

# ATTESTATION ENGAGEMENT

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## Clerk of the Court of Common Pleas Erie County, Pennsylvania For the Period January 1, 2015 to December 31, 2018

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January 2021



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, Erie County, Pennsylvania (County Officer), for the period January 1, 2015 to December 31, 2018, 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, 2015 to December 31, 2018, 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.

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. 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 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. 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 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 the following instance of noncompliance that are required to be reported under *Government Auditing Standards*:

- Inadequate Assessment Of Costs And Fees - Recurring.

Independent Auditor's Report (Continued)

The examination finding contained in this report cites conditions that existed in the operation of the County Office during the previous engagement period and were not corrected during the current examination period. The County Office 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, Erie County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.



Eugene A. DePasquale  
Auditor General

December 7, 2020

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CLERK OF THE COURT OF COMMON PLEAS  
 ERIE COUNTY  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2015 TO DECEMBER 31, 2018

Receipts:

Department of Transportation		
Title 75 Fines	\$	774,822
Overweight Fines		3,304
Department of Revenue Court Costs		173,424
Crime Victims' Compensation Costs		458,814
Crime Commission Costs/Victim Witness Services Costs		312,565
Domestic Violence Costs		36,376
Emergency Medical Services Fines		34,727
DUI - ARD/EMS Fees		56,747
CAT/MCARE Fund Surcharges		159,849
Judicial Computer System/Access to Justice Fees		434,187
Offender Supervision Fees		1,857,742
Constable Service Surcharges		3,332
Criminal Laboratory Users' Fees		463,946
Probation and Parole Officers' Firearm Education Costs		35,196
Substance Abuse Education Costs		403,234
Office of Victims' Services Costs		96,101
Miscellaneous State Fines and Costs		<u>1,057,104</u>
 Total receipts (Note 2)		 6,361,470
 Disbursements to Commonwealth (Note 3)		 <u>(6,361,470)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2015 to December 31, 2018	 \$	 <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  
 ERIE COUNTY  
 NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2015 TO DECEMBER 31, 2018

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	\$ 6,350,955
State Police	5,421
Commission on Crime and Delinquency	4,766
Department of the Auditor General	244
Department of Transportaion	<u>84</u>
Total	<u><u>\$ 6,361,470</u></u>

4. Balance Due Commonwealth (County) For The Period January 1, 2015 To December 31, 2018

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  
ERIE COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2018

5. County Officers Serving During Examination Period

Patrick L. Fetzner served as the Clerk of the Court of Common Pleas for the period January 1, 2015 to January 30, 2015.

Kenneth J. Gamble served as the Clerk of the Court of Common Pleas for the period January 31, 2015 to December 31, 2018.



CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2018

**Finding - Inadequate Assessment Of Costs And Fees - Recurring**

We cited the issue of inadequate assessment of state fees in the two prior examination reports with the most recent being for the period January 1, 2011 to December 31, 2014. Our current examination found that the office did not correct this issue.

Our examination disclosed that the office did not assess certain state costs and fees as mandated by law. Of 80 cases tested, we noted the following discrepancies:

- There were six cases in which DNA fees were not assessed.
- There were three cases in which the Amber Alert System Cost was not assessed.
- There was one case in which Crime Victims Compensation Costs, Domestic Violence Costs, and Victim Witness Services Costs were not assessed.

These conditions existed because the office failed to ensure that costs and fees are assessed as mandated by law as recommended in our two prior examination reports.

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

- Title 42 P.S. §2322 provides for the collection of a one-time DNA fee on certain felony charges.
- 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.
- Title 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). It should be noted that these fees should not be assessed on Accelerated Rehabilitative Disposition (ARD) cases.
- Title 18 P.S. § 11.1101 authorizes a \$35 Crime Victim's Compensation Cost to be assessed for use by the Crime Victim's Compensation Board for payment to victims and technical assistance and a \$25 Victim Witness Services Cost for use by the Commission on Crime and Delinquency for victim witness service grants and technical assistance in non-victim compensation related areas.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2018

**Finding - Inadequate Assessment Of Costs And Fees - Recurring (Continued)**

The inadequate assessment of these costs and fees resulted in the defendant not being assessed the proper amount of state costs and fees associated with the violation and the loss of revenue to the Commonwealth.

Recommendation

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

Management Response

The County Officer responded as follows:

After review of the cases, we found they had multiple charges where the lead charge costs/fees were properly assessed. However, the additional charges were not properly assessed by the system. The missed assessments were fixed and noted in the system. Staff have been advised and directed to make corrective actions to resolve the issue.

Auditor's Conclusion

We appreciate the current officeholder's efforts to correct these issues. This is a recurring finding. It is imperative that the office take all steps necessary to comply with our recommendation. During our next examination, we will determine if the office complied with our recommendation.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2018

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that the office:

- Identify all existing liabilities associated with the office bank account and take appropriate action. Any unidentified funds should be accounted for under normal escheat procedures. Furthermore, we recommended that the office should ensure that reconciled cash equals unpaid obligations monthly.
- Provide for greater segregation of duties within the office.
- Review the laws to ensure that fees are assessed as mandated by law.
- 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 those monies in escrow for unclaimed escheatable funds.

During our current examination, we noted that the office complied with our first, second and fourth bulleted recommendations. However, the office did not comply with our third bulleted recommendation. Please see the current year finding for additional information.

CLERK OF THE COURT OF COMMON PLEAS  
ERIE COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2018

This report was initially distributed to:

**The Honorable C. Daniel Hassell**  
Secretary  
Pennsylvania Department of Revenue

**The Honorable H. Geoffrey Moulton, Jr**  
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 Kenneth J. Gamble**  
Clerk of the Court of Common Pleas

**The Honorable Dr. Kyle Foust**  
Controller

**The Honorable Kathy Dahlkemper**  
County Executive of County Council

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).