

# ATTESTATION ENGAGEMENT

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

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August 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, Cambria 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 Adjustment.

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, Cambria 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 26, 2018

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

Receipts:

Department of Transportation		
Title 75 Fines	\$	171,954
Overweight Fines		3,680
Department of Revenue Court Costs		106,002
Crime Victims' Compensation Costs		312,756
Crime Commission Costs/Victim Witness Services Costs		215,480
Domestic Violence Costs		29,782
Emergency Medical Services Fines		11,557
DUI - ARD/EMS Fees		34,647
CAT/MCARE Fund Surcharges		108,297
Judicial Computer System/Access to Justice Fees		211,113
Offender Supervision Fees		1,002,883
Constable Service Surcharges		4,057
Criminal Laboratory Users' Fees		49,783
Probation and Parole Officers' Firearm Education Costs		21,587
Substance Abuse Education Costs		166,569
Office of Victims' Services Costs		78,446
Miscellaneous State Fines and Costs		<u>502,766</u>
 Total receipts (Note 2)		 3,031,359
 Disbursements to Commonwealth (Note 3)		 <u>(3,031,359)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2013 to December 31, 2016		 <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  
CAMBRIA 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	\$ 3,031,321
Commission on Crime and Delinquency (PCCD)	<u>38</u>
Total	<u><u>\$ 3,031,359</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.

5. County Officer Serving During Examination Period

Susan M. Kuhar 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  
CAMBRIA COUNTY  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2016

**Finding - Improper Use Of The Community Service Adjustment**

Our examination of Cambria County Clerk of the Court of Common Pleas found that the Cambria County Probation Office administered community service 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 procedures, permitted any individual with a case recorded in the Probation office, who's account was in default, to perform community service in lieu of paying fines, costs, fees and surcharges. Upon completion of the community service, the Clerk of the Courts office received an order from the Cambria County Court of Common Pleas authorizing a community service adjustment. Community service credits were then applied to case balances in lieu of paying fines, costs, fees and surcharges.

We reviewed 25 cases in which there was a Community Service adjustment and found that in 11 of the 25 cases tested:

- The case files did not contain documentation that the judge determined that the defendant was indigent which meant that the defendant was unable to pay costs, fines and fees, at a hearing or proceeding before the court prior to completing community service, as required by statute.
- Participation is determined after sentencing and the decision as to who can participate was made by Probation office personnel and not the county judges.

In addition, in all 25 cases tested:

- The case files did not have sufficient documentation to support the completion of community service in lieu of payment of fines, costs, fees and surcharges.

Our test of 25 cases mentioned above represents a total of \$41,046 in Commonwealth Community Service adjustments. Of that amount, we determined that these cases included improper community service adjustments totaling \$20,744. These improper adjustments represent lost revenue to the Commonwealth.<sup>1</sup>

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<sup>1</sup> The Community Service Adjustments for the examination period January 1, 2013 to December 31, 2016 totaled \$1,135,264 in Commonwealth funds. This is a substantial amount considering that Cambria County remitted a total of \$3,013,359 to the Commonwealth for that same time period.



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

**Finding - Improper Use Of The Community Service Adjustment (Continued)**

The Cambria County Clerk of the Courts of Common Pleas procedures of applying community service to adjust cases with amounts due for fines, costs, fees and surcharges in an effort to dispose of these cases, at times 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 applicable statutes.<sup>2</sup> The community service adjustments made by the Clerk of the Court of Common Pleas were made at the direction of the court. These adjustments resulted in a loss of revenue to the Commonwealth.

Without a good system of internal controls over community service, which includes authorization and documentation of the modification of sentence by a judge at a hearing or preceding before the court prior to completing community service,<sup>3</sup> the potential is increased for loss of funds to the Commonwealth.

**Recommendations**

We recommend that the Cambria County Clerk of the Courts of Common Pleas revise their community service procedures to ensure that they do not contradict the requirements of the applicable state statutes.

We further recommend that the office properly document the justification when using community service adjustments in lieu of payment for fines, costs, fees and surcharges to ensure that the decision was in accordance with applicable statutes. Finally, we recommend that the office maintain adequate documentation in the case files to support the completion of community service in lieu of payment of fines, costs, fees and surcharges.

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<sup>2</sup> 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).

<sup>3</sup> 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.)

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

**Finding - Improper Use Of The Community Service Adjustment (Continued)**

Management's Response

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

I do not have an issue with the Auditor General's position on Community Service that payment determination and or indigent hearing proceedings are required prior to any Community Service. I do take issue that the Clerk of Courts Office is being given a written finding for this. The Clerk of Courts Office is a filing office and we do not have the authority to question or require that these proceedings be held before a judge issues his order. As with all orders issued by the court we file them and follow their directive.

The Clerk of Courts Office is being held responsible for an issue that is totally out of our hands. There is nowhere in the statute that directs the Clerk of Courts is to check and review the courts actions before allowing their orders to be entered on the dockets and processed. If the Auditor General's Office feels that the courts are not following statute, they should take that issue up with the PA State Court Administrator.

Auditor's Conclusion

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. We understand that the community service adjustments made by the Clerk of the Court of Common Pleas were made at the direction of the court, but are concerned that statewide statutes regarding mandatory fines, fees and costs are not being adhered to. Mandatory fines, fees and costs due and payable to the Commonwealth cannot be written off in lieu of community service or other alternate form of sentencing without a hearing to determine a defendant's indigency. The effect of this is that funds that are due to the Commonwealth are not being remitted and the county becomes the sole beneficiary of the services provided in lieu of these funds. We are referring this matter to the Administrative Office of Pennsylvania Courts for further review. During our next examination, we will determine if the office complied with our recommendations.

CLERK OF THE COURT OF COMMON PLEAS  
CAMBRIA 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 Susan M. Kuhar**  
Clerk of the Court of Common Pleas

**The Honorable Ed Cernic, Jr.**  
Controller

**The Honorable Thomas C. Chernisky**  
Chairperson of the Board of Commissioners

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).