Courts	<u>2,795</u>
 Total	 <u><u>\$ 198,082</u></u>

Clerk Of Orphans' Court

Total disbursements are comprised as follows:

Clerk of Orphans' Court checks issued to:

Department of Revenue	<u><u>\$ 59,759</u></u>
-----------------------	-------------------------

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

Clerk Of The Court Of Common Pleas and Adult Probation and Parole

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 disbursed directly to the Administrative Office of Pennsylvania Courts

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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

Clerk Of Orphans' Court

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

6. County Officer Serving During Examination Period

Helen I. Morgan served as the Clerk of the Court of Common Pleas/Prothonotary/Clerk of Orphans' Court for the period January 1, 2014 to December 31, 2017.

James Jendrysik, served as Chief Probation Officer for the period January 1, 2014 to December 31, 2017.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

**Finding - Inadequate Assessment of Fines, Costs, Fees And Surcharges - Clerk of Court -
Recurring**

We cited the issue of inadequate assessment of fines, costs, fees and surcharges in the prior examination report for the period January 1, 2010 to December 31, 2013. Our current examination found that the office did not correct this issue.

Our examination disclosed that the office did not assess certain fines, costs, fees, and surcharges as mandated by law. Of 65 cases tested, we noted the following discrepancies:

- There were three cases in which the Emergency Medical Services (EMS) Fine and the Pennsylvania Transportation Trust Surcharge were not properly assessed per count.
- There was one case in which the costs of prosecution were not assessed when ordered.
- There were five cases in which the additional \$200 Substance Abuse Education Cost for DUI offenses in which the offender's blood alcohol level is greater than .16% was assessed in error on Accelerated Rehabilitative Disposition (ARD) cases.
- There were six cases in which the DNA Cost was not assessed.
- There was one case in which the Criminal Justice Enhancement Account Fee was assessed in error on a Misdemeanor of the third degree disposition.

This condition existed because the office failed to review the laws to ensure that fines, costs, fees, and surcharges are assessed as mandated by law as recommended in the prior examination report.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

**Finding - Inadequate Assessment Of Fines, Costs, Fees And Surcharges - Clerk of Court -
Recurring (Continued)**

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

- Title 35 P.S. § 6934 authorizes the collection for the Emergency Medical Services Fine.
- Title 75 Pa. C.S.A. § 6506(a) provides for the collection of the Catastrophic Fund Surcharge. Act 89 of 2013 amended Title 75 Pa. C.S.A. § 6506(b) PA Transportation Trust fund.
- 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. This additional cost is NOT to be assessed on ARD or nolo contendere cases NOR on DUIs cited under the general impairment subsection of the DUI law - 75 Pa.C.S. § 3802(a).
- 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.
- 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 fines, costs, fees and surcharges resulted in the defendants not being assessed the proper amount associated with the violation; and/or a loss of revenue to the Commonwealth and County.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

**Finding - Inadequate Assessment Of Fines, Costs, Fees And Surcharges - Clerk of Court -
Recurring (Continued)**

Recommendation

We strongly 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:

I am a newly elected official as of May 2019 and was an interim Governor appointed official as of September 2018. I will be sworn in officially in January 2020 as Lawrence County Prothonotary, Clerk of Courts and Orphans' Court. I have reviewed the internal administrative procedures and taken measures to correct the written finding including implementing additional office procedures and making necessary adjustments where applicable.

I have been in contact with the Administrative Office of Pennsylvania Courts (AOPC), Lawrence County Court Administration, Office of Victim Advocate, Court of Common Pleas and the District Attorney of Lawrence County all in an effort to establish a communicative dialogue to better ensure the adequate assessment of fines, costs, fees and surcharges moving forward.

Auditor's Conclusion

This is a recurring finding. It is imperative that the office take all corrective actions necessary to comply with our recommendation. The risk of uncollected fines, costs, fees, and surcharges continues to exist as long as these deficiencies exist. During our next examination, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Summary Of Prior Examination Recommendation

During our prior examination, we recommended that the office:

- Review the laws to ensure that fines, costs, fees and surcharges 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 for additional information.

CLERK OF THE COURT OF COMMON PLEAS AND ADULT PROBATION AND PAROLE
PROTHONOTARY/CLERK OF ORPHANS' COURT
LAWRENCE 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 Jodi Klabon-Esoldo
Clerk of the Court of Common Pleas/
Prothonotary/Clerk of Orphans' Court

The Honorable David Gettings
Controller

Mr. James Jendrysik
Chief Probation Officer

The Honorable Daniel J. Vogler
Chairperson of the Board of Commissioners

The Honorable Dominick Motto
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.