

Lancaster County Clerk of Courts Audit Report

For the period of January 1, 2022, through December 31, 2022



Lisa Colón
Lancaster County Controller

**Lancaster County Clerk of Courts
Audit Report
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For the period January 1, 2022, through December 31, 2022**

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Controller's Office

150 North Queen Street

Suite #710

Lancaster, PA 17603

Phone: 717-299-8262

www.lancastercountypa.gov

Controller

Lisa K. Colón

January 11, 2024

Nicky Woods
Clerk of the Court of Common Pleas
50 N. Duke St.
Lancaster, PA 17603

Dear Nicky Woods:

Attached is the audit report for the Lancaster County Clerk of the Court of Common Pleas ("Clerk of Courts Office") as prepared by the Lancaster County Controller's Office. Our examination procedures were for the period between January 1, 2022, through December 31, 2022. The Controller's Office tested and audited the activity and operations, including the accounting and internal control systems surrounding the Clerk of Courts Office, in accordance with applicable accounting principles and any pertinent State, County, and local laws, policies, and regulations.

While conducting our audit, we noted findings, and/or issues of non-compliance as a result of a deficiency in internal controls, that allows opportunity for strengthening internal controls and operating efficiency. They are presented within the report under *Audit Summary of Facts*.

Please note, it is the responsibility of the Clerk of Courts and office management to ensure compliance with any and all applicable State and local laws and regulations, as well as County policy in place. We do not express an opinion or provide any assurance on the information examined because the limited procedures executed do not provide us with sufficient evidence to express an opinion.

The Controller's Office acknowledges the willingness and commitment of the Clerk of Courts to assist in correcting issues identified during the audit.

This report is intended for the information and use of the Clerk of Courts Office and its management and is not intended to be and should not be used by anyone other than the specified party without consent. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

Lisa K Colón
Lancaster County Controller
jdg



Lancaster County Clerk of Courts
Relevant Audit Notes
For the period January 1, 2022, through December 31, 2022

Note A – CLERK OF COURTS MISSION STATEMENT

It is the Mission of the Lancaster County Clerk of Courts Office to effectively and efficiently maintain accurate criminal records for the courts and citizens of Lancaster County. The Clerk of the Courts is an independent public official, established by the Pennsylvania Constitution, whose duties and responsibilities are set forth in the laws of the Commonwealth. The Clerk of the Courts is elected by County voters to a four-year term and is the custodian of the records for the criminal division of the Court of Common Pleas.¹

Note B – DESCRIPTION OF CLERK OF COURTS

The Lancaster County Clerk of the Court of Common Pleas is located on the 2nd floor of the Lancaster County Courthouse at 50 N. Duke Street in the City of Lancaster. Mary Anater was elected November of 2021 to serve the remainder of her predecessor’s 2-year term. She served as Clerk of Courts from January 2022 to October 2023, followed by Dimary Serrano as the acting Clerk of Courts until January 2024, when the newly elected Clerk of Courts, Nicky Woods, began serving.

County court operations in Pennsylvania involve complex work processes and specialized expertise. A highly trained staff in the Clerk of Courts Office is essential in order to initiate, process, coordinate, maintain and archive all the data and documents associated with each case, and have them available to the various users on a time sensitive basis. Numerous County departments utilize case information to make critical decisions concerning incarceration of defendants, driver’s license suspensions, and financial penalties.¹

Each year the Lancaster County Clerk of Courts Office handles approximately 8,000 new criminal court records (adult, juvenile and summary). Since all documents pertinent to a criminal court case must be filed with the Clerk of Courts, the office is the hub of the criminal court system in the county. All criminal court-related departments in county government rely upon the Clerk’s office for accurate and up-to-date records. All records, with the exception of those involving juveniles, are open to public inspection.¹

Other responsibilities of the Clerk of Courts include:

- Processing Bail
- Assessment and Distribution of Fines and Costs
- Recording Verdicts and Sentences
- Reporting Dispositions to State Agencies
- Licensing of Private Detectives
- Registration of Constables

¹ <https://lancasterpaclerkofcourts.com/27/About-Us#:~:text=Our%20mission%20is%20to%20effectively,the%20laws%20of%20the%20Commonwealth.>

Lancaster County Clerk of Courts
Relevant Audit Notes (continued)
For the period January 1, 2022, through December 31, 2022

Note B – DESCRIPTION OF CLERK OF COURTS (continued)

- Recording Tax Collector Bonds
- Processing of Appeals to State Appellate Courts

Note C – SCOPE AND PROCEDURES OF AUDIT

The period of review is January 1, 2022, through December 31, 2022, to cover the 2022 calendar year.

The Controller’s Office obtained a full understanding of the controls in place, their functions, control operators and the level of segregation of duties over the receipts of monies, expenditures incurred, bail monies receipted, bail forfeitures and exonerations, and approved bail bondsmen registered with the county.

Where complete reports and records were made available, the Controller’s Office selected samples to test, to minimize sampling risk to the lowest level and ensure that each item of the population had a fair and equal chance of selection.

Note D – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Clerk of Courts reports on the cash basis of accounting. Under the cash basis of accounting, revenues are recognized when cash has been received and expenses are recognized when the cash disbursement has been made.

Note E – OBJECTIVE OF AUDIT

The overall objective of the audit was to determine the accuracy and adherence of the financial affairs and the overall operations of the Lancaster County Clerk of Courts to state and local laws, policies and regulations. This includes:

- Ensuring the control environment is effective
- Ensuring expenditures are legitimate, properly recorded and made in accordance with policy
- Ensuring revenues are complete, accurate and properly recorded
- Identifying any indication of error, fraud or abuse

Note F – OBSERVATIONS, FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

The Controller reported observations and findings along with recommendations for improvement as a result of the examination performed over the Clerk of Courts. The Clerk of Courts provided responses to these findings and recommendations. The sections detailing both follow this note.

Lancaster County Clerk of Courts
Audit Findings & Observations
For the period January 1, 2022, through December 31, 2022

This section of the report presents the findings and observations that resulted from our audit procedures. According to Chapter 8 Fieldwork Standards for Performance Audits of the Governmental Auditing Standards, the development of the criteria, condition, cause and effect of the findings are relevant and necessary to achieve the audit objective(s). A finding may be a result of an underlying control deficiency, whether evaluated on an individual basis or in the aggregate. As such, to determine their impact to the audit objective, the magnitude of impact, likelihood of occurrence and the nature of the deficiency should be carefully considered, if a deficiency exists. Following the findings and observations, we provide recommendations to correct the described occurrences.

Finding #1: Missing private detective records

Background:

Per the state mandated Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22 (refer to page 19) the Commonwealth states that the private detective applications and information shall be filed with the Clerk of Courts. Renewals of licenses, fee payments and the filing of the surety bond for each renewing applicant may be renewed at the office of the Clerk of Courts. Applications for a Private Detective shall include the following information: an application signed and verified by each individual composing or intending to compose such partnership or association, full name, age, residence, present and previous occupations, specify the name of the city, borough, township, or incorporated town, the street and number of the principal place of business, the bureau, agency, sub-agency, office or branch office for which the license is desired, a passport photograph of each applicant, and fingerprints of the applicant's two hands to compare to records of the Pennsylvania State Police. At least once each year, the Clerk of Courts shall publish a roster of the names and addresses of all persons, partnerships, associations, and corporations licensed by such court under the provisions of this act.

Description:

The Controller's Office identified two Lists of Licensed Lancaster County Private Detectives applicable for the scope of the audit, which were revised as of May 4, 2022, and November 7, 2022. Five private detectives were selected for testing to determine the controls in place are performed effectively to ensure private detectives registered with Lancaster County were made in accordance with the Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22. The Controller's Office requested the private detective's application; receipt for the paid filing fees; documentation of the private detective's swear-in date; and the private detective's bond indicating an amount of \$10,000.00. However, the Clerk of Courts only provided information for three of the five private detectives. The Controller's Office concludes that controls in place over private detective applications are working ineffectively. Additionally, receipts of payment for private

Lancaster County Clerk of Courts
Audit Findings & Observations (continued)
For the period January 1, 2022, through December 31, 2022

Finding #1: Missing private detective records (continued)

detective applications fees were obtained for only two private detectives. As such, the Controller's Office cannot conclude whether private detective applications and related fees are complete, accurate, existent, or made in accordance with the Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22.

Finding #2: Missing bail bondsmen records

Background:

Per state mandated judicial code 2015 Act 16 P.L. 110, No. 16 Cl. 42 (refer to page 22) the Commonwealth authorizes a bondsmen to conduct business within a county when the following information is provided to the office of the clerk: (1) a copy of the license issued to the bail bondsmen by the department; (2) a statement identifying an office for service of legal process; and (3) a qualifying power of attorney issued by an insurer authorizing the bail bondsmen as a producer on behalf of the insurer. The qualifying power of attorney must set forth, in clear and unambiguous terms, the maximum monetary authority of the bail bondsmen per bond. Per the Lancaster County Rules of Criminal Procedure No. 531(A) (refer to page 25), the Clerk of Courts shall compile, maintain, and make available for public inspection a list of approved bondsmen (professional or fidelity/surety agent) qualified to act as a bail surety in Lancaster County. A bondsman (professional or fidelity/surety agent) is not permitted to act as a bail surety in Lancaster County unless he/she appears on the Approved Bondsmen List on the date the bond is signed.

Description:

The Controller's Office obtained the Approved Bondsmen List, qualified to act as bail sureties in Lancaster County, revised as of January 11, 2021. A total of 90 approved bondsmen were listed in the Approved Bondsmen List, and 19 bondsmen from this list were selected for testing, that were not selected for testing during the 2021 calendar year, to determine the controls in place are performed effectively to ensure approved bondsmen registered with Lancaster County were made in accordance with state and local laws, policies and regulations. The Controller's Office requested to review the bail bondsmen's valid license to vouch the bondsmen's licensure was current during the period January 1, 2022, through December 31, 2022; the receipt of the paid license fee when an initial or renewal application was submitted; vouch the office address of the bail bondsmen; and obtain the power of attorney by an insurer authorizing the bondsmen as a producer on behalf of the insurer. The Clerk of Courts could not provide the requested documentation for the samples being tested. Therefore, the Controller's Office concludes that bail bondsmen initial or renewal applications for licensure have missing controls and/or are poorly designed. The Controller's Office also cannot conclude whether bail forfeitures are complete, accurate, existent, or made in accordance with 2015 Act 16 P.L. 110, No. 16 Cl. 42.

Lancaster County Clerk of Courts
Audit Findings & Observations (continued)
For the period January 1, 2022, through December 31, 2022

Finding #3: Unable to verify whether bail forfeitures were processed accordingly

Background:

Per state mandated judicial code 2015 Act 16 P.L. 110, No. 16 Cl. 42 (refer to page 22), the Commonwealth addresses the necessary steps the Clerk of Courts Office is required to complete when a bail must be forfeited. After a defendant fails to appear to court, the defendant's bail shall be revoked and a notice of revocation shall be served by the Office of Clerk to the defendant, surety or bail bondsman, and the insurer by certified mail and return receipt requested. Ninety days from the date of the service of the notice of revocation, the revocation shall become a judgement of forfeiture requiring immediate payment by the defendant or the surety. Failure of payment on the close of the 91st day, will result in the District Attorney or county solicitor to commence a proceeding to suspend or non-renew the license of a bail bondsman. In the event that a defendant is recovered and taken to custody, the bondsman or surety may request the return of the paid forfeitures (known as bail exonerations). The Clerk of Courts shall provide a summary quarterly statement to each bail bondsman or insurer with any overdue forfeited undertakings unpaid, affording 30 days from the date of the report to render payment of the forfeited undertakings.

Description:

The Controller's Office obtained the Bail Management Report detailing all cases with bail forfeitures. The Controller's Office extracted all cases secured by a surety bond. A total of 16 cases in Lancaster County were identified as both, secured by a surety bond and forfeited. Five of these cases were selected for testing to determine the control effectiveness, completeness, accuracy, and existence of bail forfeitures, in accordance with 2015 Act 16 P.L. 110, No. 16 Cl. 42. The Controller's Office requested the notice of revocation; the certified mail receipt indicating that it was delivered and received, receipt of defaulted bail paid on or before the 91st day of the date of the notice of revocation, the quarterly statement (produced by the Clerk of Courts) of all unpaid overdue forfeited undertakings provided to the bondsman/surety, receipt of all unpaid overdue forfeited undertakings paid within 30 days of the quarterly statement, and evidence of a formal suspension or non-renewal of license has been initiated towards any bondsman/surety for unpaid forfeitures. The Clerk of Courts could not provide the requested documentation for the samples being tested. The Clerk of Courts also confirmed they do not perform quarterly statements of all unpaid overdue forfeited undertakings, indicating that forfeitures are not being tracked when unpaid. The Controller's Office concludes that bail forfeitures have missing controls and/or are poorly designed. The Controller's Office also cannot conclude whether bail forfeitures are complete, accurate, existent, or made in accordance with 2015 Act 16 P.L. 110, No. 16 Cl. 42.

Lancaster County Clerk of Courts
Audit Findings & Observations (continued)
For the period January 1, 2022, through December 31, 2022

Finding #4: Unable to produce bail receipts or a complete receipts report to identify whether receipts were deposited in a timely manner

Background:

All monies collected, processed and remitted to Clerk of Courts Office may be made in cash or money order only. Monies may be collected from bail, fees, licensure applications, etc. Each time bail is posted, a docket # is required. If a bail bondsman is posting bail, the bondsman will remit a \$16.50 fee. For payors other than a bail bondsman, 100% of the bail will be remitted to the Clerk of Court's Office. Every day a different individual is selected by the Clerk or Deputy Clerk and assigned *deputy duties* for the day. Individuals selected to perform deputy duties are the only individuals with the responsibility to collect monies, provide a receipt to the payor and enter cash into the cash drawer. All receipts must be entered into CPCMS. The following morning, a manager will reconcile all receipted monies from the previous day and create a deposit slip. An officer from Adult Probation will collect the deposit slip, cash and any checks collected.

Description:

The Controller's Office requested two complete reports from the Clerk of Courts, a receipts report indicating all receipts collected at their office and a bail receipts report indicating only all bail receipts collected at their office, in order to perform two dual tests to determine the control effectiveness, completeness, accuracy, existence of receipts and that receipts were made in accordance with local, county, and state policies, procedures, laws, rules and regulations for bail receipts and all other receipts.

A Receipted Collections report was obtained. The report was an itemized list of all individual payors in alphabetical order detailing the total net amount paid to the Clerk of Courts. Sampling this report was not feasible for the following reasons: the information included in this report included items outside of the scope of the audited time period and the report did not have any identifiable information such as receipt numbers, receipt amount, receipt date, payor name, docket number, etc. As such, the Controller's Office concludes that receipts have missing controls and/or are poorly designed. The Controller's Office also cannot conclude whether receipts are complete, accurate, existent, or made in accordance with local, county, and state policies, procedures, laws, rules and regulations.

A Receipts by Assessment Type report was obtained, which includes all entries of bail receipts. A total of 71 entries of bail receipts were identified, of which 10 bail receipts were selected to perform a dual test to determine the control effectiveness, completeness, accuracy and existence of bail monies receipted by the Clerk of Courts Office and to ensure bail receipts were made in accordance with local, county, and state policies, procedures, laws, rules and regulations. To do so, the Controller's Office requested the original receipt of bail payment, the responsible individual

Lancaster County Clerk of Courts
Audit Findings & Observations (continued)
For the period January 1, 2022, through December 31, 2022

Finding #4: Unable to produce bail receipts or a complete receipts report to identify whether receipts were deposited in a timely manner (continued)

assigned deputy duties on the day bail was receipted, the daily reconciliation for the day the bail was receipted, the bail bank account for the month of the bail receipt, and receipt of bail repayment to the defendant or payor, if applicable. The Clerk of Courts could not provide the requested documentation for the samples being tested. The Controller's Office concludes that bail receipts have missing controls and/or are poorly designed. The Controller's Office also cannot conclude whether bail receipts are complete, accurate, existent, or made in accordance with local, county, and state policies, procedures, laws, rules and regulations.

Finding #5: Lack of periodic review of the published Approved Bail Bondsmen List

Background:

Per state mandated judicial code 2015 Act 16 P.L. 110, No. 16 Cl. 42 (refer to page 22), the Commonwealth authorizes a bondsmen to conduct business within a county when the following information is provided to the office of the clerk: (1) a copy of the license issued to the bail bondsmen by the department; (2) a statement identifying an office for service of legal process; and (3) a qualifying power of attorney issued by an insurer authorizing the bail bondsmen as a producer on behalf of the insurer. The qualifying power of attorney must set forth, in clear and unambiguous terms, the maximum monetary authority of the bail bondsmen per bond. Per the Lancaster County Rules of Criminal Procedure No. 531(A) (refer to page 25), the Clerk of Courts shall compile, maintain, and make available for public inspection a list of approved bondsmen (professional or fidelity/surety agent) qualified to act as a bail surety in Lancaster County. A bondsman (professional or fidelity/surety agent) is not permitted to act as a bail surety in Lancaster County unless he/she appears on the Approved Bondsmen List on the date the bond is signed.

Description:

The Controller's Office identified that no changes were made to the published Bail Bondsmen List, revised as of January 11, 2021, until May 2, 2023, which fell outside of the scope of the audit. Missing information and clerical errors in the published Bail Bondsmen List, revised as of January 11, 2021, were identified in the Clerk of Courts Audit Report for the calendar year 2021. Since no changes or updates were made during the year 2022 and the same missing information and clerical errors remain from the previous year, the Controller's Office determined there were no controls in place to have periodic reviews of the published Approved Bail Bondsmen List.

Lancaster County Clerk of Courts
Audit Findings & Observations (continued)
For the period January 1, 2022, through December 31, 2022

Finding #6: Unable to produce bail exoneration reports

Background:

Per state mandated judicial code 2015 Act 16 P.L. 110, No. 16 Cl. 42, the Commonwealth addresses the necessary steps the Clerk of Courts Office is to follow, if a defendant who has forfeited their bail is recovered and remanded into custody. The surety company that paid the forfeited monies to the Clerk of Courts Office, may petition to collect the forfeited monies (known as bail exonerations), only if the defendant is recovered between the 91st day and six months after the notice of revocation or forfeiture, the surety shall recover the full value of the forfeited amount of the bond, less a \$250 administrative fee. If the defendant is recovered between six months and one year after the notice of revocation or forfeiture, the surety shall recover 80% of the value of the forfeited amount of the bond. If the defendant is recovered between one and two years after the notice of revocation or forfeiture, the surety shall recover 50% of the value of the forfeited amount of the bond.

Description:

The Controller's Office requested a report indicating all bail exonerations (forfeited bail monies repaid to the bondman or surety), if applicable, in order to select samples to test the control effectiveness, completeness, accuracy and existence of bail exonerations in accordance with 2015 Act 16 P.L. 110, No. 16 Cl. 42. However, the Clerk of Courts were unable to provide a report listing all bail exonerations. As such, the Controller's Office could not conclude whether the controls in place were performing effectively or whether bail exonerations were complete, accurate, existent or in accordance with 2015 Act 16 P.L. 110, No. 16 Cl. 42.

Observation #1: Issues with the office time stamp

Background:

Each County office and department utilize a time stamp to record the office receiving the document, the time and date of when documents are received by each office. It is critical documents be time stamped, as some of these documents are routed between departments, such as the Controller's Office, and entries may be created based on dates indicated on record.

Description:

While performing the Private Detective Test, the Controller's obtained a court order allowing the applicant to be approved for a Private Detective license. The date recorded within the court order was February 16, 2017. However, the court order was time stamped as received by the Clerk of Courts on February 16, 2018. The Controller's Office reviewed the applicant's additional information provide to the Clerk of Courts which indicated the entire renewal process took place during 2017.

Lancaster County Clerk of Courts
Audit Responses
For the period January 1, 2022, through December 31, 2022

Based on the Audit Findings & Observations section of this report, the Controller's Office provides an opportunity for management to respond to audit findings and/or observations. This section represents the responses from the Clerk of Courts Office to the findings, as deemed necessary, identified in the previous section. This audit report was made available to the Clerk of Court's Office on January 4, 2024.

A. In response to Finding #1: Missing private detective records

The Clerk of Courts office acknowledges the findings and will take steps to correct the situation in the future.

Controller's Office Response:

The Controller's Office reaffirms the finding.

B. In response to Finding #2: Missing bail bondsmen records

The Clerk of Courts office acknowledges the findings and will take steps to correct the situation in the future.

Controller's Office Response:

The Controller's Office reaffirms the finding.

C. In response to Finding #3: Unable to verify whether bail forfeitures were processed accordingly

The Clerk of Courts office acknowledges the findings and will take steps to correct the situation in the future.

Controller's Office Response:

The Controller's Office reaffirms the finding.

D. In response to Finding #4: Unable to produce bail receipts or a complete receipts report to identify whether receipts were deposited in a timely manner

The Clerk of Courts office acknowledges the findings and will take steps to correct the situation in the future.

Controller's Office Response:

The Controller's Office reaffirms the finding.

Lancaster County Clerk of Courts
Audit Responses (*continued*)
For the period January 1, 2022, through December 31, 2022

E. In response to Finding #5: Lack of period review of the published Approved Bail Bondsmen List

The Clerk of Courts office acknowledges the findings and will take steps to correct the situation in the future.

Controller's Office Response:

The Controller's Office reaffirms the finding.

F. In response to Finding #6: Unable to produce bail exoneration reports

The Clerk of Courts office acknowledges the findings and will take steps to correct the situation in the future.

Controller's Office Response:

The Controller's Office reaffirms the finding.

Lancaster County Clerk of Courts
Audit Recommendations
For the period January 1, 2022, through December 31, 2022

Based on identified audit findings, observations and management's responses, the Controller's Office provides the following recommendations to correct and improve such described occurrences listed in the preceding section.

Finding #1: Missing private detective records

Controller's Recommendation

The Controller's Office recommends the Clerk of Courts Office to periodically review the Commonwealth's mandated Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22 and its amendments, if applicable. Additionally, it is recommended that the Clerk of Courts Office maintain records submitted to their office for new and renewal application of private detectives, according to record retention guidelines defined by AOPC.

Finding #2: Missing bail bondsmen records

Controller's Recommendation

The Controller's Office recommends the Clerk of Courts Office to periodically review the Commonwealth's mandated judicial code 2015 Act 16 P.L. 110, No. 16 Cl. 42 and its amendments, if applicable. Additionally, it is recommended that the Clerk of Courts Office maintain records submitted to their office for new and renewal application of bondsmen licensures, according to record retention guidelines defined by AOPC.

Finding #3: Unable to verify whether bail forfeitures were processed accordingly

Controller's Recommendation

The Controller's Office recommends the Clerk of Courts Office to periodically review the Commonwealth's mandated judicial code 2015 Act 16 P.L. 110, No. 16 Cl. 42 and its amendments, if applicable. Additionally, it is recommended that the Clerk of Courts Office send out notices of revocation immediately after a bail is forfeited, keep a 90-day tracker beginning the date the notice of revocation is sent in order to begin any action of a formal suspension or non-renewal of the responsible bondsman's license. The Clerk of Courts is also responsible for providing a summary quarterly statement to each bondsman or insurer with any overdue forfeited undertaking unpaid, affording 30 days from the date of the report to render payment of any forfeited undertakings, as described in the mandated judicial code.

Lancaster County Clerk of Courts
Audit Recommendations (*continued*)
For the period January 1, 2022, through December 31, 2022

Finding #4: Unable to produce bail receipts or a complete receipts report to identify whether receipts were deposited in a timely manner

The Controller's Office recommends the Clerk of Courts Office to familiarize themselves with the process of collecting bail receipts and the importance of the segregation of duties. The assigned individual with the responsibility of "duty-deputies" should be the only person who may collect monies for the day and the Clerk of Courts Office should record and maintain the names of the employees assigned "duty-deputies" on each day. This will allow the office to easily identify the responsible individual that collected money on any given day. A separate individual, who is not assigned with "deputy-duties", should be responsible for counting, reconciling, and writing up a deposit slip for all monies collected. A separate individual from the person counting, reconciling, and writing up the deposit slip, such as the Clerk, Deputy Clerk or an office manager, should be responsible to sign off the daily deposit slips and collections. Doing so will segregate duties in the office and reduce the potential for error and fraud.

It is also recommended that the Clerk of Courts become familiar with CPCMS-generated reports such as the one requested to perform testing over bail receipts. The Controller's Office recommends the office to have communication with a point of contact at the CPCMS Help Desk, to request necessary help and/or a list of all possible reports that may be necessary for the Clerk of Courts Office to analyze data periodically.

Finding #5: Lack of periodic review of the published Approved Bail Bondsmen List

The Controller's Office recommends the Clerk of Courts undergo a periodic review of the Approved Bail Bondsmen List to ensure information is accurate, complete and bondsmen are still active bondsmen for the County.

Finding #6: Unable to produce bail exoneration reports

The Controller's Office recommends the Clerk of Courts become familiar with CPCMS-generated reports such as the one requested to perform testing over bail exonerations. The Controller's Office recommends the office to have communication with a point of contact at the CPCMS Help Desk, to request necessary help and/or a list of all possible reports that may be necessary for the Clerk of Courts Office to analyze data periodically.

Lancaster County Clerk of Courts
Audit Summary of Facts
For the period January 1, 2022, through December 31, 2022

We have performed procedures to assist in evaluating both internal controls, their effectiveness; and substantive procedures over the receipts of monies (including bail receipts), expenditures (including expenses of automation funds), bail bondsmen licensing, and bail forfeitures and exonerations of the Lancaster County Clerk of the Court of Common Pleas, for the period January 1, 2022, through December 31, 2022.

Reportable conditions involved issues coming to our attention relating to significant deficiencies or non-compliance that could adversely affect records at the Clerk of Courts. These conditions could adversely affect their ability to record and report financial data consistent with those standards of management and applicable with state and local laws, policies and regulations. While conducting our audit, we noted findings, observations, and/or issues of non-compliance which are described in the Audit Findings and Observations Section.

We sampled expenditures, automation fund expenditures, licensed bail bondsmen with the county, bail forfeitures, and bail receipts. Several reports were not provided to the Controller's Office and/or a complete population was unobtainable. As a result, the following were unable to be sampled: receipts collected and bail exonerations.

Procedures in evaluating internal controls included obtaining an understanding of the department (which includes the nature, objectives, applicable laws and regulations, and roles existing in the department), identifying significant process, and assessing control risk within. Internal controls may provide accuracy, reliability, and may protect against errors or fraud. Only key internal controls relevant to the objective of the audit, were selected for testing. Substantive procedures are performed to detect a misstatement, whether material or immaterial to the audit.

The inherent limitations of any internal control structure and the sampling risk of a population can cause errors, irregularities, or inconsistencies to occur and/or not be detected. Our testing would not necessarily disclose all matters of the internal control structure that might be reportable conditions. Included in our audit, we have reported findings that involve a deficiency in the internal control structure of the Clerk of Courts Office.

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 manner. 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 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.

Lancaster County Clerk of Courts
Audit Summary of Facts (*continued*)
For the period January 1, 2022, through December 31, 2022

The deficiency, as described under Finding #1, in the Audit Findings and Observations section, was a result of noncompliance with current state and local laws, policies and regulations, as well as missing, poorly designed and/or ineffective internal controls. The Commonwealth's judicial code under mandated Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22, specify the requirements to submit an initial or renewal application for a private detective license with the County and the responsibilities of the Clerk of Courts Office on handling applications. The Clerk of Courts Office did not provide the complete requested records or documentation pertaining to the applications of private detectives. It was unclear if records or documentation were properly maintained, or if required documentation was not received at all by the office. The Controller's Office concludes that controls in place over private detective applications are working ineffectively. Additionally, receipt of payment for only two of the five sampled private detectives were obtained, resulting in the Controller's Office being unable to conclude the testing and resulted in a finding to the audit.

The deficiency, as described under Findings #2 in the Audit Findings and Observations section, was a result of noncompliance with current state and local laws, policies and regulations, as well as missing, poorly designed and/or ineffective internal controls. The Commonwealth's judicial code under 2015 Act 16 P.L. 110, No. 16 Cl. 42 and the Lancaster County Rules of Criminal Procedure No. 531(A), specify the requirements to submit an initial or renewal application of a bondsman with the County and the responsibilities of the Clerk of Courts Office on handling applications. The Clerk of Courts Office did not provide any requested records or documentation pertaining to the applications of active bondsmen. It was unclear if records or documentation were properly maintained, or if required documentation was not received at all by the office. The Controller's Office was unable to conclude the testing and resulted in a finding to the audit.

The deficiency, as described under Finding #3 in the Audit Findings and Observations section, was a result of noncompliance with current state and local laws, policies and regulations, as well as missing or poorly designed and/or ineffective internal controls. The Commonwealth's judicial code under 2015 Act 16 P.L. 110, No. 16 Cl. 42 and the Lancaster County Rules of Criminal Procedure No. 531(A), specify the actions to be taken when a defendant, on bail, does not appear to their court appearance and their bail must be forfeited. The Clerk of Courts Office did not provide any requested records or documentation to verify the office processed bail forfeitures according to state and local laws, policies and regulations. It was not clear if appropriate procedures were followed or if records or documentation were not properly stored or maintained. The Controller's Office was unable to conclude the testing and resulted in a finding to the audit.

The deficiency, as described under Findings #4 and Finding #6 in the Audit Findings and Observations section, was a result of a lack of knowledge in generating CPCMS data reports, as well as missing or poorly designed and/or ineffective internal controls. The Clerk of Courts Office

Lancaster County Clerk of Courts
Audit Summary of Facts (*continued*)
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is responsible for the collection of bail monies either from the defendant or a bail bondsman and remittance of bail exonerations, if any occur. During the audit, bail receipts, daily reconciliation reports, deposit slips, bank statements were requested to verify that bail receipts were being appropriately collected, receipted, and deposited, as well as a report describing all bail exonerations. However, no supporting documentation was provided by the Clerk of Courts Office making it impossible to perform testing procedures and resulted in a finding to the audit. A complete receipts report was requested, to detail each individual receipt number, receipt amount, receipt date, payor name, docket number, etc., from the Clerk of Courts. However, the Clerk of Courts could not produce such report. Therefore, the Controller's Office reached out to the CPCMS Help Desk and was directed to have the Clerk of Courts Office enter a ticket-request, to request a receipt report. No report was provided to the Controller's Office and therefore no samples were selected for testing. The Controller's Office was unable to conclude the testing and resulted in a finding to the audit.

The deficiency, as described under Finding #5 in the Audit Findings and Observations section, was a result of missing, poorly designed and/or ineffective internal controls. The Lancaster County Rules of Criminal Procedure No. 531(A), specifies a list of approved bondsmen shall be available for public inspection. Therefore, the information provided to the public, should be reviewed periodically to ensure there are no errors or inaccuracies pertaining to the bondsmen registered with the County, which include any upcoming expirations of bondsmen licenses. Since no changes were made to the approved list during the year 2022, the same findings from the previous audit year remained and this was an indication that there are no controls in place to have periodic review of their published Approved Bail Bondsmen List.

In future audits, we will continue to re-evaluate the internal control structure to ensure that policies and procedures do not become inadequate or ineffective because of changes in conditions or design.

We conducted our audit to obtain a reasonable understanding about whether the accounts tested are free of material misstatement. We did not express an opinion or provide any assurance on the information examined because the limited procedures executed do not allow us sufficient evidence to express an opinion.

**Lancaster County Clerk of Courts
Controller's Office Summary
For the period January 1, 2022, through December 31, 2022**

The Controller's Office is open to discuss, help, and collaborate with the Lancaster County Clerk of Courts to continue to ensure the responsibilities, duties and functions of the office are met and performed effectively and efficiently, and the office is adhering to all state and local laws and policies. Our findings and recommendations will be monitored in future audits to ensure the findings are not reoccurring and the recommendations that are selected to be implemented are adhered to.

Lancaster County Clerk of Courts
Applicable State, County and Local Codes, Rules, Laws and Regulations
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JUDICIAL CODE

Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22

§ 14. Application for Licenses

Any person, partnership, association or corporation, intending to conduct a private detective business, the business of investigator, or the business of watch, guard or patrol agency, or the business of a detective agency, and any person, partnership, association, or corporation, intending to conduct the business of furnishing or supplying information as the personal character of any person, partnership, corporation, society, or association or any person or group of persons, or intending to own, conduct, manage or maintain a bureau or agency for the above mentioned purposes, or, while engaged in other lawful business activities, also intending to engage in any one or more of the activities set forth in subsections (a), (b) and (c) of section two of this act (§12 of this title - Definitions), except exclusively as to the financial rating, standing and credit responsibility of persons, partnerships, associations, or corporations, shall, for each such bureau or agency, and for each and every sub-agency, office and branch office to be owned, conducted, managed or maintained by such person, partnership, association, or corporation for the conduct of such business, file, in the office of the clerk of the court of common pleas of the county wherein the principal office or such business is located, a written application, duly signed and verified, as follows:

- (a) If the applicant is a person, the application shall be signed and verified by such person, and if the applicant is a partnership or association, the application shall be signed and verified by each individual composing or intending to compose such partnership or association. The application shall state the full name, age, residence, present and previous occupations, of each person or individual so signing the same, that he is a citizen of the United States, and shall also specify the name of the city, borough, township, or incorporated town, stating the street and number if the premises have a street and number, and otherwise such apt description as will reasonably indicate the location thereof, where is to be located the principal place of business, and the bureau, agency, sub-agency, office or branch office for which the license is desired, and such further facts as may be required by the court of common pleas, to show the good character, competency and integrity of each person or individual so signing such application. Each person or individual signing such application shall, together with such application, submit to the court of common pleas his photograph, in duplicate, in passport size, and also fingerprints of his two hands, recorded in such manner as may be specified by the court of common pleas. Before approving such application, it shall be the duty of the court of common pleas to compare such fingerprints with fingerprints of criminals now or hereafter filed in the records of the Pennsylvania State Police. Every such applicant shall establish, to the satisfaction of the court of common

Lancaster County Clerk of Courts
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Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22 (*continued*)

pleas and by at least two duly acknowledged certificates, that such applicant, if he be a person, or, in the case of a partnership, association, or corporation, at least one member of such partnership, association, or corporation, has been regularly employed as a detective, or shall have been a member of the United State government investigative service, a sheriff, a member of the Pennsylvania State Police, or a member of a city police department of a rank or grade higher than that of patrolman, for a period of not less than three years. Such application shall be approved as to each person or individual so signing the same by not less than five reputable citizens of the community in which such applicant resides or transacts business, or in which it is proposed to own, conduct, manage or maintain the bureau, agency, sub-agency, office or branch office for which the license is desired, each of whom shall certify that he has personally known the said person or individual for a period of at least five years prior to the filing of such application, that he has read such application and believes each of the statements made therein to be true, that such person is honest, of good character, and competent, and not related or connected to the person so certifying by blood or marriage. The certificate of approval shall be signed by such reputable citizens and duly verified and acknowledged by them before an officer authorized to take oaths and acknowledgment of deeds.

- (b) If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, and the name of the city, borough, township, or incorporated town, stating the street and number if the premises have a street and number, and otherwise such apt description as will reasonably indicate the location thereof, where is to be located the principal place of business, and the bureau, agency, sub-agency, office or branch office for which the license is desired, the amount of the corporation's outstanding paid up capital stock and whether paid in cash or property, and, if in property, the nature of the same, and shall be accompanied by a duly certified copy of its certificate of incorporation. Each and every requirement of clause (a) of this section as to a person or individual member of a partnership or association shall apply to the president, secretary and treasurer, and each such officer, his successor and successors, shall, prior to entering upon the discharge of his duties, sign and verify a like statement, approved in like manner, as is by clause (a) prescribed in the case of a person or individual member of a partnership or association. In the event of the death, resignation or removal of such officer, due notice of that fact shall forthwith be given in writing to the court of common pleas, together with a copy of the minutes of any meeting of the board of directors of said corporation, certified by the

Lancaster County Clerk of Courts
Applicable State, County and Local Codes, Rules, Laws and Regulations (*continued*)
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Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22 (*continued*)

secretary, indicating the death, resignation or removal of such officer, and the election or designation of the successor of such deceased, resigned or removed officer.

§ 16. Issuance of Licenses; Fees; Bonds

- (a) When the application shall have been examined, and such further inquiry and investigation made as the court of common pleas or the district attorney shall deem proper, and when the court of common pleas shall be satisfied therefrom of the good character, competency and integrity of such applicant, or, if the applicant be a partnership, association or corporation, of the individual members or officers thereof, and a period of ten days from the date of the filing of the application shall have passed, the court of common pleas shall issue and deliver to such applicant a certificate of license to conduct such business, and to own, conduct or maintain a bureau, agency, sub-agency, office or branch office for the conduct of such business on the premises stated in such application, upon the applicant's paying to the court of common pleas for each such certificate of license so issued, for the use of the county, a license fee of two hundred dollars (\$200), if the applicant be an individual, or of three hundred dollars (\$300), if a partnership, association or corporation, and upon the applicant's executing, delivering and filing in the office of the clerk of the court of common pleas a corporate bond in the sum of ten thousand dollars (\$10,000), conditioned for the faithful and honest conduct of such business by such applicant, which surety bond must be written by a corporate surety company authorized to do business in this Commonwealth as surety, and approved by the court of common pleas with respect to its form, manner of execution and sufficiency. The license granted pursuant to this act shall last for a period of two years, but shall be revocable at all times by the court of common pleas for cause shown.

....

- (c) There shall be kept in the office of the clerk of the court of common pleas a bulletin board, in a place accessible to the general public, on which shall be posted, at noon on Friday of each week, the following: a statement of all pending applications for licenses under this act, giving the name of the applicant, and whether individual, partnership, association or corporation, and the proposed business address, a similar statement of all such licenses issued during the preceding week, a similar statement of all such licenses revoked during the preceding week.

Lancaster County Clerk of Courts
Applicable State, County and Local Codes, Rules, Laws and Regulations (continued)
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Private Detective Act of 1953, as amended, P.L. 1273, No. 361 Cl. 22 (continued)

§ 21. Renewal of Licenses

- (a) A license granted under the provisions of this act may be renewed by the clerk of courts upon application therefor by the holder thereof upon payment of fee and filing of surety bond, each in amounts equivalent to those specified in section 6 (§ 16 of this title - **Issuance of Licenses; Fees; Bonds**) as pertaining to original licenses.
- (b) A brief renewal application form shall be prescribed by the Attorney General. Fingerprints and references shall not be required with a renewal application. The clerk of courts shall reissue the license for a period of up to five years, without a mandatory waiting period, unless the clerk perceives a problem, which requires submission of the renewal application to the court.

§ 29. Roster of Licenses

The clerk of each court of common pleas shall publish, at least once in each year, a roster of the names and addresses of all persons, partnerships, associations and corporations licensed by such court under the provisions of this act.

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2015 Act 16 P.L. 110, No. 16 Cl. 42

§ 5743.1. **Authorization to conduct business within each county.** A bail bondsman shall only be authorized to conduct business in a county when the bail bondsman provides all of the following documents to the office of the clerk:

- (1) A copy of the license issued to the bail bondsman by the department.
- (2) A statement identifying an office address for service of legal process
- (3) A qualifying power of attorney issued by an insurer authorizing the bail bondsman as a producer on behalf of the insurer. The qualifying power of attorney must set forth, in clear and unambiguous terms, the maximum monetary authority of the bail bondsman per bond.

§ 5745. **Suspension or nonrenewal of license for unpaid bail forfeitures.**

- (a) General rule. -- If the court of common pleas for the county where the bail bondsman is authorized to conduct business has been unable to collect unpaid forfeitures after a period of six months or if a penalty is warranted under section 5750(c) (relating to third-party sureties), the court, upon petition of the county solicitor or district attorney, shall issue an order directing the department to:
 - (1) prohibit the renewal of a license of the bail bondsman; or
 - (2) immediately suspend the license of the bail bondsman.
- (b) Notice to bail bondsman and insurer.-- Prior to the issuance of an order to suspend or nonrenew a license, the bail bondsman and insurer who issued the qualifying power of attorney shall both be given advance notice by certified mail, return receipt requested. The notice shall specify all of the following:
 - (1) The amount of forfeitures and penalties under section 5750(c)(2)(i), if applicable.
 - (2) How, when and where the notice can be contested.
 - (3) That the grounds for contesting the notice shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of forfeitures owed or mistaken identity of the bail bondsman as the person who was subject to the bail forfeiture order.
 - (4) That an order to the department to automatically suspend or nonrenew the license will occur in all cases 30 days after delivery of the notice by certified mail, return receipt requested, unless the amount of forfeitures and penalties, providing the basis for issuance of the order, is paid, a periodic payment schedule is approved by the court or the individual is excused from payment due to a mistake of fact.

§ 5747.1 **Forfeited undertaking.**

- (a) General rule.-- If a defendant in a criminal prosecution fails to appear for any scheduled court proceeding, the defendant's bail may be revoked and notice of revocation shall serve as notice of intent to forfeit the bail of the defendant. The notice or order of revocation

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2015 Act 16 P.L. 110, No. 16 Cl. 42 (continued)

shall be served by the office of the clerk to the defendant, surety or bail bondsman and insurer who has issued the qualifying power of attorney for the bail bondsman by certified mail, return receipt requested.

(b) Payment.--The following shall apply:

- (1) Ninety days from the date of the service of the notice of revocation or order of revocation, the revocation shall become a judgment of forfeiture, payment of which shall be immediately required by the defendant or surety. Failure of a bail bondsman to make a timely payment of a forfeiture judgment shall result in the district attorney or county solicitor commencing proceedings to suspend or nonrenew the license of the bail bondsman otherwise consistent with section 5746 (relating to suspension or revocation of authority to conduct business in a county).
- (2) Payment of forfeited undertaking shall be made directly to the office of the clerk not later than the close of business on the 91st day following the service of the notice of revocation. If the defendant has been recovered and placed into custody through the efforts of the bail bondsman or proof has been provided to the court that the defendant was discovered by the bail bondsman to be in custody in another jurisdiction prior to the 91st day, no payment of the forfeited undertaking shall be required. If the defendant is placed into custody or discovered to be in custody, the court shall set aside the bail revocation and may release the defendant with the reinstatement of bail pursuant to the Pennsylvania Rules of Criminal Procedure. The bail bondsman shall not be continued by the court as surety on reinstated bail unless a written consent is signed by the bail bondsman agreeing to such extension of suretyship.
- (3) Failure to render payment of the forfeited undertaking by close of business on the 91st day shall bar any right of remission to collect funds pursuant to the forfeited undertaking.
- (4) The office of the clerk shall provide a summary quarterly statement of all overdue forfeited undertakings which have not been paid by each bail bondsman and insurer. The bail bondsman or insurer shall be afforded 30 days from the date of the statement to render payment of the forfeited undertakings. Failure to render payment by close of business on the 31st day shall result in suspension of the ability to conduct business of both the bail bondsman and the insurer in that judicial district until such time as payment is rendered in full. The bail bondsman may be subject to formal suspension or nonrenewal proceedings pursuant to section 5746. In addition, the insurer may be subjected to further administrative penalties, to be determined by the department, consistent with the act of July 22, 1974 (P.L. 589, No. 205), known as the Unfair Insurance Practices Act, or other applicable law.

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2015 Act 16 P.L. 110, No. 16 Cl. 42 (continued)

- (5) If the defendant is recovered after the 91st day following the forfeiture, a surety may petition the court in which the revocation and forfeiture occurred to remit all or a portion of the funds collected in exchange for the absence of the defendant. The court shall remit payment as follows:
- (i) If the defendant is recovered between the 91st day and six months after the order of revocation or forfeiture, the surety shall recover the full value of the forfeited amount of the bond, less an administrative fee in the amount of \$250.
 - (ii) If the defendant is recovered between six months and one year after the order of revocation or forfeiture, the surety shall recover 80% of the value of the forfeited amount of the bond.
 - (iii) If the defendant is recovered between one and two years after the order of revocation or forfeiture, the surety shall recover 50% of the value of the forfeited amount of the bond.

2015 Amendment. Act 16 added section 5747.1. See section 12 of Act 16 of 2015 in the appendix to this title for special provisions relating to licensure as insurance producer.

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LANCASTER COUNTY RULES OF CRIMINAL PROCEDURE

Rule 531. Qualifications of Surety

A. Approved Bondsman List

1. The Clerk of Courts shall compile, maintain, and make available for public inspection a list of approved bondsman (professional or fidelity/surety agent), hereinafter referred to as the "Approved Bondsman List", qualified to act as bail sureties in Lancaster County.
2. A bondsman (professional or fidelity/surety agent) is not permitted to act as a bail surety in Lancaster County unless he/she appears on the Approved Bondsman List on the date the bond is signed.
3. The Clerk of Courts shall promptly notify the District Attorney's Office, Solicitor's Office, Prison Warden, Bail Administration, the Office of the Prothonotary, and Court Administration of the addition or removal of any bondsman to the Approved Bondsman List.