

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

AUDIT REPORT

OF

FRANKFORT CITY COURT

CLINTON COUNTY, INDIANA

January 1, 2008 to December 31, 2008



**FILED**  
03/15/2010



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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Judith Suter	01-01-08 to 12-31-11
Mayor	Chris Pippenger	01-01-08 to 12-31-11
President of the Common Council	James E. Moyer	01-01-08 to 12-31-09
President of the Board of Public Works	Chris Pippenger	01-01-08 to 12-31-09
City Judge	George Ponton	01-08-08 to 12-31-11
Court Clerk	Holly McCoy Becky Frye	01-01-08 to 12-14-08 12-15-08 to 12-31-11



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE FRANKFORT CITY COURT

We have audited the records of the Frankfort City Court for the period from January 1, 2008 to December 31, 2008, 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 the court are reflected in the Annual Report of City of Frankfort for the year 2008.

STATE BOARD OF ACCOUNTS

December 15, 2009

FRANKFORT CITY COURT  
CITY OF FRANKFORT  
AUDIT RESULTS AND COMMENTS

UNAUTHORIZED CITY COURT CASE DISMISSALS

During the review of the Frankfort City Court's records, it was noted that 18 city court cases were dismissed by persons other than the City Judge or the Clinton County Prosecutor. These dismissals were unauthorized.

IC 9-30-3-7 Sec. 7. states:

"A person who solicits or aids in the disposition or attempted disposition of a traffic information or summons in any unauthorized manner is in criminal contempt of the court having original jurisdiction of the cause of action or of the court named on the particular information in question."

PRESCRIBED FORMS

The following prescribed or approved forms were not always in use:

General Form 102 - Register of Trust Funds - This form was not used.

State Court Administration Forms - Chronological Case Summaries (CCS) - This form was not used.

The following prescribed or approved forms were not used in the manner prescribed:

213CT - City/Town Court Cash Book - an unapproved form is being used in place of the City/Town Court Cash Book.

214CT - City Court Receipt - this form was used but not always completed. Five receipt series were haphazardly selected and 11 receipts did not have "cash, check, or "MO" marked.

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 Cities and Towns, Chapter 7)

OFFICIAL BOND

The following official bond was not filed in the Office of the County Recorder:

George Ponton, City Judge

IC 5-4-1-5.1(b) states in part: "Every elected or appointed officer, official, deputy, or employee of a political subdivision . . . shall file the bond in the office of the county recorder. . . ."

FRANKFORT CITY COURT  
CITY OF FRANKFORT  
AUDIT RESULTS AND COMMENTS  
(Continued)

COURT COSTS

The City Court of Frankfort assessed judgments for ordinance violations and failed to assess the appropriate court costs for cases heard by the City Court Judge. For 2008, all ordinance violations were assessed only court costs of \$17.50. Officials failed to assess the State costs of \$38.50 and the County costs of \$14. In addition, the Clerk only collected the additional fees required for the law enforcement continuing education fee and the document storage fee. Officials failed to collect the highway work zone fee, jury fee, automated recordkeeping fee, public defense fee, judicial insurance adjustment fee, judicial salaries fee, court administrative fee, and DNA sample processing fee.

IC 33-37-4-2 (a) states in part:

". . . for each action that results in a judgment: (1) for a violation constituting an infraction; or (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10); the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70)."

IC 33-37-4-2 (b) states in part:

"In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5: (1) A document fee . . . (2) An alcohol and drug services program user fee . . . (3) A law enforcement continuing education program fee . . . (4) An alcohol and drug countermeasures fee . . . (5) A highway work zone fee . . . (6) A deferred prosecution fee . . . (7) A jury fee . . . (8) A document storage fee . . . (9) An automated recordkeeping fee . . . (10) A late payment fee . . . (11) A public defense administration fee . . . (12) A judicial insurance adjustment fee . . . (13) A judicial salaries fee . . . (14) A court administration fee . . . (15) A DNA sample processing fee . . ."

CONDITION OF RECORDS

The bank reconcilements for June, July, August, and December 2008, did not agree to the "City/Town Court Daily/Monthly Balance Record."

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 City and Town Courts, Chapter 4)

DEPOSITS

As stated in the prior Report B33402, in numerous instances, City Court receipts were deposited later than the next business day. Receipts were held as long as 18 days before depositing. No deposits were made in the month of October.

IC 5-13-6-1(d) states: "A city (other than a consolidated city) or a town shall deposit funds not later than the next business day following the receipt of the funds in depositories (1) selected by the city or town as provided in an ordinance adopted by the city or the town; and (2) approved as depositories of state funds."

FRANKFORT CITY COURT  
CITY OF FRANKFORT  
AUDIT RESULTS AND COMMENTS  
(Continued)

TIMELY REMITTANCES

From June 2008 through September 2008, the Court Clerk did not monthly remit court fees to the City of Frankfort or to the Clinton County Auditor. Remittances for June 2008 were made on August 22, 2008, and remittances for July, August, and September 2008 were made on November 12, 2008.

Where a city or town operates a court under IC 33-35, certain fees will be remitted to the city or town's fiscal once each month. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 3A)

IC 33-37-7-12(a) states in part: ". . . not later than thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to the county auditor . . . and to the city or town fiscal officer if the clerk is the clerk of a city or town court."

CASH NECESSARY TO BALANCE - BANK RECONCILIATIONS

A comparison of the records to the bank account indicated cash necessary to balance of \$115.50.

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 Cities and Towns, Chapter 7)

COURT REVENUE NOT DEPOSITED

Holly McCoy, former Court Clerk, failed to deposit \$906.50, which includes cash necessary to balance, of court receipts during 2008.

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Holly McCoy, former Court Clerk, will be asked to reimburse the Frankfort City Court the total not deposited. (See Summary, page 12)

BOND INFORMATION

The State of Indiana through the City of Frankfort, held an official bond on Holly McCoy, former Court Clerk, in the amount of \$8,500 for the term beginning January 1, 2008, until her successor is duly qualified. The bond was underwritten by Fidelity and Deposit Company of Maryland.

FRANKFORT CITY COURT  
CITY OF FRANKFORT  
AUDIT RESULTS AND COMMENTS  
(Continued)

EXAMINATION COSTS – MISSING FUNDS

Additional examination costs were incurred by the State of Indiana in investigation of missing funds for the Frankfort City Court.

Examination costs incurred because of theft may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

FRANKFORT CITY COURT  
CITY OF FRANKFORT  
EXIT CONFERENCE

The contents of this report were discussed on January 20, 2010, with Jeffrey Danner, Police Chief; George Ponton, Judge; Eric Woods, City Councilman; Judith E. Suter, Clerk-Treasurer; Becky Frye, Court Clerk; Karen Walker, Court Clerk; Lester Bergum, City Attorney; and Chris Pippenger, Mayor. The official response has been made a part of this report and may be found on pages 9 through 11.

Holly McCoy, former Court Clerk, was notified of the scheduled exit conference, but did not attend.

PONTON & MOHLER  
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George G. Ponton  
Bradley K. Mohler

January 26, 2010

STATE BOARD OF ACCOUNTS  
302 West Washington Street Room E 418  
Indianapolis, IN 46204-2765

Attn : Official Response

In re:

Frankfort City Court

Dear Ladies and Gentlemen:

My response to your recent audit results and comments follows:

Unauthorized City Court Case Dismissals: This was occurring without the knowledge of the Court or the County Prosecutor by city police officers who apparently contacted the Deputy Clerk and requested a dismissal. The Court has a strict policy against dismissal and communicates this to litigants. The Prosecutor or the City Attorney is responsible for dismissing whatever cases they choose to dismiss. The Court only dismisses upon motion brought before the Court by the prosecutor. The city police department has been advised that such conduct is unauthorized and the clerk's office has been made aware of the law. The Court and Prosecutor's office (also) had issued proper advisement on this issue to the responsible parties one of whom no longer works in the Clerk's office.

Prescribed Forms: The CCS form being used by the Court was an exact facsimile of the Indiana Supreme Court prescribed form; however, it was not submitted for approval. Rather than submit a form for approval the Court will order the prescribed form and use it. This form is only filled out for cases that actually come before the Court for trial but can be utilized for all cases even those that are resolved by payment of fines and costs to the violations bureau. The Deputy Clerk has been asked to see if a computer generated form is available that can be used on all cases and this will begin when the software is obtained.

The Court does not handle any trust funds and this practice was discontinued some years ago when all civil collection cases were filed in the County Court system. The Court does not

normally require a bond for traffic or ordinance violations. Apparently, there was a \$200.00 item that was carried over from a prior year, that still appears in the records of the Court but the Court is unaware where this came from. Some years ago all unclaimed funds were transferred to the Attorney General's office to clear out money that had been held for long periods of time so there should be none on the Court books and General Form 102 would be unnecessary. Apparently, the \$200.00 was missed when this was done. It is not anticipated that the Court will be handling any trust funds in the near term.

The use of the other cited forms, 213CT and 214 CT, will be undertaken by the Clerk's office.

Official Bond: Current Bonds for the Judge and Clerk and her office employees have been filed at the Recorder's office as of 01-26-2010. This was an oversight for 2008 and 2009 and would not effect the liabilities of those bonded which included the judge and the employees of the Clerk's office and the deputy who handled Court fines and costs. The 2009 bonds are being sent to the Recorder's office for filing and this should cure this deficit.

Court Costs: The City has revised the violations bureau fines and costs and the Court is presently allowing violators to pay the prescribed fine for the ordinance violation or repeat violation pursuant to the new ordinance. The prior ordinance was vague and indefinite and has been updated. The Buildings Violations Ordinance (Property Maintenance Code) has a separate set of fines which apply in those types of cases. Costs are being assessed in those cases not paid as of January, 2010 and being adjudicated by the court.

All motor vehicle violations were assessed the costs required by law without exception. The Clerk's office was apparently not distributing these funds as per statute and was using a system that carried over from prior administrations which were thought to be correct. This is now being corrected.

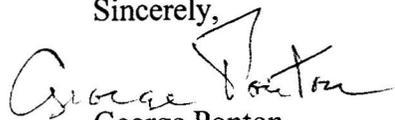
Deposits, Timely Remittances, Revenue Not Deposited, Bond Information, Examinations-Costs and Missing Funds: Some, if not most of these items can be attributed to an inexperienced person in the Clerk's office handling court funds. That person no longer works in the office (as of December, 2008) and will need to be pursued to collect the shortage involved. Some of the evidence uncovered during the present audit casts a strong suspicion that the records had been tampered with for unknown reasons. Even though told to make the deposits each day, deposits weren't timely made and mishandled. This probably ties in with the discrepancy in funds noted by the State Auditors. The Clerk and her Deputies are aware of this requirement as to future deposits.

Generally and at this time, the judge does not select or train persons handling Court funds as these duties are shared by the Clerk's office employees with one Deputy being delegated the actual duties of keeping the records, accounting for the fines and costs, making the deposits, and distributions. It is a part time job that was handled by employees of the Clerk's office who had other duties along with Court business. The Clerk hired the persons for these positions and the Court had no function in the selection of these employees. Apparently, one was unqualified for the job.

Some years ago the Judge gave up collecting fines, costs, making distribution, keeping the cash and receipt books at his private office and transferred these duties to the City Clerk's office. Prior to that, the Judge selected and trained the Court clerk and had direct supervision over the Court records . This transfer of responsibilities needs to be reevaluated in light of the present audit.

If you have additional questions, please call me at the above number.

Sincerely,

A handwritten signature in cursive script that reads "George Ponton". The signature is written in dark ink and is positioned to the left of the typed name.

George Ponton  
Judge

FRANKFORT CITY COURT  
CITY OF FRANKFORT  
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Holly McCoy, former Court Clerk: Court Revenue Not Deposited, page 6	\$ 906.50	\$ -	\$ 906.50

