

# INDIANA PROSECUTOR UPDATE

JUNE 2011

Three criminal public offenses were amended in the past legislative session. They will be effective July 1, 2011. Each amendment was initiated through an investigative report by the Office of the Inspector General. Highlights of the changes are as follows:

## **Official Misconduct, IC 35-44-1-2**

This crime addresses public servants who commit crimes. The amended language now specifies that the predicate act must, itself, be a crime. This clarifies the previous ambiguity that the act could be an "act that the public servant is forbidden by law to perform." Technically, the previous language allowed a criminal charge for a public servant who committed an infraction. This clarification also adopts the Indiana Supreme Court dicta language in *State v. Dugan*, 793 N.E.2d 1034, 1039 (Ind.2003).

## **Conflict of Interest, IC 35-44-1-3**

This crime prohibits a public official from having a financial interest in a contract with his government entity. Few, if any, substantive changes were made with these amendments. Instead, the goal was to clarify the offense by restructuring the offense topically into definitions, a statement of the offense, and then listing the defenses.



## **Depository Rule, IC 5-13-6-1**

This crime requires government officials to deposit receipts within 24 hours to prevent theft. These amendments repealed the duplicative depository rule in IC 4-13-2-21.

The class of offense was also changed. Formerly a class B felony, the offense is now graded on the amount of money involved.

We at the Office of the Inspector General appreciate the support we continue to receive from Indiana Prosecuting Attorneys. Please feel free to share any thoughts or suggestions you may have.

**Office of the Indiana Inspector General**  
315 W. Ohio St., Rm. 104, Indianapolis, IN 46202  
317-232-3850 / [info@ig.in.gov](mailto:info@ig.in.gov)