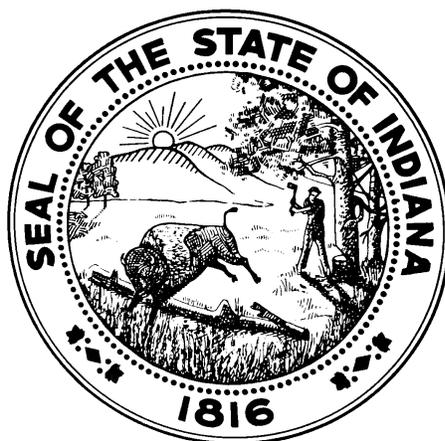


STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

AUDIT REPORT
OF
COUNTY SHERIFF
LAKE COUNTY, INDIANA
January 1, 2007 to December 31, 2007



FILED
12/16/2008

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
County Officials	2
Transmittal Letter	3
Audit Results and Comments:	
Condition of Records – Civil Division.....	4
Reports of Collection Filed Delinquent – Civil Division.....	5
Cash Necessary to Balance, Bank Reconciliations – Civil Division	5
Interest on Account – Civil Division	5-6
Unclaimed Property – Civil Division.....	6
Receipts Issuance – Civil Division.....	6
Public Records Retention – Civil Division	7
Internal Controls Over Sheriff’s Service of Process Fee – Civil Division	7-8
Inmate Processing Fee – Sheriff Commissary	8
Condition of Records – Sheriff Commissary and Inmate Trust	8
Bank Account Reconciliations – Sheriff Commissary.....	9
Unclaimed Property – Inmate Trust.....	9
Accident Report and Vehicle Inspection Fee	9-10
Internal Controls over Gas Pumps	10
Administrative Fee	10
Unallowable Expenditures – Sheriff Commissary	10-11
Approval of Forms – Sheriff Commissary.....	11
Exit Conference.....	12
Official Response	13-41

COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Sheriff	Rogelio Dominquez	01-01-03 to 12-31-10
President of the County Council	Elsie Franklin Christine Cid	01-01-07 to 12-31-07 01-01-08 to 12-31-08
President of the Board of County Commissioners	Roosevelt Allen, Jr. Gerry J. Scheub	01-01-07 to 12-31-07 01-01-08 to 12-31-08



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF LAKE COUNTY

We have audited the records of the County Sheriff for the period from January 1, 2007 to December 31, 2007, 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 Report of Lake County for the year 2007.

STATE BOARD OF ACCOUNTS

July 24, 2008

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS

CONDITION OF RECORDS – CIVIL DIVISION

Financial records presented for audit were incomplete and not reflective of the activity of the Sheriff Civil Division cash funds. The cash book, receipt and check duplicates, bank statements, bank reconcilements and various other records were originally presented for audit on April 28, 2008, but had to be returned to the Sheriff's bookkeeper because they were not complete. The records presented did not provide sufficient information to audit or establish beginning balances, receipts, disbursements, ending balances, or the accuracy or correctness of the transactions because not all transactions had been recorded. For January and February, 2007, receipts were not completely posted, no disbursements were posted and no ending cash balances were reported in the manual cash book.

Monthly bank reconcilements prepared by the Sheriff's Civil Division bookkeeper included the balances from the bank statements adjusted for the total of the outstanding checks; however, no deposits in transit were included in the reconcilements. Since there were no correct cash book record balances due to incomplete recording of transactions in January and February 2007, the adjusted bank balances could not be reconciled to the cash book balances at month end. In addition, the outstanding check lists included checks that should have been voided as indicated by checks issued that were still undistributed and on hand. A comparison of the Sheriff's reconciled balances to the balances shown in the cash book for March 2007 through December 2007, resulted in monthly cash longs and cash shorts.

In March of 2007, a computerized accounting system was implemented. The cash balances at the end of each month did not agree with the beginning balances of the next month. The computerized accounting system did not maintain an audit trail of all transactions. Transactions were deleted from the system by the software vendor without documented authorization.

For 2007, bank deposits were \$2,630,334.76 less than recorded receipts and bank withdrawals exceeded recorded disbursements by \$2,785,300.32. Due to the automated accounting system's mis-handling of a \$24,490 voided check, receipts totaling \$6,979,650 were posted in error. The check was erroneously receipted to the records 285 times. In addition, interest was not posted to the cash book. These errors were not discovered in a timely manner because, as noted above, accurate bank reconcilements were not performed.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Counties in Indiana, Chapter 1)

Indiana Code 5-13-6-1(e) states in part: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

The computerized accounting system must maintain electronic audit trails sufficient to trace all transactions from original source of entry into the system, through all system processing, and to the results produced by the system. The audit trails must also maintain sufficient information to trace all transactions from the final results produced by the system, through all system processing, and to the original source of entry into the system. These audit trails must be protected from modification and deletion. (Accounting and Uniform Compliance Guidelines Manual for Counties in Indiana, Chapter 2)

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

REPORTS OF COLLECTION FILED DELINQUENT – CIVIL DIVISION

Reports of Collection filed with the County Auditor were delinquent. Some of the reports along with remittance of the funds were made eleven (11) months after the collections. These reports included the \$13 service of process fees received by the Sheriff department.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Counties, Chapter 1)

Indiana Code 33-37-5-15 states in part: (a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff . . . (c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction. (d) The county auditor shall deposit fees collected under this section: (1) in the pension trust established by the county under IC 36-8-10-12; or (2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

CASH NECESSARY TO BALANCE, BANK RECONCILIATIONS - CIVIL DIVISION

The Sheriff engaged an accounting consultant that prepared a bank reconciliation as of December 31, 2007, since the Sheriff's bookkeeper did not properly prepare the reconciliation. A comparison of the records to the bank balance indicated cash necessary to balance of \$155,480.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

INTEREST ON ACCOUNT - CIVIL DIVISION

The bank account used by the Sheriff's Department Civil Division is an interest bearing account. The interest is being accumulated in this account and has not been remitted to the County Auditor for deposit into the General Fund. Additionally, disbursements were made for computer services from the interest earned without the proper documentation or approvals.

Indiana Code 5-13-9-6 (a) states: "All interest derived from an investment by a political subdivision or by any other local public officer under the authority granted by section 3 of this chapter shall be deposited, except as otherwise provided by law, in the general fund of the investment authority or in any other fund its governing body designates specifically or by rule, subject to the modifications and limitations in this section."

Indiana Code 5-11-10-1.6 (c) states in part: "The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

UNCLAIMED PROPERTY - CIVIL DIVISION

As stated in prior audit reports, the Sheriff's Department Civil Division has \$11,600.95 in state dated checks held in trust that are distributable but remain unclaimed. The Sheriff has not remitted this amount to the Attorney General as required by statute.

Indiana Code 32-34-1-20(c) states in part: "Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times: . . . (7) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable . . ."

Indiana Code 32-34-1-26(a) states in part: "A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property . . ."

Indiana Code 32-34-1-27(a) states: "Except as provided in subsections (b) (c), on the data a report is filed under section 26 of this chapter, the holder shall pay or deliver to the attorney general the property that is described in the report as unclaimed."

RECEIPT ISSUANCE – CIVIL DIVISION

Seventy-seven percent (73 of 95) of state distributions to the Lake County Sheriff were receipted from 40 to 135 days after the date of the check issued by the Auditor of the State. Nine state distribution checks were never receipted to the Sheriff's records. The Indiana Department of Workforce Development confirmed that an additional six checks issued by their agency to the Sheriff for income tax warrants were never cashed. These six checks were also never receipted to the Sheriff's record.

Receipts shall be issued and recorded at the time of the transaction; for example, when cash or a check is received, a receipt is to be immediately prepared and given to the person making payment. (Accounting and Uniform Compliance Guidelines Manual for Counties in Indiana, Chapter 1)

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. . . ."

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

PUBLIC RECORDS RETENTION – CIVIL DIVISION

The Sheriff received approximately \$8,733,000 and \$6,600,000 in proceeds from Sheriff Sales in 2006 and 2007, respectively. Sheriff Sales were held as a result of mortgage foreclosures. The distributions of the proceeds from the sales were made to the mortgage companies, individuals, the County Clerk for overages, attorneys, and other involved parties. Sheriff Sales Information monthly file folders that supported the distribution of the proceeds from these sales were missing for the period January 2006 through November 2006. These files would include information such as whether a distribution check was voided or replaced by another check, as well as how much each party involved in the sale should have received from each Sheriff Sale. At December 31, 2007, there were outstanding checks issued in 2006 in amounts as large as \$139,984 for distribution of sales proceeds. Since the Sheriff Sales Information monthly files were missing, records were not available to document the correct distribution of the Sheriff Sale proceeds for January 2006 through November 2006.

Indiana Code 5-15-6-3(f) concerning destruction of public records, states in part: "Original records may be disposed of only with the approval of the commission according to guidelines established by the commission."

Supporting documentation such as receipts, canceled checks, 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 Counties of Indiana, Chapter 1)

INTERNAL CONTROLS OVER SHERIFF'S SERVICE OF PROCESS FEE – CIVIL DIVISION

The Sheriff's Department Civil Division had no procedure in place to control the collection of the \$13 Sheriff's Service of Process Fees. There was no comparison of the cases that the Sheriff served to the \$13 fees that should have been collected.

Receipts were not issued by the Sheriff for 17 of 25 cases tested for which the \$13 fee should have been collected. This was due in part to the method used in collecting the fee. The County Clerk collected the fee if the party requesting the Sheriff's service made payment at the time the case was filed. The Clerk required payment by check. The Clerk stamped the case number on the check, put it in an envelope and delivered it to the Sheriff's office to be receipted and deposited to the Sheriff's bank account. The Clerk did not issue a receipt, post the collection to the Clerk's record, or file a report of collections to the Sheriff for the checks delivered. If the requesting party did not pay at the Clerk's office there was no way to determine if the fee was subsequently paid at the Sheriff's office.

In addition, the condition of the Sheriff's records was such that it could not be determined if the \$13 service of process fees were properly remitted to the County General Fund. The cash book was not properly posted for January and February 2007. There was no itemization of the various fees collected for these months. Not all receipts and disbursements were recorded in the cash book. Also, the report of collections and remittances of the funds to the County Auditor were not made timely. Some remittances were made eleven (11) months after collection.

Indiana Code 33-37-5-15 states in part: (a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff . . . (c) A sheriff shall transfer fees collected under this section

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

to the county auditor of the county in which the sheriff has jurisdiction. (d) The county auditor shall deposit fees collected under this section: (1) in the pension trust established by the county under IC 36-8-10-12; or (2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

Receipts shall be issued and recorded at the time of the transaction; for example, when cash or a check is received, a receipt is to be immediately prepared and given to the person making payment. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

INMATE PROCESSING FEE – SHERIFF COMMISSARY

On July 10, 2001, the County Council approved Ordinance 1217B establishing an inmate processing fee. Specifically, the ordinance assesses a processing fee of \$25 each time an inmate is booked into the Lake County Jail. There is no statutory authority to assess this fee. A similar comment appeared in prior audit reports.

Based on Indiana Code 36-2-13-17.4 detailed below, the Sheriff's attorney issued a legal opinion and directive to the Warden and staff at the Lake County Jail. This opinion advised that "effective July 1, 2008, the \$25 inmate processing fee established by Ordinance 1217B can only be collected from inmates held in the Lake County Jail after they are convicted of a crime and that no fees will be collected from inmates at the time they are initially booked into the Lake County Jail."

Indiana Code 36-1-3-8 states in part: "(a) a unit does not have the following: (8) the power to prescribe a penalty for conduct constituting a crime or infraction under statute".

Indiana Code 36-2-13-17.4 (effective July 1, 2008) states: "A sheriff or an employee of a jail may not charge an individual a fee for the individual to be incarcerated or held in a jail unless the individual has been convicted of a crime for which the individual was incarcerated or held in the jail."

CONDITION OF RECORDS - SHERIFF COMMISSARY AND INMATE TRUST

Financial records presented for audit were incomplete and not reflective of the activity of the Inmate Trust and Commissary Funds. The records presented did not provide sufficient information to audit or establish beginning balances, receipts, disbursements, and ending balances. These funds were reconciled by an independent accounting firm to the bank accounts; however there were multiple unidentified reconciling items. Record balances at December 31, 2007, could not be verified since the computerized accounting system allowed changes to occur after the end of the year. For example, checks issued with a 2007 date which were voided in 2008 were treated by the computer system as voided in the month that they were originally written. This caused the December 31, 2007, balance to change after the year end reporting was completed.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

BANK ACCOUNT RECONCILIATIONS - SHERIFF COMMISSARY

Depository reconciliations of the fund balances to the bank account balances were not completed timely. Reconcilements for October, November, and December 2007 were not completed and received until June 30, 2008.

Indiana Code 5-13-6-1(e) states in part: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

UNCLAIMED PROPERTY – INMATE TRUST

The Sheriff's Inmate Trust Fund account has \$20,517.48 in unclaimed former inmates' funds. The Sheriff has not remitted these unclaimed funds to the Attorney General. Upon inquiry, it was determined that the Attorney General's office will not accept the current format generated by the records of the sheriff's department; therefore the sheriff has ceased transferring unclaimed funds into the unclaimed property account. A similar comment appeared in prior audit reports.

Indiana Code 32-34-1-20(c) states in part: "Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times: . . . (8) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable . . ."

Indiana Code 32-34-1-26(a) states in part: "A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property."

Indiana Code 32-34-1-27(a) states: "Except as provided in subsections (b) and (c), on the date a report is filed under section 26 of this chapter, the holder shall pay or deliver to the attorney general the property that is described in the report as unclaimed."

ACCIDENT REPORT AND VEHICLE INSPECTION FEES

As stated in prior audit reports, fees charged for accident reports and vehicle inspections have not been established by local ordinance. The fee currently being charged for accident reports and vehicle inspections is \$5.00.

Indiana Code 9-29-11-1 (a) states in part: ". . . the main department, office, agency, or other person under whose supervision a law enforcement officer carries on the law enforcement officer's duties may charge a fee that is fixed by ordinance of the fiscal body in an amount not less than five dollars (\$5) for each report."

Indiana Code 9-29-4-2 states: "A person described in subdivision (3) who makes an inspection under IC 9-17-2-12 may charge a fee. A fee charged under this section is subject to the following:

- (1) The fee must be established by ordinance adopted by the unit (as defined in IC 36-1-2-23).

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

- (2) The fee may not exceed five dollars (\$5)."

INTERNAL CONTROLS OVER GAS PUMPS

The Lake County Sheriff's Department has two gas pumps to provide gas for vehicles in the Sheriff's Department and various other Lake County Departments. Each County Department that uses the gas pumps receives a gas key for each vehicle. The gas keys are assigned a key number or code. When a person uses the gas pumps, a gas key is used and the key number must be entered before pumping the gas. A computerized report of the gas usage is generated by department and key number.

The controls over the usage of the gas pumps are deficient as follows:

- (1) Although a camera records the activity at the gas pumps, there is no one actual viewing the camera recordings of the vehicles filled at the gas pumps. Personal vehicles could be, filled at the gas pumps.
- (2) No reconciliation is made between the actual gas usage per the pump readings and the total per the usage reports generated by the computer.
- (3) There is no periodic physical inventory taken of the gas on hand to compare actual consumption to usage reports.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

ADMINISTRATIVE FEE

County Ordinances 1280A and 1280B authorizes the collection of a \$200 administrative fee for the sale of foreclosed properties and created the Sheriff Sale Fund (fund 572), to account for the activity related to the fee charged and expenses of such a sale. In 2007 fees collected totaled \$633,600 but no disbursements were posted. If costs were incurred for the sale, we could not determine from which funds they were paid. Indiana Code permits such a fee, for the actual costs attributable to the sale. Compliance with statutory requirements for this fee could not be determined since no disbursements were charged to the fund.

Indiana Code 32-29-7-3 (h) states in part: "The sheriff may charge an administrative fee of not more than two hundred dollars (\$200) with respect to a proceeding referred to in subsection (b) for actual costs directly attributable to the administration of the sale under subsection (c)."

UNALLOWABLE EXPENDITURES - SHERIFF COMMISSARY

Of thirty-two disbursements tested, four disbursements were not allowable from the Sheriff Commissary fund. Two disbursements were made for festival sponsorships and two disbursements were made to the Chamber of Commerce for membership fees.

COUNTY SHERIFF
LAKE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

The Sheriff, or his designee, at his discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (a) Merchandise for resale to inmates through the commissary;
- (b) Expenses for operating the commissary, including, but not limited to, facilities and personnel;
- (c) Special training in law enforcement for employees of the Sheriff's Department;
- (d) Equipment installed in the County jail;
- (e) Equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;
- (f) An activity provided to maintain order and discipline among the inmates of the County jail;
- (g) An activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:
 - 1. Substance Abuse.
 - 2. Child Abuse.
 - 3. Domestic Violence.
 - 4. Drinking and Driving.
 - 5. Juvenile Delinquency; or
- (h) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff. (County Bulletin and Uniform Compliance Guidelines April 2001)

APPROVAL OF FORMS - SHERIFF COMMISSARY

The Lake County Sheriff's Department adopted a new computer system in October 2007. The output of this system has not been approved for use by the State Board of Accounts.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Counties, Chapter 1)

COUNTY SHERIFF
LAKE COUNTY
EXIT CONFERENCE

The contents of this report were discussed on July 24, 2008, with Michael Reilly, Commander; Laura M. Cave, Finance; John M. Kopack, Sheriff's Attorney; Rick Young, CPA; and John Redmond, CPA. The official response has been made a part of this report and may be found on pages 13 through 41.

Kopack & Associates

Attorneys at Law

John M. Kopack

Amy R. Bolen, *of counsel*

9111 Broadway, Suite GG
P.O. Box 10607
Merrillville, IN 46411
Tx: (219) 738-2978
Fax: (219) 738-2818

November 17, 2008

Bruce Hartman, CPA
State Examiner
State Board of Accounts
302 West Washington Street, Room E 418
Indianapolis, Indiana 46204-2765

(Vial: Certified Mail - Return Receipt)

Re: OFFICIAL RESPONSE (Revised)
Lake County Sheriff - 2007 Audit

Dear Mr. Hartman,

Pursuant to a meeting with the Sheriff's staff on July 24, 2007, and the information exchanged via emails since said date, below is the official response on behalf of the Lake County Sheriff to the audit comments discussed during our July 24th meeting. If you have any questions, comments or other recommendations after reviewing the comments below, please contact my office at your earliest convenience.

1. INITIAL COMMENTS BY THE SHERIFF.

- a) On May 5, 2008, Sheriff Roy Dominguez met with Rick Young, CPA and Rich Zondor, CPA and authorized the accounting firm of Swartz-Retson in Merrillville, IN to conduct a complete operational audit of the accounting practices and procedures utilized in the Sheriff's Civil Division and assist in the implementation of modern accounting procedures in the civil division the ensure compliance with all State Board of Accounts (SBA) .
- b) The scope of services to be provided by Swartz-Retson included: evaluation of the current accounting practices and procedures in the civil division; making recommendations for the implementation of a fully electronic accounting system for the civil division that would be fully compliant with State Board of Accounts (SBA) best practices; the integration of civil division procedures with those being utilized by the county auditor; and providing the staff in the civil division with the training required to ensure accurate data entry and data integrity for the new accounting systems being implemented in the civil division.
- c) The Swartz-Retson operational audit was scheduled to be completed from mid-June through July of 2008, with software acquisition and staff training in the new software and procedures to begin taking place in from August through October of 2008.

- d) On May 28, 2008, Cmdr. Mike Reilly of Staff Services, the Sheriff's Attorney and other members of the Sheriff's staff met with Melvin Standifer and Cynthia David of the SBA to discuss the following issues relating to practices and procedures utilized in the civil division:
- 1) SOFTWARE/RECORDS: Current practices and the new software acquired in March of 2007, were not set up to create an "audit trail" of all transactions.
 - 2) SOFTWARE ERROR: A voided check in the amount of \$24,490 had been "adjusted" by the new computer software 286 times, creating an error in tracking and reconciling the account balances. It was agreed the software vendor would be contacted to identify and correct the cause of this error.
 - 3) SOFTWARE BALANCES: The computer software used since March of 2007 started with a zero balance for all the civil accounts, this needed to be rectified so starting balance used in the software program accurately reflected the actual account balances.
 - 4) RECORD KEEPING: 2006, 2007 and part of 2008 account records reviewed to date needed to be updated so civil accounts could be properly reconciled and balanced and disbursements' accurately recorded. The Sheriff's staff advised this historic method of manual record-keeping in the civil division was being updated.
 - 5) 1099: Records reviewed to date reflected the 1099 issued to the Sheriff for 2007, may not have accurately reported all taxable income, the Sheriff's staff agreed to check the 1099 against its records and issue an amended 1099 if any correction or adjustment was required.
 - 6) CASH BOOKS: The manual entry cash books needed to be reviewed and accurately updated for 2006 and 2007.
 - 7) RECONCILIATION: Accounts need to be reconciled with bank statements for 2006, 2007 and 2008 to date.
- e) At the conclusion of the May 28th meeting, the Sheriff's staff informed the SBA representatives that Swartz-Retson had recently met with Rick Young, CPA and retained Swartz-Retson to conduct an "operational audit" of the civil division bookkeeping and recordkeeping procedures and make recommendations to update all software and procedures to modernize operations in the civil division.
- f) On May 29, 2008, Sheriff Dominguez spoke with Rick Young and authorized Swartz-Retson to immediately begin work to address the above issues and take all steps necessary to address any and all audit concerns of the SBA before proceeding with their previously authorized operational audit.

The above initial comments are intended to provide an overview of the steps taken by the Sheriff in early 2008, to address concerns with the general record-keeping and accounting procedures in the civil division. Following, are the comments by the Sheriff directed to the specific items detailed in the SBA audit report covering the period from 01/01/2007 through 12/31/2007

2. CONDITION OF RECORDS - CIVIL DIVISION.

- a) Prior to March 1, 2007, records and receipts were historically maintained in the civil division in bound ledger and receipt books which required manual entry of all data. In March of 2007, a computerized accounting system was implemented in the civil division. During the transition to electronic record keeping, software limitations and/or data entry errors resulted in short-term data integrity problems which have been identified and corrective action has been taken which included software upgrades and staff training to eliminate problems resulting from inaccurate data entry.
- b) The software error, which resulted in a computer system accounting error by mishandling a \$24,490 voided check (i.e., receipts totaling \$6,979,650 (\$24,490 X 285) that being posted in error) has been identified and corrected by the staff and software vendor. In addition, procedures are now in place for the posting of all interest in the cash book.
- c) As stated above in the Sheriff's Initial Comments, the accounting firm of Swartz-Retson has been retained to conduct a thorough review of all record-keeping and accounting procedures utilized in the civil division and to modernize the record-keeping system and implement fully electronic accounting procedures that will maintain accurate daily records and balances for all civil accounts in full compliance with all SBA accounting practices.

3. REPORTS OF COLLECTION FILED DELINQUENT - CIVIL DIVISION.

The audit report noted: "Reports of Collection filed with the County Auditor were delinquent. Some of the reports of collection and remittances of the funds were made eleven (11) months after the collections of the process of service fee were received by the Sheriff department."

- a) The comment relates to the collection of the \$13 service of process fees implemented under I.C. 33-37-5-15, effective July 1, 2006.
- b) Pursuant to the memo issued June 6, 2006, to all County Sheriff's, Clerk's of the Circuit Court, County Auditors and County Councils from Mr. Bruce A. Hartman, C.P.A., State Examiner, the suggested accounting procedures for the Sheriff's Service of Process Fee, was as follows:

"One of the problems that we foresee is that once a case is filed the person requesting service would have to then go to the Sheriff's department to pay the fee. Because this process is not very client friendly we predict there will be persons that will not follow through with the entire process and actually go to the Sheriff's department. Additionally, Sheriff's accounting systems will not have current case information to be able to know what cases have been filed for which fees need to be collected and which papers are being served on previous cases where fees have already been paid.

"Our audit position is that this new fee should be collected per case that is filed after July 1, 2006 where service by the Sheriff is requested. Because the incoming cases are filed with the Clerk of the Circuit Court, we suggest that the Clerk collect this new fee upon case filing.

" It is our hope that the Clerk and Sheriff can come to agreement on this method of collection. We believe it provides better customer service and accountability for the funds.

If the Clerk does not collect this new fee, we believe it is unlikely that those filing cases with the Clerk will take the additional steps to get the fee to the Sheriff for service. This could result in the necessary court papers not being served or additional certified mail for the Clerk. Also, better accountability is achieved by the Clerk collecting these fees because reconciliation of cases and fees is a functional part of Clerks accounting systems. If the Sheriff collects this fee that office has no way of knowing how many cases fees should have been collected for. Therefore, some accountability is lost.”

- c) In June of 2006, Cmdr. Randall Guernsey of the LCSD met with representatives of the Lake County Clerk's staff concerning the new \$13 service of process fee and the above recommendations of the State Board of Accounts that said fee be collected where a case is filed - the Clerk's Office. Cmdr. Guernsey was advised that despite the sound advice provided by the above recommendation of the State Board of Accounts, the Lake County Clerk was refusing to collect the new \$13 fee at the time new cases were filed.
- d) On July 13, 2006, the Sheriff's attorney directed a letter to the Clerk's legal advisor requesting that the Clerk comply with the SBA recommendations and cooperate with the Sheriff in making collection of the \$13 fee at the point of initial contact with the public. (see LCSD Exhibit "A" attached, pages 10 through 16). Following this letter, meetings were conducted with the Clerk's legal advisor, Clerk's staff and Data Processing concerning the collection of the fee. Although Mark Pearman from Data Processing had advised that the fee could be easily added to the software and electronic receipts issued by the Clerk at the time cases were filed, the Clerk still refused to collect said fee which thus required additional record-keeping and procedures to be implemented by the civil division to track said fees.
- e) On August 28, 2007, after numerous complaints by law firms and the courts concerning problems related to collection of the \$13 fee, a meeting was held at the Auditor's Office where the issue was addressed with members of the Clerk's staff. (see LCSD Exhibit "A" attached, page 17, items 1 and 2). Although Data Processing advised that procedures for collection of the fee could easily be streamlined for the Clerk's office, following this meeting the Clerk still declined to collect the fee at the time new cases were filed.
- f) The refusal of the Clerk to follow the recommendations of the SBA concerning collection of the fee, have resulted in the very problems that were predicted by the SBA in the aforementioned June 6, 2006, memo.
- g) To rectify these problems, the Sheriff conferred with his staff and, in September of 2008, filed a civil action against the Lake County Clerk seeking judicial enforcement of the SBA's recommendations contained in their June 6th memo. After meeting and conferring, the Sheriff and Clerk have amicably resolved this lawsuit and agreed to have the Data Processing Dept. provide for payment of all Sheriff's fees at the Clerk's Office with all fees collected being immediately electronically receipted, recorded and transferred to the Auditor. These new procedures will be implemented by Data Processing in December of 2008, and will enhance the accounting and recordkeeping of all Sheriff's fees, including the new \$13 service of process fee.

4. CASH NECESSARY TO BALANCE, BANK RECONCILIATIONS.

- a) The Sheriff retained Swartz-Retson to review and prepare and updated bank reconciliation to identify an alleged \$155,480 shortfall in the cash balance.
- b) Swartz-Retson reports that "Our initial reconciliation of the bank account indicated that a deficit of \$155,480 existed in the account. Subsequent review of items classified as outstanding checks indicates that several items should be voided, as checks were prepared in anticipation of amounts to be paid which were later determined to be not due or due in differing amounts, for which other checks were issued. After voiding these items the cash balance in the account is no longer in a deficit position as of December 31, 2007." (see attached LCSD Exhibit "B", Swartz-Retson Report of Aug. 14, 2008).

5. INTEREST ON ACCOUNT - CIVIL DIVISION.

- a) Procedures have been implemented so interest earned from the bank account used by the Sheriffs Department civil division are timely remitted to the County Auditor for deposit into the General Fund.
- b) Proper accounting procedures are being devised so all interest earned will have proper documentation and approvals pursuant to I.C. 5-13-9-6 (a) and I.C. 5-11-10-1.6 (c).

6. UNCLAIMED PROPERTY - CIVIL DIVISION.

- a) The report identified \$11,600.95 in stale checks that remain unclaimed.
- b) Pursuant to I.C. 32-34-1-20(c) and I.C. 32-34-1-27(a), the status of said funds are being reviewed and if found to be abandoned property pursuant to law, will be forwarded to the attorney general as "unclaimed property."

7. RECEIPT ISSUANCE - CIVIL DIVISION.

- a) Review of all receipt issuance procedures is ongoing at the present time. The checks issued by the State Auditor and Workforce Development identified in the report are being processed and receipted to the Sheriff's record.
- b) The new electronic record system will address this issue and ensure all receipts are issued and properly recorded at the time of each transaction.

8. PUBLIC RECORDS RETENTION-CIVIL DIVISION.

- a) An internal review of Sheriff Sale "monthly file folders" supporting distribution of proceeds from Sheriff's sales were missing for the period January 2006 through November 2006. However, in reviewing other sources of records, the specific records for each sale are intact and can be used to reproduce any record missing from the monthly folders.
- b) The civil office has identified the employee responsible for misplacing the monthly file folders for January 2006 through November 2006. From the information provided, the employee stored the folders in basement archives without properly recording the section and box number where the records were actually stored.

- c) The civil office is conducting a search of the archives to retrieve said folders and is also implementing procedures to ensure that all records stored are properly identified and recorded for ease of retrieval in the future.

9. INTERNAL CONTROLS OVER SHERIFF'S SERVICE OF PROCESS FEE.

- a) Please see comments No. 3 above relating to service of process fee.
- b) Swartz-Retson is establishing procedures to facilitate the current procedures for collecting, record-keeping and electronic tracking of all service of process fees and the timely deposit of same with the county auditor on a daily basis.
- c) Collection of this fee at the Clerk's Office, as recommended by the SBA, would alleviate the problem and dramatically reduce the costs of time and manpower associated with the current manual method of collecting and recoding this fee.

10. INMATE PROCESSING FEE - SHERIFF COMMISSARY.

- a) On July 10, 2001, the County Council approved Ordinance 1217-B establishing an inmate processing fee of \$25.00 for each inmate booked into the Lake County Jail. Under the law, the Sheriff is required to collect all fees adopted by the county council.
- b) Per Senate Bill 0081 (effective July 1, 2008) a new section was added to the Indiana Code I.C. 36-2-13-17.4, providing that: "A sheriff or an employee of a jail may not charge an individual a fee for the individual to be incarcerated or held in a jail unless the individual has been convicted of a crime for which the individual was incarcerated or held in the jail."
- c) On June 30, 2008, the Sheriff's attorney issued a legal opinion and directive to the Warden and staff at the Lake County Jail advising that effective July 1, 2008, the \$25 inmate processing fee established by Ordinance 1217-B can ONLY be collected from inmates held in the Lake County Jail AFTER they are convicted of a crime and that said fees may not be collected from inmates at the time they are initially booked into the Lake County Jail.

11. CONDITION OF RECORDS - SHERIFF COMMISSARY.

- a) These funds have been reconciled by Terry McMahon & Co, an independent CPA firm, to the bank accounts.
- b) The Sheriff has instructed his CPA firm responsible for the commissary accounts that accurate record balances for December 31, 2007, and forward, must be properly determined and must include all current transactions.
- c) The Sheriff's staff has met with the CPA firm handling the commissary accounts and all accounting and record-keeping procedures are being reviewed and updated to be in compliance with the SBA's *Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1*.

12. BANK ACCOUNT RECONCILIATIONS - SHERIFF COMMISSARY.

- a) The Sheriff has advised Terry McMahon & Co. that an accurate reconciliation of all accounts must be made in a timely basis.
- b) The Sheriff's staff has implemented procedures to ensure compliance with this directive and eliminate delays in timely reconciliation of the accounts.

13. UNCLAIMED PROPERTY - SHERIFF COMMISSARY.

- a) The Sheriff's Inmate Trust Fund account has \$20,517.48 in unclaimed former inmates' funds.
- b) These funds have been tendered to the attorney general on prior occasions by the Sheriff's staff, however, the attorney general refused to accept said funds because the current forms generated by the accounting software used for the commissary accounts are not forms approved by the attorney general, i.e., the funds have been tendered to the attorney general but refused due to conflicts in the paper forms approved for use by the attorney general.
- c) The Sheriff's staff is communicating with the attorney general's office to resolve this conflict and will be working with Data Processing to develop a proper form for delivery of said funds that are subject to I.C. 32-34-1-20(c).

14. MEDICAL CO-PAYMENT FEE - SHERIFF COMMISSARY.

- a) The Sheriff's attorney has provided the SBA with a copy of Lake County Municipal Code § 37.120 containing Lake County Ordinance 1132-A, adopted on July 12, 1994, which specifically authorizes and requires a co-payment fee of \$10 for all medical, dental and other healthcare rendered to inmates in the Lake County Jail who are not indigent.

15. ACCIDENT REPORT AND VEHICLE INSPECTION FEES.

- a) The audit report indicates that Lake County has not established the \$5.00 fee for crash reports and inspection reports.
- b) The ordinances contained in the Lake County Municipal Code Book are not up to date as the code book has not been supplemented since 2000. Hence, the fee charged is not contained in the code book. The Sheriff's staff has requested a copy of the current fee ordinance from the Lake County Auditor's office.

16. INTERNAL CONTROLS OVER GAS PUMPS.

- a) The audit report notes the Lake County Sheriff's Department has two gas pumps to provide gas for vehicles in the Sheriffs Department and various other Lake County Departments.
- b) The 2 pumps located near the Sheriff's garage are under the jurisdiction and control of the Lake County Commissioners. The Sheriff's staff has historically monitored the usage of said fuel according to the policies adopted by the Lake County Commissioners.

- c) Usage of fuel by all LCSD vehicles is monitored by the software integrated into the gas pumps and accurate records are maintained by Staff Services of fuel usage by the LCSD.
- d) Pursuant to the vehicle policy implemented by the County Commissioners on January 1, 2006, each elected official is responsible for the vehicles and gasoline used by their department and employees.
- e) In March of 2008, the Commissioners banned the use of county fuel in personal vehicles. On March 5, 2008, the Commissioner's Attorney issued a memo stating "The ordinance for the use of the Sheriffs gas pumps requires that the Board of Commissioners approve the list of people eligible to use the pump."
- f) Take-home vehicle personnel are assigned pump activation keys and pool vehicles are assigned a key that stays with vehicle and can only be activated by a combination of employee ID and current vehicle mileage. Special use vehicles unless alternate fuel to gasoline use an administrative\garage services key.
- g) The Sheriff's staff met with the County Commissioners in 2007, and made several recommendations concerning additional software and hardware that can be integrated with the current gas pumps to regulate, monitor and control all gasoline usage. To date, the Commissioners have not authorized the purchase of the additional hardware and software to implement such controls.

17. ADMINISTRATIVE FEE - SHERIFF'S SALE FEE \$200.

- a) In October of 2006, the County Council adopted ordinances 1280-A and 1280-B, pursuant to I.C. 32-29-7-3 (h) creating a \$200 Sheriff's Sale Fee paid by mortgage companies when a foreclosure is filed.
- b) These ordinances created a non-reverting fund and authorized the Sheriff to expend a portion of the revenue in this fund for purchase of equipment not provided for by the regular budget.
- c) On August 13, 2008, the County Council repealed the ordinance creating the non-reverting fund and the approximately \$1,130,000 held in said fund reverted back to the county general fund.

18. UNALLOWABLE EXPENDITURES - SHERIFF COMMISSARY.

- a) The audit report questions 4 disbursements for items such as festival sponsorship and Chamber of Commerce membership from the commissary fund.
- b) The Sheriff is permitted by statute to expend funds from this account for activities or programs intended to reduce criminal activity, including but limited to substance abuse, child abuse, domestic violence, drinking and driving and juvenile delinquency.
- c) The Sheriff has implemented comprehensive programs in and for the community relating to substance abuse, child abuse and domestic violence.

- d) The funds expended that are noted in the report relate to events where the sheriff and his staff personally appear to speak and/or promote programs and organizations directly related to law enforcement functions and reduce crime.

19. APPROVAL OF FORMS - SHERIFF COMMISSARY.

- a) Sheriff's Department adopted a new computer system in October 2007. The output of this system has not been approved for use by the State Board of Accounts.
- b) The Sheriff's staff has begun the process to receive approval from the SBA of the forms generated by the new computer software. This will be finalized when Swartz-Retson concludes their operational audit and the software systems are updated to according to the accounting firms recommendations.

On behalf of the Lake County Sheriff, I would like to thank you for the opportunity to respond to each of the above-listed items in your audit. Please feel free to contact me at your convenience if you have any questions.

Sincerely,



John M. Kopack
Attorney at Law

cc: Sheriff Roy Dominguez
Chief Marco Kuyachich
Cmdr. Mike Reilly, Staff Services

SHERIFF'S SERVICE OF PROCESS FEE

Date	Event	Action
<p>March 24, 2006</p>	<p>Amended I.C. 33-37-7-11</p> <p>Increases amount appropriated by a County Council for pension trust payments from \$12 to \$13.</p>	<p><u>I.C. 33-37-7-11. Appropriations in counties in which pension trust under IC 36-8-10-12 has been established.</u></p> <p>(a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.</p> <p>(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.</p> <p>(c) From the county share distributed under section 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate thirteen dollars (\$13) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.</p> <p>HISTORY: P.L.98-2004, § 16; P.L.1-2006, § 512; P.L.174-2006, § 19.</p> <p>NOTES:</p> <p>Amendments. The 2006 amendment by P.L.1-2006 deleted "3 or" preceding "4" in the first sentence in subsection (c).</p> <p>The 2006 amendment by P.L.174-2006, amending this section as amended by P.L.1-2006, substituted "thirteen" for "twelve" and "(\$13)" for "(\$12)" in subsection (c).</p> <p>Effective Dates. P.L.1-2006, § 593, declared an emergency. Approved March 24, 2006. P.L.174-2006, § 19. July 1, 2006.</p>

Date	Event	Action
<p>March 24, 2006</p>	<p>I.C. 33-37-5-15</p> <p>Public Law 174-206 signed by Governor</p> <p>(Creates New \$13 Sheriff's service fee)</p>	<p>I.C. 33-37-5-15 NEW service of process fee.</p> <p>(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff. A service of process fee collected under this subsection may be collected only one (1) time per case for the duration of the case.</p> <p>(b) The sheriff shall collect from the person who filed the civil action a service of process fee of sixty dollars (\$60), in addition to any other fee for service of process, if:</p> <p style="padding-left: 40px;">(1) a person files a civil action outside Indiana; and</p> <p style="padding-left: 40px;">(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.</p> <p>(c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.</p> <p>(d) The county auditor shall deposit fees collected under this section:</p> <p style="padding-left: 40px;">(1) in the pension trust established by the county under IC 36-8-10-12; or</p> <p style="padding-left: 40px;">(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.</p> <p>HISTORY: P.L.98-2004, § 16; P.L.174-2006, § 12; P.L.156-2007, § 3, <i>eff. July 1, 2007 [added last sentence to (a)].</i></p>

Date	Event	Action
<p>June 6, 2006</p>	<p>State Board of Accounts letter to all Clerks and Sheriffs</p> <p>Clerk should collect fees:</p> <ul style="list-style-type: none"> 1) Customer friendly 2) Better accountability 3) No lost revenue, Sheriff does not know what cases should or should not pay the \$13 fee. 	<p>"Our audit position is that this new fee should be collected per case that is filed after July 1, 2006 where service by the Sheriff is requested.</p> <p>Because the incoming cases are filed with the Clerk of the Circuit Court, we suggest that the Clerk collect this new fee upon case filing. It is our hope that the Clerk and Sheriff can come to agreement on this method of collection. We believe it provides better customer service and accountability for the funds.</p> <p>If the Clerk does not collect this new fee, we believe it is unlikely that those filing cases with the Clerk will take the additional steps to get the fee to the Sheriff for service. This could result in the necessary court papers not being served or additional certified mail for the Clerk.</p> <p>Also, better accountability is achieved by the Clerk collecting these fees because reconciliation of cases and fees is a functional part of Clerks accounting systems. If the Sheriff collects this fee that office has no way of knowing how many cases fees should have been collected for. Therefore, some accountability is lost.</p> <p>Under this method, the Clerk would deposit the fees as other court fees. At the end of each month these fees would be submitted to the County Auditor for deposit into the sheriff's pension trust (or county general fund if a sheriff's pension trust fund has not been established). We recommend that the fees be deposited into a clearing fund specifically for these funds to be immediately distributed to the sheriff's pension fund as provided by statute. Appropriation is not necessary because these fees are not being disbursed.</p> <p>The clearing fund merely accommodates the processing of a check to deposit the funds into the sheriff's pension trust fund which is a part of the County's funds.</p>
<p>June 6 to July 6th</p>	<p>Sheriff Civil Office meets and confers with Clerk staff.</p>	<p>Commander Guernsey from civil office met and/or conferred with staff at the Clerk's office to set up procedure for the \$13 fee.</p> <p>Clerk staff advises: Sheriff must collect fee - Clerk will not collect fee.</p>

Date	Event	Action
July 13, 2006	Sheriff Attorney letter to attorney David Saks.	<p>Advises Saks that:</p> <p>"Upon receiving notice of this new fee, Commander Guernsey contacted and conferred with members of the staff in the Clerk's Office to discuss this new fee and the most efficient and economical method to ensure its collection and processing without causing an undue or additional burden to members of the public and attorneys who file cases and writs for service. Commander Guernsey suggested that the easiest method to implement collection of this new fee would be for the Clerk's Office collect the fee at the same time other court fees are paid to the Clerk for filing documents or requesting service of process. By doing this, a person would pay all fees at the time of filing and not be required to first file a suit in the Clerk's Office and then appear in the Civil Office to pay another fee just to have process served."</p> <p>"I am attaching hereto a memo from the Indiana State Board of Accounts regarding this new fee and their recommendation that the County Clerk's implement a program to collect this fee. Apparently, the staff at the Clerk's Office has not been very accommodating to the recommendations of Commander Guernsey or the State Board of Accounts. Hence I would like to confer with you on this matter as soon as possible."</p>
Aug, 2006	No response from atty Saks	<p>Complaints by attorneys are made about paying filing fees in 2 separate checks</p> <p>Complaint made about \$13 fee being taken to Civil Office after leaving Clerk's Office.</p>
Sept 1, 2006	Saks letter to Sheriff's Attorney	Clerk's position they will not collect the \$13 fee with other fees at time of filing of a case.
Sept 5, 2006	Judge Svetanoff and Judge Davis	Judges contact Sheriff's Attorney and complain about public and attorneys having to have 2 separate checks - also about having to pay filing fees to clerk and then going to Sheriff's civil office to pay \$13 sheriff's fee.
Sept 5, 2006	Judge Davis, Saks and Kopack conference call re payment of \$13 fee and complaints by judges and attorneys.	<p>Judge Davis conducts conference call with Saks and Kopack seeking reason that all fees are not being collected in Clerk's Office.</p> <p>Judge advised of Clerk's position that Sheriff must collect fee, Clerk not responsible.</p>

Date	Event	Action
Sept 6, 2006	Fax from Kopack to Judge Davis and Judge Svetanoff	<p>Confirming conference call with Saks of 9/5/06</p> <p>Judges advised: "Pursuant to our conference call, I will be speaking with Attorney Saks on this issue in an attempt to reach a resolution of this matter as soon as possible.</p> <p>However, if the Clerk will not collect this fee voluntarily, the Sheriff may need to consider requesting an order to issue from the Chief Judge and/or Senior Judge of the Civil Division to require compliance with the attached recommendations of the State Board of Accounts.</p> <p>Saks: cc'd via fax</p>
Oct, 2006	Attempt to schedule meetings	<p>Counsel set and reset meeting at Sheriff's office to discuss \$13 fees</p> <p>Meetings reset due to unavailability of Clerk or Sheriff's staff on various dates</p>
Nov. 29, 2006	Kopack meets with Mark Pearman of Data Processing	<p>Only take 1-2 days for Data Processing to add the \$13 sheriff fees to Clerk's billing software for newly filed cases.</p> <p>Could coordinate with Auditor for direct deposit into Sheriff's Pension Trust to avoid paperwork.</p>
Dec. 5, 2006	Meeting at Sheriff's Department on \$13 fee	<p>Kopack, Saks meet with Clerk and Sheriff staff on \$13 fee</p> <p>Discuss options for collection and accounting of fees.</p>
Aug. 28, 2007	Auditor meeting, with Councilman Blanchard, David Saks, Wieser, Freeman, Kumstar, Reilly and Kopack	<p>Copy of above outline provided to each person at meeting along with a copy of the Saks fax re the \$13 fee. Parties agree to LCSD shall meet with Auditor staff to upgrade process.</p> <p><i>(SEE EMAIL from Kopack to Auditor and Councilman Blanchard following meeting)</i></p>

*135811 IC 33-37-5-15

**WEST'S ANNOTATED INDIANA CODE
TITLE 33. COURTS AND COURT OFFICERS
ARTICLE 37. COURT FEES
CHAPTER 5. COLLECTION OF ADDITIONAL FEES**

Current through end of 2007 1st Regular Session.

33-37-5-15 Service of process fee (Adopted in 2006 - the "new" fee)

Sec. 15. (a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff. A service of process fee collected under this subsection may be collected only one (1) time per case for the duration of the case.

(b) The sheriff shall collect from the person who filed the civil action a service of process fee of sixty dollars (\$60), in addition to any other fee for service of process, if:

- (1) a person files a civil action outside Indiana; and
- (2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(d) The county auditor shall deposit fees collected under this section:

- (1) in the pension trust established by the county under IC 36-8-10-12; or
- (2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

CREDIT(S)

As added by P.L.98-2004, SEC.16. Amended by P.L.174-2006, SEC.12; P.L.156-2007, SEC.3.

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2006 Legislation

*135812 P.L.174-2006, Sec.12, amended this section by redesignating former Subsecs. (a), (b), and (c) as present Subsecs. (b), (c), and (d); inserting present Subsec. (a); and substituting "sixty" for "forty" and "\$60" for "\$40" in present Subsec. (b).

P.L.174-2006, Sec.21, eff. July 1, 2006, provides:

"IC 33-37-4-4, IC 33-37-4-6, IC 33-37-5-15, and IC 33-37-5-28, all as amended by this act, apply only to cases filed after June 30, 2006."

2007 Legislation

P.L. 156-2007, Sec. 3, amended this section by inserting "A service of process fee collected under this subsection may be collected only one (1) time per case for the duration of the case." in Subsec. (a).

© 2007 Thomson/West. No claim to original U.S. Govt. works.

*135869 IC 33-37-7-11

**WEST'S ANNOTATED INDIANA CODE
TITLE 33. COURTS AND COURT OFFICERS
ARTICLE 37. COURT FEES
CHAPTER 7. DISTRIBUTION OF COURT FEES**

Current through end of 2007 1st Regular Session.

33-37-7-11 Counties with pension trusts; appropriations; claims by sheriff

Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate thirteen dollars (\$13) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

CREDIT(S)

As added by P.L.98-2004, SEC.16. Amended by P.L.1-2006, SEC.512, eff. Mar. 24, 2006; P.L.174-2006, SEC.19.

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update

2006 Legislation

P.L.1-2006, Sec.512, amended this section by deleting "3 or" following "section" in the first sentence of Subsec. (c).

P.L.174-2006, Sec.19, amended this section, as amended by P.L.1-2006, Sec.512, by substituting "thirteen" and "(\$13)" for "twelve" and "(\$12)", respectively, in the first sentence in Subsec. (c).

2004 Main Volume

Formerly:

*135870 IC 33-1-9-1.
IC 33-1-9-1.1.
IC 33-19-7-7.
Acts 1949, c. 128, s. 1.
Acts 1969, c. 333, s. 1.
Acts 1971, P.L.425, SEC.1.
Acts 1973, P.L.168, SEC.2.
Acts 1979, P.L.164, SEC.2.
Acts 1980, P.L.8, SEC.147.
Acts 1980, P.L.125, SEC.11.
Acts 1982, P.L.181, SEC.4.
P.L.305-1987, SEC.1.

© 2007 Thomson/West. No claim to original U.S. Govt. works.

*135852 IC 33-37-7-4

**WEST'S ANNOTATED INDIANA CODE
TITLE 33. COURTS AND COURT OFFICERS
ARTICLE 37. COURT FEES
CHAPTER 7. DISTRIBUTION OF COURT FEES**

Current through end of 2007 1st Regular Session.

33-37-7-4 Fees collected by clerk of circuit court; county share; after June 30, 2005

Sec. 4. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) This section applies after June 30, 2005.

CREDIT(S)

As added by P.L.98-2004, SEC.16.

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Formerly:

IC 33-1-9-1.
IC 33-1-9-1.1.
IC 33-19-7-2.
*135853 Acts 1949, c. 128, s. 1.
Acts 1969, c. 333, s. 1.
Acts 1971, P.L.425, SEC.1.
Acts 1973, P.L.168, SEC.2.
Acts 1979, P.L.164, SEC.2.
Acts 1980, P.L.8, SEC.147.
Acts 1980, P.L.125, SEC.11.
Acts 1982, P.L.181, SEC.4.
P.L.305-1987, SEC.1.
P.L.279-1995, SEC.15.
P.L.280-1995, SEC.17.
P.L.209-1996, SEC.14.
P.L.167-2003, SEC.9.

REFERENCES

LIBRARY REFERENCES

© 2007 Thomson/West. No claim to original U.S. Govt. works.

FAX

To: Hon. William Davis
cc: Hon. Gerald Svetanoff

Page 1 of 8

Date: September 6, 2006

From: John M. Kopack
Attorney at Law
9111 Broadway, Ste GG
P.O. Box 10607
Merrillville, IN 46411

Phone: (219) 738-2978
Fax: (219) 738-2818
Email: *jmklaw@icongrp.com*

Re: Collection of Sheriff's Fees - Lake County Clerk
HEA 1158 - I.C. 33-37-5-15 and HEA 1040 - I.C. 33-37-7-11

Judge Davis,

Per our conference call yesterday with attorney David Saks, I am attaching hereto a copy of my letter and attachments faxed to attorney Saks on July 13, 2006, in reference to the above matter.

Please note, prior to faxing the attached letter and documents to Attorney Saks on July 13th, Commander Randall Guernsey, supervisor of the Sheriff's Civil Division, had met and conferred with members of the Clerk's staff and requested that the new \$13.00 Sheriff's Fee (as recommended by the State Board of Accounts) be added to the various fees collected by the Clerk at the time a new cause of action is filed. It's my understanding the Clerk's staff advised Commander Guernsey that the Clerk would not collect this fee and all persons filing a new case would be required to go to the Sheriff's civil office and pay this fee before any summons and complaint would be processed for service.

Pursuant to our conference call, I will be speaking with Attorney Saks on this issue in an attempt to reach a resolution of this matter as soon as possible. However, if the Clerk will not collect this fee voluntarily, the Sheriff may need to consider requesting an order to issue from the Chief Judge and/or Senior Judge of the Civil Division to require compliance with the attached recommendations of the State Board of Accounts.

If you need any further information on this matter, feel free to contact me on my cell phone at any time at (313-8874).

Confidentiality Notice

This FAX and any attachments contain confidential attorney work-product intended solely for the viewing or use of the intended named above recipient. Any use of this information, or reliance thereon, by any other person is strictly prohibited. If you received this fax in error, please destroy this fax and any attachments and contact the sender immediately at (219) 738-2978.

Kopack & Associates Attorneys at Law

John M. Kopack

Amy R. Bolen, *of counsel*

9111 Broadway, Suite GG
P.O. Box 10607
Merrillville, IN 46411
Tx: (219) 738-2978
Fax: (219) 738-2818

July 13, 2006

David Saks
Attorney at Law
6948 Indianapolis Blvd.
Hammond, IN 46324

Re: Collection of Sheriff's Fees - Lake County Clerk
HEA 1158 - I.C. 33-37-5-15 and HEA 1040 - I.C. 33-37-7-11

Dear Mr. Saks,

I am writing to you in your capacity as counsel for the Lake County Clerk concerning two administrative issues that was been brought to my attention by Commander Randall Guernsey who supervises the Lake County Sheriff's Department Civil Division.

1. **Service of Process Fee - \$13.00:** Effective July 1, 2006, House Enrolled Act 1158 requires that a new \$13.00 Sheriff's "service of process fee" to be collected from every party requesting service of a writ, order, process, notice, tax warrant or other paper completed by the Sheriff's Office. The full text of the changes to I.C. 33-37-5-15, the applicable statute, are as follows:

IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff.

~~(a)~~ (b) The sheriff shall collect from the person who filed the civil action a service of process fee of ~~forty~~ sixty dollars ~~(\$40)~~, (\$60), in addition to any other fee for service of process, if:

- (1) a person files a civil action outside Indiana; and
- (2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

~~(b)~~ (c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

~~(c)~~ (d) The county auditor shall deposit fees collected under this section:
(1) in the pension trust established by the county under IC 36-8-10-12; or
(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

Upon receiving notice of this new fee, Commander Guernsey contacted and conferred with members of the staff in the Clerk's Office to discuss this new fee and the most efficient and economical method to ensure its collection and processing without causing an undue or additional burden to members of the public and attorneys who file cases and writs for service. Commander Guernsey suggested that the easiest method to implement collection of this new fee would be for the Clerk's Office collect the fee at the same time other court fees are paid to the Clerk for filing documents or requesting service of process. By doing this, a person would pay all fees at the time of filing and not be required to first file a suit in the Clerk's Office and then appear in the Civil Office to pay another fee just to have process served.

I am attaching hereto a memo from the Indiana State Board of Accounts regarding this new fee and their recommendation that the County Clerk's implement a program to collect this fee. Apparently, the staff at the Clerk's Office has not been very accommodating to the recommendations of Commander Guernsey or the State Board of Accounts. Hence I would like to confer with you on this matter as soon as possible.

2. I.C. 33-37-7-11 - Pension Trust Fees. Effective July 1, 2006, the legislature has also increased the pension trust fees from \$12.00 to \$13.00. The amendatory language is as follows:

SECTION 19. IC 33-37-7-11, AS AMENDED BY HEA 1040-2006, SECTION 512, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:
Sec. 11.

(a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate ~~twelve~~ **thirteen** dollars (~~\$12~~) (**\$13**) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

Attached hereto, you will file a copy of a sample receipt from a case recently filed in the Clerk's Office. Apparently, the Clerk's Office had been collecting the old \$10.00 pension trust fee pension trust fee but did not increase the amount collected to \$12.00 when the legislature increased the fee from \$10.00 to \$12.00. Now that the fee has been increased to \$13.00, it is imperative that the correct amount of the fee be collected and deposited into the appropriate pension fund.

Please contact me at your earliest convenience concerning this matter so we can schedule a meeting to confer on the above matters and arrive at a solutions that are in the best interests of the public and the county.

Sincerely,

John M. Kopack
Attorney at Law

JMK/
dictated but not read
Encl:

cc: Commander Guernsey
Chief of Police
Sheriff's Department



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2765

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

MEMORANDUM

TO: All County Sheriff's, Clerk's of the Circuit Court, County Auditors and County Councils

FROM: Mr. Bruce A. Hartman, C.P.A.
State Examiner

RE: Suggested accounting procedures for the Sheriff's Service of Process Fee

DATE: June 6, 2006

HEA 1158, effective July 1, 2006, establishes a new fee in the amount of \$13 to be collected from a party requesting service of any paper by the County Sheriff. The amended law, IC 33-37-5-15, provides for the Sheriff to collect this fee which presents problems in implementation. The new fees will ultimately be remitted to the County Auditor for deposit into the sheriff's pension trust fund. If the County has not established a sheriff's pension trust fund, the fees are deposited into the county general fund.

One of the problems that we foresee is that once a case is filed the person requesting service would have to then go to the Sheriff's department to pay the fee. Because this process is not very client friendly we predict there will be persons that will not follow through with the entire process and actually go to the Sheriff's department. Additionally, Sheriff's accounting systems will not have current case information to be able to know what cases have been filed for which fees need to be collected and which papers are being served on previous cases where fees have already been paid.

Our audit position is that this new fee should be collected per case that is filed after July 1, 2006 where service by the Sheriff is requested. Because the incoming cases are filed with the Clerk of the Circuit Court, we suggest that the Clerk collect this new fee upon case filing. It is our hope that the Clerk and Sheriff can come to agreement on this method of collection. We believe it provides better customer service and accountability for the funds. If the Clerk does not collect this new fee, we believe it is unlikely that those filing cases with the Clerk will take the additional steps to get the fee to the Sheriff for service. This could result in the necessary court papers not being served or additional certified mail for the Clerk. Also, better accountability is achieved by the Clerk collecting these fees because reconciliation of cases and fees is a functional part of Clerks accounting systems. If the Sheriff collects this fee that office has no way of knowing how many cases fees should have been collected for. Therefore, some accountability is lost.

Under this method, the Clerk would deposit the fees as other court fees. At the end of each month these fees would be submitted to the County Auditor for deposit into the sheriff's pension trust (or county general fund if a sheriff's pension trust fund has not been established). We recommend that the fees be deposited into a clearing fund specifically for these funds to be immediately distributed to the sheriff's pension fund as provided by statute. Appropriation is not necessary because these fees are not being disbursed. The clearing fund merely accommodates the processing of a check to deposit the funds into the sheriff's pension trust fund which is a part of the County's funds.

There may be occasions where the Court waives court costs and fees for reasons like indigence. If the Court orders costs waived the Clerk under our recommendations would not collect the sheriff's service of process fee as instructed by the court order. It will be the determination of the Sheriff of whether to provide service in this case. The Indiana Code provides for service by certified mail for cases unless other service is requested. Therefore, each County Sheriff will want to establish policy for the Sheriff's department in their County. If the Clerk is collecting the service of process fees as we recommend, the policy should be shared with the Clerk of the Circuit Court.

Even though we stated above, cases filed after July 1, 2006 would require the new Sheriff's service of process fee of \$13, this would not preclude a sheriff from collecting this fee for requests for service by the Sheriff on cases that were filed prior to July 1, 2006. These requests would have to be made directly to the Sheriff's department and the fee would be collected upon request at the Sheriff's department. Fees collected by the Sheriff in accordance with this paragraph should be processed in the same manner as fees for out of state service of process which are presented in the next paragraph.

The state and political subdivisions would not pay the \$13 sheriff's service of process fee when filing a case. However, this fee like other court costs and fees could be collected from defendants when the state or a political subdivision is successful in its actions. Additionally, this fee would not apply to filings for protective orders when courts costs and other fees are waived.

HEA 1158 also provides for an increase in the fee for sheriff's service of process on civil cases filed outside of Indiana from \$40 to \$60, effective July 1, 2006. These fees are currently collected by the Sheriff and should continue to be collected by the Sheriff on and after July 1st. Because the cases are filed outside of Indiana, Clerks should not have to process any of these requests or fees. These out of state service of process fees should also be remitted to the County Auditor at the end of each month. We recommend the County Auditor deposit these fees into the same sheriff's service of process clearing account established for the sheriff's service of process fees collected on in state cases. This will make it possible for County Auditors to immediately write the check for deposit into the county sheriff's pension trust fund. Once again appropriation is not necessary for this check that will be used to merely transfer the funds to the pension trust fund as required by law.

IC 33-37-7-11 also applies in all counties that have established a sheriff's pension trust fund. It provides for the Sheriff to submit to the County Council a verified claim for each paper served by the Sheriff's department. From the County's share of court costs collected by the Clerk of the Circuit Court and deposited into the county general fund, the County Council shall appropriate monies for each verified claim. Effective July 1, 2006, the amount per verified claim increases from \$12 to \$13 under HEA 1158. As in the past upon appropriation, the County Auditor is to deposit the amount into the sheriff's pension trust fund. This would not need to be processed through the clearing account. The check would be written directly from county general fund to the pension trust. This section of law is not new. However, we wanted to make you aware that this section was not replaced by the new fee we referred to above. This section of law is still in effect and will increase in amount on July 1, 2006.

TRW/db

CLERK CIRCUIT / SUPERIOR COURT
 2293 North Main
 Crown Point, IN 46307

Form Approved By Indiana State Board of Accounts, 1999

Receipt Type Case Outstanding Amount 2.00
 Receipt Number 181546 Receipt Date 07/05/2006

Case Number 45D09-0607-SC-02184
 Description PEELER, SAMMIE E vs. BEARD, LEON K

Action Money Owed SC - 1 Defendant
 Judge Cantrell, Julie
 Received From PEELER, SAMMIE E
 On Behalf Of PEELER, SAMMIE E

Total Received	70.00
Net Received	70.00
Change	0.00

Receipt Payments	Amount	Reference Description
Cash	70.00	

Receipt Applications	Amount
Cost	70.00

Disbursement Accounts	Amount
CP SC Civil Service Fee	10.00
SC Court Admin. Fee	3.00
SC Indiana Record Keeping Fee	7.00
SC Judicial Salaries Fee	11.00
SC Public Defense Admin. Fee	3.00
SC Record Perpetuation Fund	1.00
Small Claims City and Town Share	1.05
Small Claims Court Cost County	9.45
Small Claims Court Cost State of Indiana	24.50

Deputy Clerk: GASKIRJ Transaction Date 07/05/2006 09:50:40

Comments

CLERK CIRCUIT / SUPERIOR COURT
2293 North Main
Crown Point, IN 46307

Form Approved By Indiana State Board of Accounts, 1999

Receipt Type Case Outstanding Amount 0.00
Receipt Number 181547 Receipt Date 07/05/2006

Case Number 45D09-0607-SC-02184
Description PEELER, SAMMIE E vs. BEARD, LEON K

Action Money Owed SC - 1 Defendant
Judge Cantrell, Julie
Received From PEELER, SAMMIE E
On Behalf Of PEELER, SAMMIE E

Total Received	2.00
Net Received	2.00
Change	0.00

Receipt Payments	Amount	Reference	Description
Cash	2.00		

Receipt Applications	Amount
Cost	2.00

Disbursement Accounts	Amount
SC Judicial Insurance	1.00
Adjustment Fee	
SC Record Perpetuation Fund	1.00

Deputy Clerk: GASKIRJ Transaction Date 07/05/2006 09:50:51

Comments

Jmklaw

From: jmklaw [jmklaw@icongrp.com]
Sent: Wednesday, August 29, 2007 9:55 AM
To: Peggy Katona (katinpx@lakecountyin.org); 'Larry Blanchard'; 'Gregory T. Guerrettaz'
Cc: Mike Reilly (mreilly@lakecountysheriff.com); Bennie Freeman (Bennie Freeman); 'Roxanne "Rocky" Macias-Davis'; Joe Kumstar (Joe Kumstar); Marco Kuyachich (Marco Kuyachich); '12197553023@myfax.com'; 'Cindy'
Subject: Sheriff's Fees - Accounting Procedures

Dear Auditor Katona and Councilman Blanchard,

Thank you both for the opportunity to meet with you and the Auditor's staff yesterday afternoon to address your concerns about the accounting and bookkeeping issues relating to service of process and other user fees collected by the Sheriff's Civil Office.

During our meeting we discussed several major issues/problems relating to the new \$13.00 "Sheriff's fee" that became effective July 1, 2006, pursuant to I.C. 33-37-5-15, and several possible solutions to prevent these same issues from arising in the future:

1) Accounting Practices. It historically has been the practice of the Sheriff's Department to collect all civil process and user fees and tender them together in one check each month to the Auditor's Office - with bookkeeping done at the Civil Office by hand and kept in old style ledger books. We all agreed this system is antiquated and must be updated and all fees collected by the Sheriff's Civil Office delivered to the Auditor on a daily or weekly basis broken down into categories and amounts.

2) Fees Collected Since July 1, 2007 up to the current date: According to Ms. Katona's staff, the monthly checks received from the Civil Office for fees collected do not break down what fees are included and the amount collected under each category, hence, the Auditor cannot provide information to the County Council as to the amount of each particular fee that is collected each month.

Solution: Mark Pearman, Commander Mike Reilly and Asst Chief Freeman, and any staff from the Auditor that wishes to attend, will meet this morning at the Sheriff's Civil Office so Mark can develop a plan to extra data from the Clerk's Office to determine all cases filed since July 1, 2006, which required payment of the new \$13 fee and observe how fees come into the office and the current accounting practices. From the list compiled by data processing, the Civil Office will prepare a certification to the Auditor as to the monthly amount of these fees that have been collected.

3) Future Collection of Fees: The Sheriff's office will develop accounting and booking procedures that will be approved by the Auditor's staff for the collection, accounting and delivery of all fees collected by the civil office. This will include a review of all current practices, establishment of electronic data keeping and methods of recording all fees collected. Also, a procedure will be established to turn over all fees to the Auditor on a daily or weekly basis with a report attached as to the total amount of each specific fee collected.

Solution: I spoke at length with Sheriff Dominguez after our meeting and he concurs that new accounting and bookkeeping methods should be implemented. As of this morning has retained a financial consultant to assist in this process.

As of this morning, the Sheriff has retained Greg Guerrettaz of Financial Solutions, Inc. in Indianapolis (812-334-2126) to assist the Sheriff's staff in:

- a) Reviewing the current bookkeeping and accounting procedures currently in use at the Sheriff's Department;
- b) Fees: Establishing new electronic bookkeeping and accounting procedures for all fees collected by the LCSD that will meet all Indiana State Board of Accounts guidelines and procedures and coordinate and coordinate this new system and its implementation with the Auditor's staff and Mark Pearman from data processing.
- c) Accounts: (i.e., commissary, grant and other special accounts) Establishing new electronic bookkeeping and accounting procedures for all accounts maintained at the LCSD that will meet all Indiana State Board of Accounts guidelines and procedures and coordinate and coordinate this new system and its implementation with the Auditor's staff and Mark Pearman from data processing.

Mr.. Guerrettaz will be doing an onsite review with the Sheriff's staff in the very near future to determine what systems are being used now, will be contacting the Auditor's staff for their recommendations and input, and will then develop new accounting and booking procedures and review these with the Auditor's staff before implementation. This should get everyone on the same page and avoid any future problems of the type and nature discussed during our meeting.

4) The "Where is the \$1,000,000 in additional miscellaneous revenue" issue:

During our meeting it was mentioned that the "Sheriff's Department" had submitted a report showing an estimated \$1,000,000+ in fees that would be collected in fiscal year 2007 based upon the "new sheriff's fees" that had been implemented by the legislature. As I explained during our meeting:

- a) The Indiana State FOP submitted reports to all local FOP's in 2006 and 2007, indicating there were "two" new sheriff's fees implemented by the legislature and that these new fees totaling \$26 for each new civil case filing would generate new revenues for each county to assist in paying their yearly obligations to the Sheriff's Pension Fund.
- b) The FOP (like many looking at the new legislation when first adopted in 2006) had the impression there were 2 new fees, one for \$13 and an old fee that was increased from \$12 to \$13. Thus their estimates of new revenue for each county used a multiplier of \$26 to compute their estimate,
- c) The FOP was wrong.
- d) There was only one new fee created by I.C. 33-37-5-15, the \$13 Sheriff's fee for service of process on each new case filed that required service of process by the sheriff. The other statute, I.C. 33-37-7-11, did not create a new fee, but only increased the yearly amount the county council has to pay into the Sheriff's Pension Fund for each *"For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff"* from \$12 to \$13 per year.

Hence, the legislature INCREASED the amount the council has to pay into the pension fund from \$12 to \$13 for each paper served by the Sheriff and CREATED a new Sheriff's Fee of \$13 to offset the burden on the general fund to make this payment. Therefore, the amount paid from the general fund has been reduced (a savings) because of the new user fee that was created. Thus, any estimates by the FOP must be reduced by 50% to reflect this error.

Also, I advised during our meeting that the "Sheriff's Department" does not participate in the contract negotiations, the county council deals directly with the FOP and Union negotiating team - yes they are all police officers, but they do not represent the Sheriff as this team represents the FOP and Union. Hence, any information provided by this team to the council is from the FOP and Union and is not information generated by or representing the official position of the Sheriff. *(I have spoken previously with councilman Blanchard on this issue and suggested that in all future negotiations with the FOP and*

Union representatives of the Sheriff be invited to sit and observe the negotiations so problems like this cannot arise in the future).

Again, thank you all for your comments and input during our meeting. The Sheriff's staff or I will keep you informed of our progress as the Sheriff, with the assistance of Mr. Guerrettaz, moves forward to implement these new accounting procedures. If you have any further questions or comments, please feel free to contact me at your convenience.

John M. Kopack
jmklaw@icongrp.com
Attorney at Law
9111 Broadway, Ste GG
P.O. Box 10607
Merrillville, IN 46411
Ph: 219-738-2978
Fax: 219-738-2818

This email and any file attachments(s) are confidential attorney-client and/or attorney work product and are intended solely for use by the intended recipient(s). If you received the email in error, please notify the sender immediately at (219) 738-2978 and delete this message, attachments and any copies completely from your computer. Dissemination, distribution, or copying of this communication, in whole or in part, by any unintended or unauthorized recipient is prohibited by federal law and may subject you to liability under 18 U.S.C. Sec. 2511. The sender assumes no liability and makes no warranties or representations that the email or any file attachments are totally secure and/or virus free.



235 East 86th Avenue • Merrillville, IN 46410 • 219.769.3616 • Fax 219.736.4876 • www.swartz-retson.com

August 14, 2008

Mr. Roy Dominguez, Sheriff
Lake County Sheriff's Department
Lake County Government Center
2293 N. Main Street
Crown Point, IN 46307

Dear Mr. Dominguez:

As an extension of the procedures outlined in our June 2, 2008 engagement letter and to assist the Department in its response to Indiana State Board of Accounts' "Audit Results and Comments" letter for the year January 1, 2007 to December 31, 2007 we submit the following information for two areas of comment:

Cash Necessary to Balance Bank Reconciliations – Civil Division

Our initial reconciliation of the bank account indicated that a deficit of \$155,480 existed in the account. Subsequent review of items classified as outstanding checks indicates that several items should be voided, as checks were prepared in anticipation of amounts to be paid which were later determined to be not due or due in differing amounts, for which other checks were issued. After voiding these items the cash balance in the account is no longer in a deficit position as of December 31, 2007.

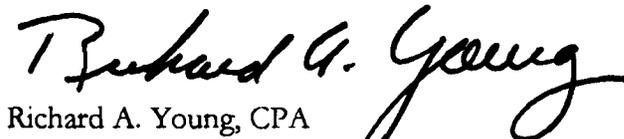
Sheriff's Personal Fees – Form 1099

As an individual taxpayer the Sheriff should recognize income on the "cash basis," meaning that only amounts actually paid to the Sheriff should be reported on Form 1099. We recomputed the amounts actually paid to the Sheriff in 2007 and noted that they totaled \$61,325.28, the same amount as reported by the Department on Form 1099.

Please free to contact me should you require any additional information.

Sincerely,

SWARTZ, RETSON & CO., P.C.


Richard A. Young, CPA
RAY:pk