

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

EXAMINATION REPORT
OF

LAKE STATION CITY COURT
CITY OF LAKE STATION
LAKE COUNTY, INDIANA

January 1, 2011 to September 30, 2012



FILED
01/31/2013

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CITY COURT OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Judge and Clerk of the Court	Christopher Anderson	01-01-08 to 12-31-15
Deputy Clerk of the Court	Miranda Brakley	01-01-11 to 06-07-12
	(Vacant)	06-08-12 to 06-13-12
	Miranda Brakley	06-14-12 to 06-28-12
	(Vacant)	06-29-12 to 06-30-12
	Kimberly Frizzell	07-01-12 to 12-31-12



STATE OF INDIANA
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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 THE CITY OF LAKE STATION

We have examined the records of the Lake Station City Court for the period from January 1, 2011 to September 30, 2012, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Examination Results and Comments. The financial transactions of this office are reflected in the Annual Report of the City of Lake Station for the year 2011.

STATE BOARD OF ACCOUNTS

October 31, 2012

LAKE STATION CITY COURT
CITY OF LAKE STATION
EXAMINATION RESULTS AND COMMENTS

BOND COLLECTIONS NOT RECEIPTED OR DEPOSITED

Background Information and Procedures

The City of Lake Station established a City Court in accordance with state statutes. The City Court oversees cases involving infractions (IF), ordinance violations (OV), and criminal misdemeanors (CM). Examples of infractions would include failure to signal a lane change, sound a horn, or failure to yield. Ordinance violations would include speeding, disregarding a stop sign, and loud noise violations. Criminal misdemeanors include driving while intoxicated, underage drinking, battery, and resisting arrest. Because criminal misdemeanors are more serious charges, an offender is arrested, escorted to jail, and required to post a bond in order to be released from jail.

A defendant is required to post a bond, but in rare instances, may be released on their own recognizance based upon a decision by the City Judge. Defendants who are required to post a bond to be released from jail must post the bond with the City Court Office. Bonds are initially collected by the City of Lake Station Police Department. The Police Department will only accept cash or surety bonds.

Cash collections accepted by the Police Department are counted and a duplicate handwritten receipt is prepared. The money is placed in an envelope, sealed, and the name of the individual arrested, the name of the person who posted the bond, and the dollar amount collected is noted on the envelope. If there is a surety bond (insurance policy), the surety bond is included in the envelope along with the \$5.00 cash collection for the death benefit fee, which is required for all bond postings.

All information on collections, whether cash or surety, is also transferred onto a "Cash/Surety Bond Log" (Log). The information included on the Cash/Surety Bond Log includes the name of the person arrested, the name of the person who posted the bond, and the cash collected. Thus, if a surety bond is posted, the cash collected and included on the Log would be \$5.00. The police officer who filled out the information will then initial in the appropriate column on the Log. There is also a column on the Log for the Court Clerk who picks up the bonds to initial, indicating they received the collections.

The envelopes containing the Police Department Collections on bonds are picked up the next business day by a City Court employee for processing. During the period covered by this report, it was common practice that one employee from the City Court was responsible for collecting and processing the Police Department collections of bonds. (Although on rare occasions another court clerk would collect the envelopes from the Police Department and initial the log; however, she has adamantly stated she has never processed a bond collection in the Courtview computer software.) The Court Employee primarily responsible for collecting and processing the bond collections was Miranda Brakley.

For the City Court to process a bond collection, a City Court receipt must be issued, a court docket established, and the bond collection posted to the Register of Trust.

The City Court processed collections and established the dockets electronically. The computer software used to process the collections and establish the electronic dockets is Courtview. The Register of Trust is Prescribed General Form 102 (Trust Register), which is handwritten.

When a case or receipt is entered into Courtview, a cause number is automatically assigned by the computer software. A cause number is the method used by the courts to file handwritten dockets. Dockets are maintained by the Court Clerks, the Judge, or the Bailiff to record all significant correspondences and judgments regarding a single case. Within the computer software program, electronic dockets are also maintained by the Court Clerks. The information in the electronic dockets should mirror the information in the handwritten dockets.

LAKE STATION CITY COURT
 CITY OF LAKE STATION
 EXAMINATION RESULTS AND COMMENTS
 (Continued)

Miranda Brakley preferred to hold the bond collections until the Prosecutor provided information on the charges filed against an offender. Upon receipt of the charges, she was responsible for establishing the case in Courtview and receipting the bond collections. She was also responsible for posting the bond to the Register of Trust.

At the end of each day, all receipts processed through Courtview were summarized on an electronic report, called an "Open Receipt Listing". This report was used by any of the three court employees to prepare the deposit ticket, although Miranda Brakley was mainly responsible for preparing the deposit ticket. All of the electronic reports (other than receipts) produced from the Courtview software were prepared by Miranda Brakley. Miranda Brakley was also responsible for transporting the deposit to the bank.

Collections Not Receipted or Deposited

During the period covered by this report, not all bond collections from the Police Department could be traced to receipts issued by the Court, nor could they be traced to the Trust Register. Thus, the collections were not deposited into the City Court's bank account. The following are the numbers of cases and bond collections, by year, that were not receipted or deposited:

<u>Insurance Policy Period</u>	<u>Number of Cases</u>	<u>Bond Collections Not Receipted or Deposited</u>
05-01-10 to 05-01-11	4	\$ 1,014
05-01-11 to 05-01-12	17	8,100
05-01-12 to 05-01-13	<u>18</u>	<u>7,350</u>
 Totals	 <u>39</u>	 <u>\$ 16,464</u>

The clerk of a city or town court shall:

1. Issue all process of the court, affix the seal of the court to the process, and attest to the process;
2. Keep a complete record and docket of all cases, showing: the name of a person who was arrested and brought before the court; the disposition of the case; and an account of the fees, fines, penalties, forfeitures, judgments, executions, decrees, and orders in as near the same manner as the records are kept by the clerk of the circuit court; and
3. Collect all fees, fines, penalties and forfeitures, judgments, executions, and money accruing to the city or town from the enforcement of ordinances. (Accounting and Uniform Compliance Guidelines Manual for City and Town Courts, Chapter 4)

LAKE STATION CITY COURT
CITY OF LAKE STATION
EXAMINATION RESULTS AND COMMENTS
(Continued)

Indiana Code 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."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance 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)

All of the above bond collections listed above as not receipted or deposited were included on the Cash Bond/Surety Log with the Court Clerk's initials of "MB" for Miranda Brakley. Since Miranda Brakley received the collections from the Police Department, but did not receipt or deposit the collections into the City Court's Records, we requested that Miranda Brakley, former Deputy Court Clerk, reimburse the City Court \$16,464 for bond collections not receipted or deposited. (See Summary, page 20)

On December 10, 2012, Miranda Brakley presented a box she reportedly held in her personal vehicle from the time of her dismissal. Within the box was a bank bag with cash, along with other miscellaneous records. Miranda Brakley stated the money in the bank bag was the missing bond collections. The money was counted, with Miranda Brakley present, and totaled \$15,800; thus, the balance of bond collections not receipted or deposited, and remaining unpaid is \$664. (See Summary, page 20)

PAYMENT OF LEAVE TO FORMER COURT EMPLOYEE

Miranda Brakley, former Deputy Court Clerk, was terminated on June 7, 2012, by the City Court Judge. Miranda Brakley, however, continued to receive compensation from the City through August 3, 2012.

On June 8, 2012 through June 13, 2012, Miranda Brakley claimed and received vacation leave and pay. She also received compensation for working from June 14 through June 28, 2012. Her compensation from June 4 through June 15 was paid from the City Court's appropriation. The payroll claim was not signed by the Judge or any other department head as having authorized the payment from that appropriation. Her compensation from June 16 through June 28, 2012, was paid from the City Clerk-Treasurer's appropriation and included on a payroll claim signed by the Clerk-Treasurer.

The Mayor called a special meeting of the City Council on June 13, 2012. During the special meeting, Ordinances 2012-10 and 2012-11 were approved with a June 13, 2012 effective date, which authorized the transfer of a portion of the Court's payroll appropriations from the Court's Budget to the Clerk-Treasurer's Budget, as well as authorizing the Clerk-Treasurer the supervisory duties over the Court Clerks.

The Clerk-Treasurer stated that she hired Miranda Brakley as the City Court Clerk for her department.

On June 28, 2012, a Lake Superior Court Judge issued a temporary restraining order against the action taken by the City Council; thus, restoring the Court's budget and the Judge's supervisory duties over the Court Clerks.

LAKE STATION CITY COURT
CITY OF LAKE STATION
EXAMINATION RESULTS AND COMMENTS
(Continued)

Based upon the records, Miranda Brakley never left employment as a City Court Clerk until June 28, after the Court Ordered temporary restraining order was issued.

Miranda Brakley, who was terminated on June 7, 2012, received 7 days or 30 hours of vacation pay in the amount of \$468.76 for the period of June 8 through June 13, 2012. Based upon the date and time of the special meeting, the Clerk-Treasurer could not have hired her until June 14, 2012.

Per the City of Lake Station Personnel Policy Handbook, "All vacation time is accrued on a per month schedule." Following the accrual rates per the Policy, Miranda Brakley had accrued and used all but ½ an hour of her vacation time as of June 7, 2012, the date her employment was involuntarily terminated. At the time the City paid Miranda Brakley for the 7 days of vacation, based upon the City's policy, she would have only had a ½ day balance available.

The City then paid Miranda Brakley \$12,661.40 for accumulated unused leave balances from a special appropriation line item (BOW-Vacation/Sick) in the General Fund under the Board of Works Department. The Mayor was the only City official who signed the claim approving that the compensation ". . . is based upon either statutory or regulatory authority and is justly due. . ." Of this amount, \$12,125.45 was for 761 hours of accumulated unused compensatory time earned from January 1, 2008 to June 30, 2012, with all of that time being earned in 2008. The remaining \$535.95 was for two (2) unused sick leave days and for two and one-half (2.5) days unused vacation.

Based upon the records, and City of Lake Station Personnel Policy Handbook (Policy), which was approved by the Common Council on December 15, 2005, with an effective date of January 1, 2006, we find no authority for the payment of unused sick, vacation, or compensatory time. Furthermore, except for retirees, employees within the Clerk-Treasurer's Office could not name any other employee who received such compensation upon termination of employment whether voluntary or involuntary.

Page 9 of the Policy states: "Accumulated personal sick days will not be paid on a voluntary or on an involuntary termination of employment."

Page 10 of the Policy states:

"All accrued vacation time must be used within the current calendar year as accrued or you lose the vacation time. Employee's may 'sell' vacation time accrued at a rate of 50% of the employee's pay and be paid for the same in lieu of taking vacation time, all must be approved by mayor in accordance with applicable City Ordinances. All vacation time taken must be cleared with the Department Supervisor at least two (2) weeks in advance."

Page 13 of the Policy states:

"All full time positions except union positions

a. Subject to Supra, and the several statutes of the State of Indiana, all full time position employees, except full time union employees, shall be compensated for work performed in excess of eight (8) hours per day and forty (40) hours per week. Compensatory time shall be returned at the discretion of the department head. It is preferred that time be returned, the scheduling time period, following the time period it was earned. All department heads and office salaried employees will not receive comp time. If an employee from the office works above and beyond and is approved in writing by the department head and mayor the employee may receive comp time a copy must be forwarded to the Common Council, Comp time will be calculated at a rate of 1.5 times hours worked."

LAKE STATION CITY COURT
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EXAMINATION RESULTS AND COMMENTS
(Continued)

A letter dated April 7, 2009, was located in the employee's personnel file, which was signed by the City Judge stating the following, "This correspondence will confirm that I met with Miranda Brakley on today's date regarding her comp time. She has accumulated a total sum of 89.58 hours beginning January 2, 2009. Therefore, I am approving the 89.58 hours accumulated as of March 20, 2009. . . ." Nothing was in the file indicating approval by the Mayor or the letter being forwarded to the Common Council as required by the City's Policy.

Furthermore, Miranda Brakley was also compensated for performing duties as an Alcohol Monitor. Prior to January 1, 2012, the compensation for the Alcohol Monitor was not addressed in the Salary Ordinance. For the period January 1, 2008 through December 31, 2011, the Alcohol Monitor received \$250 per month, except for the first two months of 2008, in which the Alcohol Monitor received \$291.66 per month. This compensation was based upon the filing of a vendor claim. Claims provided for payment did not document the hours worked as the Alcohol Monitor until September, 2011; thus, it cannot be determined that hours included for Court Clerk duties were also for Alcohol Monitoring duties. Also, in reviewing the time sheets from September 1, 2011 to December 31, 2011, we did find where hours claimed for Alcohol Monitoring overlapped with Court Clerk hours on two separate dates. Adjustments were made to our Accumulated Compensatory Leave balance for the duplication of hours worked.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Indiana Code 5-11-9-4 requires that records be maintained showing which hours are worked each day for employees employed by more than one political subdivision or in more than one position by the same public agency. This requirement can be met by indicating the number of hours worked on each Employee's Service Record, General Form No. 99A and/or General Form No. 99B. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

All types of employee benefits should be detailed in a written policy. Payments for expenses not authorized in a written policy cannot be allowed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested that Miranda Brakley, former Deputy Court Clerk, repay the City \$13,130.16 for payment of vacation leave in excess of accrual (\$468.76), and accumulated unused leave balances (\$12,661.40), which were paid by the City without regard for the City's Personnel Policy.

CRIME INSURANCE

The City of Lake Station has Crime Insurance Policies which cover 12 month periods from May 1, 2010 through May 1, 2013. The policies are with One Beacon America Insurance Company and provide \$25,000 of coverage for employee theft with a \$5,000 deductible for employees of the City of Lake Station.

EXAMINATION COSTS - MISSING FUNDS

The State of Indiana incurred additional examination fees in the investigation of the missing funds and inappropriate payroll disbursements at the City Court. We requested Miranda Brakley, former Deputy Court Clerk, reimburse the State of Indiana \$23,358.06 of the additional examination fees incurred in the investigation of the missing bond collections and inappropriate payroll disbursements.

Audit costs incurred because of theft and shortage may be the personal obligation of the responsible official or employee.

LAKE STATION CITY COURT
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EXAMINATION RESULTS AND COMMENTS
(Continued)

Audit costs or other costs incurred because of poor records, nonexistent records or other inadequate bookkeeping practices may be the personal obligation of the responsible official or employee of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for City and Town Courts, Chapter 4)

BANK ACCOUNT AND TRUST RECONCILEMENT

As stated in the prior report, court personnel have not reconciled the court cash book to the depository balance since September 2007. Per a cursory review at December 31, 2011, the bank balance appears to exceed the ledger balance by \$17,341.03. At December 31, 2010, the bank balance exceeded the ledger by \$37,511.46. The difference between the year end balances between 2010 and 2011, by which the bank balance exceeded the ledger balance, decreased by \$20,170.43.

A cursory review essentially means that the bank balance was compared to the ledger balance only taking into account outstanding checks from a listing generated from Courtview. The outstanding check list was not verified as accurate, and it is not clear as to what the Courtview software would compare to generate an outstanding checklist. No other adjustments, such as returned checks for insufficient funds, or posting errors or omissions were taken into account.

Furthermore, the balance of funds held in trust per the court cash book (Courtview) is not reconciled to the balance of funds held in trust per the Register of Trust. This has been a comment in several audit or examination reports, so it could not be determined as to when the most current reconciliation was performed.

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."

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 Town Courts, Chapter 4)

CASH BONDS

As addressed in prior audit and examination reports, bonds were recorded in the court records and deposited up to 234 days after being collected at the Police Department.

During our review of the Court, it was brought to our attention that a handful of bonds were discovered still in the safe many months after they had been receipted by the Police. All of this bond money was subsequently deposited, but not all of it was receipted into Courtview or recorded in the trust register due to the fact the court date had been surpassed, and a cause number had not been established.

LAKE STATION CITY COURT
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EXAMINATION RESULTS AND COMMENTS
(Continued)

The following deficiencies were noted regarding the Cash/Surety Bond Log maintained by the Police Department:

1. The Cash/Surety Bond Log does not document the year the bond was received. It only shows a month and day.
2. The Cash/Surety Bond Log does not contain all bonds received in at the Police Department.
3. When the clerk picks up the bond money, he or she is not required to document the date the collections were received.

All funds collected by a city or town court shall be deposited not later than the business day following the receipt of funds in depositories selected by the city or town as provided in an ordinance adopted by the city or town and approved as depositories of state funds. (Accounting and Uniform Compliance Guidelines Manual for City and Town Courts, Chapter 4)

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 Cities and Towns, Chapter 7)

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 Cities and Towns, Chapter 7)

FINES AND FEES NOT CHARGED IN ACCORDANCE WITH STATUTES

Criminal Misdemeanors

Some defendants were assessed incorrect court costs and incorrect judicial salaries fees for a criminal misdemeanor charge. In accordance with statutes, the court costs for criminal misdemeanors should be \$120.00 while the judicial salaries fees should total \$18.00 or \$19.00 depending on the time the fees were assessed. Additionally, per state statute, the law enforcement continuing education program fee of \$4.00 should have been assessed on all criminal misdemeanor cases, but was not.

Infractions and Ordinance Violations

On December 17, 2008, an agreement between the Lake County Prosecutor's office and the Lake Station City Court was entered into for an "Infractional Deferral Program." Per the agreement, the initial deferral fee is \$53.00 and the flat monitoring fee is \$47.00, but the length of time the defendant was to be monitored under the agreement was not noted. Per state statute, the maximum amount that can be assessed for the initial deferral fee is \$52.00 and the amount that can be assessed for the monitoring fee is \$10.00 per month. Court dockets were reviewed to determine the number of months the individual was sentenced to for monitoring; however, nothing was recorded in the dockets to denote the number of months the defendant was to be monitored. Thus, we could not determine the per month monitoring fee being charged.

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EXAMINATION RESULTS AND COMMENTS
(Continued)

Additionally, the automated record keeping fee was reduced from \$7.00 to \$5.00 effective July 1, 2011. In 40 percent of the receipts tested, the automated record keeping fee charged after July 1, 2011, was \$7.00. Also, for cases involving infraction violations, the Clerk did not collect the following fees in accordance with state statute:

DNA sample processing fee \$2.00
Court administration fee \$5.00
Law enforcement continuing education program fee \$4.00
Public defense administration fee \$3.00
Judicial insurance adjustment fee \$1.00
Judicial salaries fee \$19.00

On April 3, 2008, Ordinance 2008-08 was approved by the Common Council creating a "Deferral Program Fund" for Lake Station City Court and Lake Station Police Department. The \$100.00 fee is charged (\$50 is recorded by the Court as "Lake Station City Court" and \$50 is recorded by the Court as "Lake Station Police Department") in addition to court costs and some of the other fees as addressed in statutes governing ordinance violations. The \$100.00 fee charged for the ordinance violation "Deferral Program Fund" is subsequently remitted to the Clerk Treasurer who receipted all of the money into the General Fund. We are unaware of any circumstances under the statutes in which a City Court can create such an ordinance. Furthermore, it is unclear as to why the collections would be deposited to the General Fund instead of the "Deferral Program Fund," which was created by the Ordinance. A similar comment appeared in the prior audit.

Indiana Code 33-39-1-8 states in part:

- "(d) A prosecuting attorney may withhold prosecution against an accused person if:
- (1) the person is charged with a misdemeanor;
 - (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;
 - (3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and
 - (4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.
- (e) An agreement under subsection (d) may include conditions that the person:
- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1; . . .
- (h) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8."

LAKE STATION CITY COURT
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EXAMINATION RESULTS AND COMMENTS
(Continued)

Indiana Code 33-37-4-1 states:

"(a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal 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 (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) A public defense administration fee (IC 33-37-5-21.2).
- (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- (17) a judicial salaries fee (IC 33-37-5-26).
- (18) A court administration fee (IC 33-37-5-27).
- (19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

LAKE STATION CITY COURT
CITY OF LAKE STATION
EXAMINATION RESULTS AND COMMENTS
(Continued)

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program."

Indiana Code 33-37-5-17 states:

"(a) This section applies to actions in which the court defers prosecution under IC 33-39-1-8.

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a deferred prosecution fee of one hundred twenty dollars (\$120) for court costs."

Indiana Code 33-37-4-2(b) states:

"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 (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A public defense administration fee (IC 33-37-5-21.2).
- (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- (13) A judicial salaries fee (IC 33-37-5-26).
- (14) A court administration fee (IC 33-37-5-27).
- (15) A DNA sample processing fee (IC 33-37-5-26.2)."

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EXAMINATION RESULTS AND COMMENTS
(Continued)

Indiana Code 36-1-3-6 states in part:

"(a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

(b) If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either:

(1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power; . . . or

(3) comply with a statutory provision permitting a specific manner for exercising the power.

(c) An ordinance under subsection (b)(1) must be adopted as follows:

(1) In a municipality, by the legislative body of the municipality. . . ."

LAKE STATION CITY COURT
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EXIT CONFERENCE

The contents of this report were discussed on December 6, 2012, with Kimberly Frizzell, Deputy Clerk of the Court, and Christopher Anderson, Judge and Clerk of the Court.

The contents of this report were also discussed on December 10, 2012, with Miranda Brakley, former Deputy Clerk of the Court.

The Official Responses have been made a part of this report and may be found on pages 16 through 19.

LAKE STATION CITY COURT

1969 Central Avenue
Lake Station, IN 46405

Christopher Anderson, Judge

Phone: (219) 962-2145

Lake Station City Court, "Official Response" January 2011 to September 2012 Audit

BOND COLLECTIONS NOT RECEIPTED OR DEPOSITED. The City Court does not tolerate funds being misappropriated or stolen. The Court Employee responsible for the missing money, Miranda Brakley, was terminated from her employment with the Lake Station City Court on June 7, 2012. In addition, procedures are being put in place to help prevent funds from being misappropriated in the future.

PAYMENT OF LEAVE TO FORMER COURT EMPLOYEE. The City Court did not authorize any payments made to Miranda Brakley after she was terminated from the Lake Station City Court on June 7, 2012. The City Court was not aware that these payments were made to Miranda Brakley until several weeks after payment was made. The City Court was never contacted by the Clerk Treasurer or the Mayor prior to payments being made.

BANK ACCOUNT AND TRUST RECONCILEMENT. Court staff is working diligently to figure out why the difference between the bank balance and the ledger balance decreased by \$20,170.43.

CASH BONDS. Miranda Brakley was the Court Employee primarily responsible for collecting and processing the bond collections. She was terminated on June 7, 2012. The handling and processing of bond collections are now being done in compliance with Indiana Code 5-13-6-1(d).

FINES AND FEES NOT CHARGED IN ACCORDANCE WITH STATUTES.

Criminal Misdemeanors. The City Court was not aware that it was charging incorrect Court Costs. There are several costs and fees that are assessed on Defendants with cases in the City Court. For example, if a Defendant enters a plea of guilty to a criminal misdemeanor, total costs assessed are \$166.00. The City Court is of the opinion that the total costs assessed include the \$120.00 in Court Costs, the \$18.00 or \$19.00 in judicial salaries fees, the \$4.00 law enforcement continuing education program fee, as well as several other fees. These fees are assessed in most cases. On occasion fees are waived if a Defendant charged with a criminal offense is found to be indigent after being examined under oath.

It is important to note that in City Court a very large percentage of cases are resolved by agreements negotiated between the City Attorney or Prosecutor, and the Defendant or Defendant's Attorney. After agreements are reached, they are presented to the Court for approval. On occasion, fees are waived or reduced by agreement between the parties. The

City Court is of the opinion that in certain cases, if fees are not included in an agreement negotiated between the parties, then the City Court cannot legally collect these fees.

Infraction and Ordinance Violations (Deferral Program Fund). The duties of the City Court include collecting the monies generated from the Deferral Program and remitting said monies to the Clerk Treasurer. The Clerk Treasurer is then responsible for receipting the money into the proper fund. The City Court is aware that there is a State Statute that regulates what the Deferral Money can be used for. The City Court has requested from the Clerk Treasurer on several occasions an accounting relating to the Deferral Monies. The Clerk Treasurer has not yet provided a complete response to the City Court's request.

Respectfully submitted,

Christopher Anderson
Judge, Lake Station City Court

SCOTT KING GROUP

LAWYERS

Barrister Court
9211 Broadway
Merrillville, IN 46410
Office: (219) 769-6300
Fax: (219) 769-0633

Scott King
sking@scottkinggroup.com
Cell: (219) 789-2733

Russell W. Brown, Jr.
rbrown@scottkinggroup.com
Cell: (574) 551-9945
Licensed in Indiana & Illinois

January 4, 2013

Mr. Bruce Harman, State Examiner
Indiana State Board of Accounts
302 W. Washington St., Room E 418
Indianapolis, IN 46204-2765

OFFICIAL RESPONSE OF MIRANDA BRAKLEY TO LAKE STATION CITY COURT DRAFT EXAMINATION REPORT

To Whom it May Concern:

This office represents Ms. Miranda Brakley and has been requested to provide her official response to your office's draft examination report of the Lake Station City Court for the period January 1, 2011-September 30, 2012. In that regard, please be advised as follows:

1. Draft page 5, paragraph 2: Ms. Brakley was one of two employees responsible for preparing electronic reports and transporting deposits to the bank;
2. Draft page 5, paragraph 3: Ms. Brakley is aware by later acquired knowledge (discussed *infra*) of the untimely deposit of \$15,800.00 and has no knowledge regarding the additional \$684.00 referenced therein;
3. Draft page 6, paragraph 2: Ms. Brakley did not misappropriate; divert or fail to account for any funds through malfeasance; misfeasance or nonfeasance. From all reports, Ms. Brakley was a pawn in a political battle between the presiding Judge of the City Court and the other branches of government in Lake Station. She was illegally fired by the City Judge on June 7, 2012; rehired by the Clerk-Treasurer from June 16-28, 2012 and then fired again by the City Judge after the issuance of a TRO. After her last (illegal) termination, she packed her personal effects in boxes and packed other boxes with documents and other property, including a bank deposit bag, for delivery to the Clerk-Treasurer. Without her requesting assistance, several employees moved the boxes from her work area to her car. She assumed that the boxes in her car were her personal property and did not remove them as she assumed she would shortly gain new employment. Upon her discovery of one or more boxes in her car that were intended for delivery to the Clerk-Treasurer, she immediately turned it in with all original contents

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Response of Miranda Brakley
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Page 2

fully intact. Thus, the delay in submission of the deposit did not in any way constitute wrongdoing of any description on the part of Ms. Brakley.

4. Draft pages 6-8: "Payment of Leave": As a clerical employee Ms. Brakley accepted payment without connivance on her part and without knowledge as to whether or not the City was following proper protocol. Further, there appears to be no dispute that she did, in fact, provide services for that compensation and, therefore, was not unjustly enriched.
5. Draft page 8: "Examination Costs-Missing Funds": Because, as noted above, there was no theft of funds or knowing act on Ms. Brakley's part resulting in any fund shortage and because she was not the employee responsible for record or bookkeeping practices Ms. Brakley has no responsibility for the cost of the audit conducted in this case.

In summary, there was no actionable wrongdoing on the part of my client. It should also be noted that this office has instituted a claim against the City of Lake Station for the wrongful termination of Ms. Brakley by the Judge of the City Court. It is urged that consideration be given to this fact in assessing the credibility of information provided your agency by people potentially affected by this claim.

Finally, as a matter of privacy and practice, we object to the repeated reference by name to my client as opposed to the designation: "Deputy Clerk."

Should there be any questions, please contact my office.

Yours truly,



Scott King

RECEIVED

JAN 30 2013

CLERK OF COURT

LAKE STATION, OHIO

LAKE STATION CITY COURT
CITY OF LAKE STATION
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Miranda Brakley, Former Court Clerk:			
Bond Collections Not Receipted or Deposited, pages 4 through 6	\$ 16,464.00	\$ 15,800.00	\$ 664.00
Payment of Leave to Former Court Employee, pages 6 through 8	13,160.16	-	13,160.16
Examination Costs - Missing Funds, pages 8 and 9	<u>23,358.06</u>	<u>-</u>	<u>23,358.06</u>
Totals	<u>\$ 52,982.22</u>	<u>\$ 15,800.00</u>	<u>\$ 37,182.22</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

AFFIDAVIT

STATE OF INDIANA)
PORTER COUNTY)

We, Michelle M. Janosky and Aaron Prybylla, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Lake Station City Court, City of Lake Station, Lake County, Indiana, for the period from January 1, 2011 to September 30, 2012, is true and correct to the best of our knowledge and belief.

Michelle M. Janosky

Aaron Prybylla
Field Examiners

Subscribed and sworn to before me this *10th* day of *January*, 2013.

Jeanne L. Lewis
Notary Public

My Commission Expires: *7/23/14*

County of Residence: *Porter*