

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

EXAMINATION REPORT
OF

TOWN COURT
TOWN OF PENDLETON
MADISON COUNTY, INDIANA

January 1, 2005 to December 31, 2006



FILED

09/28/2007

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TOWN COURT OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Judge	Hon. George M. Gasparovic	01-01-04 to 12-31-07
Clerk-Treasurer	Timothy J. Ryan	01-01-04 to 12-31-07
President of the Town Council	Donald E. Henderson	01-01-05 to 12-31-07



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF PENDLETON

We have examined the records of the Town Court for the period from January 1, 2005 to December 31, 2006, 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 Examination Result and Comment. The financial transactions of this office are reflected in the Examination Report of the Town of Pendleton, Madison County, for the year 2006.

STATE BOARD OF ACCOUNTS

August 8, 2007

TOWN COURT
TOWN OF PENDLETON
EXAMINATION RESULT AND COMMENT

PUBLIC DEFENDER FEES

The Town Court assesses a Public Defender fee for some cases.

The Town Court has contracted with an attorney to represent indigent clients for a fee of \$75 per case. The Court then charges the clients a Public Defender fee of \$50, if convicted.

The home rule statute (Indiana Code 36-1-3-5(a)) prohibits a governmental unit from exercising powers that are expressly granted to another unit.

Indiana Code 33-40-3 authorizes a County to assess a Public Defender fee.

The Pendleton Town Court should not assess Public Defender fees because those powers have expressly been given (by statute) to Counties.

Indiana Code 33-40-3-1 states in part:

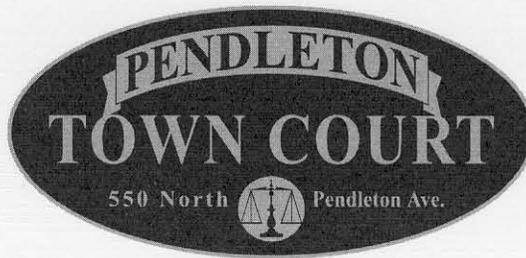
"A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under section 9 of this chapter . . ."

Indiana Code 33-40-3-5 states:

"A county may not have more than one (1) program providing court appointed legal services in the county, unless the fiscal body of the county agrees to allow additional court appointed legal services programs in the county."

TOWN COURT
TOWN OF PENDLETON
EXIT CONFERENCE

The contents of this report were discussed on August 8, 2007, with Honorable George M. Gasparovic, Judge. The official response has been made a part of this report and may be found on page 6.



Judge George M. Gasparovic

Court Administrator Deena Smith

To: State Board of Accounts
302 West Washington Street
Room E 418
Indianapolis, Indiana 46204-2765

8/8/07

Cc: L.Kreigh-Pendleton Deputy Clerk Treasurer

Ref: OFFICAL RESPONSE-Pendleton Town Court Audit Results & Comments-2007

The Court was given a letter covering the examination results and comments from their 2007 S. B. of Accounts review of the Court's records/procedures.

Per statute it was determined the Town Court should not assess Public Defender fees because those powers have expressly been given to Counties.

The Pendleton Town Court is not assessing Public Defender fees in any of their cases based on the reports findings.

Judge George M. Gasparovic