

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2765

AUDIT REPORT

OF

CLERK OF THE CIRCUIT COURT

BARTHOLOMEW COUNTY, INDIANA

January 1, 2004 to December 31, 2005



FILED

11/15/2006

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
County Officials	2
Transmittal Letter	3
Audit Results and Comments:	
Marriage Fees Not Deposited	4-5
Change of Venue Expense Not Billed	5
Exit Conference	6

COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk	Norma J. Trimpe	01-01-04 to 12-31-07
President of the County Council	Keith Sells Evelyn Pence Judith Meyer	01-01-04 to 12-31-04 01-01-05 to 12-31-05 01-01-06 to 12-31-06
President of the Board of County Commissioners	Paul Franke Carl Lienhoop Larry Kleinhenz	01-01-04 to 12-31-04 01-01-05 to 12-31-05 01-01-06 to 12-31-06



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TO: THE OFFICIALS OF BARTHOLOMEW COUNTY

We have audited the records of the Clerk of the Circuit Court for the period from January 1, 2004 to December 31, 2005, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Reports of Bartholomew County for the years 2004 and 2005.

STATE BOARD OF ACCOUNTS

October 16, 2006

CLERK OF THE CIRCUIT COURT
BARTHOLOMEW COUNTY
AUDIT RESULTS AND COMMENTS

MARRIAGE FEES NOT DEPOSITED

The marriage license record showed that 457 marriages were solemnized by Deputy Clerks during 2004 and 2005. Deputy Clerks were allowed to charge and collect a minimum \$20 fee for solemnizing marriages. The fee could be more depending on the location of the marriage ceremony. Based on the number of marriages solemnized and using the minimum fee of \$20, a total of \$9,140 was collected for solemnizing marriages from January 1, 2004 to September 30, 2005. No receipts were issued for the fees and the fees were not deposited.

Indiana Code 5-13-6-1(c) states in part: "All local officers . . . who collect public funds of their respective political subdivisions shall deposit funds not later than the business day following the receipt of funds on business days of the depository in the depository or depositories selected by the . . . local boards of finance. . . ."

In regards to the fees not deposited:

1. \$10 of each fee collected was remitted to a Marriage Fund. Based on interviews, the Marriage Fund was a cash fund kept in the Clerk's office.

We requested documentation such as record of expenditures, invoices, or receipts showing what items were purchased from the Marriage Fund. Norma Trimpe, Clerk, stated that she did not retain any invoices or receipts because she did not exercise administrative control over the fund. Mrs. Trimpe stated the fund was administered by the Deputy Clerks.

We interviewed eight current and former Deputy Clerks regarding the expenditure of Marriage Fund monies. The Deputy Clerks stated they did have access to the fund to purchase items but only after authorization was granted by Mrs. Trimpe.

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Court, Chapter 13)

2. Deputy Clerks stated in interviews that the balance of each fee collected was retained by the deputy clerk who solemnized the marriage.

The retention of these fees was in addition to the salaries approved in the Salary Ordinances for deputy clerks.

Indiana Code 36-2-5-3 states in part: "The county fiscal body shall fix the compensation of officers, deputies, and other employees . . ."

Indiana Code 36-2-7-2 states in part: ". . . the compensation fixed for county officers and employees under this title is in full for all governmental services and in lieu of all:

CLERK OF THE CIRCUIT COURT
BARTHOLOMEW COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

- (1) fees; . . . and
- (11) other remuneration;

which shall be paid into the county general fund."

The conclusion of Opinion No. 11, issued August 19, 1977, by the Attorney General of the State of Indiana states the following:

"It is, therefore, my official opinion that the Indiana General Assembly, having authorized clerks of circuit courts to solemnize marriages, has by operation of law authorized their deputies to solemnize marriages, since deputies may perform all the functions of their principals.

However, the General Assembly has not authorized clerks or deputy clerks of circuit courts to charge a fee for performing this function."

Fees should only be collected as specifically authorized by statute or properly authorized resolutions or ordinances, as applicable, which are not contrary to statutory or Constitutional provisions. (Accounting and Uniform Compliance Guidelines Manual for Clerks of Circuit Courts, Chapter 13)

Mrs. Trimpe stated that marriage fees were collected by Deputy Clerks and the Marriage Fund was established prior to her becoming Clerk. Mrs. Trimpe stated the Deputy Clerks discontinued collecting the fee when she became aware the practice was not authorized.

CHANGE OF VENUE EXPENSE NOT BILLED

During 2004 and 2005, the County held court for change of venue cases, however, the Clerk did not make any entries to the Change of Venue Record (Form No. 40) and did not prepare the Change of Venue Claim (Form 40A) that is required to be filed with the County Auditor. The County Auditor is responsible for billing other counties for change of venue cases based on the Change of Venue Claim prepared by the Clerk.

The following procedures are outlined in the Accounting and Compliance Guidelines for Clerks of the Circuit Court, Chapter 4 regarding change of venue cases:

Change of Venue Record

This is a record wherein all causes from another county must be entered. They must be entered in the entry docket first, as other causes are entered, and in addition are entered in the change of venue record. It is a record of great importance and must be kept as an official record by each clerk in every county.

Change of Venue Claim of Expense

This form is to be prepared by the clerk, in duplicate, and filed with the county auditor. The claim form complies with the requirements of IC 34-35-5-2.

CLERK OF THE CIRCUIT COURT
BARTHOLOMEW COUNTY
EXIT CONFERENCE

The contents of this report were discussed on October 16, 2006, with Norma J. Trimpe, Clerk.