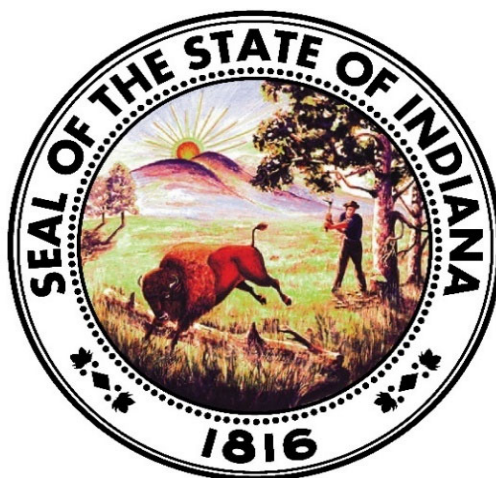


**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

SPECIAL COMPLIANCE REPORT  
OF  
COUNTY SHERIFF'S DEPARTMENT  
RIPLEY COUNTY, INDIANA  
January 1, 2017 to December 31, 2022



**FILED**  
10/03/2023



TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Transmittal Letter .....	2
County Sheriff's Department	
Results and Comments:	
Unauthorized Payments from the Sheriff's Commissary Fund .....	3-5
Internal Controls .....	5
Official Response.....	6-10
Exit Conference .....	11



**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](http://www.in.gov/sboa)

TO: THE OFFICIALS OF RIPLEY COUNTY, INDIANA

This is a special compliance report for Ripley County (County), for the period January 1, 2017 to December 31, 2022, and is in addition to any other report for the County as required under Indiana Code 5-11-1. All reports pertaining to the County may be found at [www.in.gov/sboa/](http://www.in.gov/sboa/).

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with the Sheriff's Commissary fund. The Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Results and Comments, incorporated within this report, was not verified for accuracy.

*Paul D. Joyce*  
Paul D. Joyce, CPA  
State Examiner

August 29, 2023

COUNTY SHERIFF'S DEPARTMENT  
RIPLEY COUNTY  
RESULTS AND COMMENTS

**UNAUTHORIZED PAYMENTS FROM THE SHERIFF'S COMMISSARY FUND**

From January 1, 2017 to December 31, 2022, the County Sheriff's Department issued nine checks, totaling \$104,000, to the Indiana Sheriff's Youth Ranch (Ranch) in Brazil, Indiana, from the Sheriff's Commissary fund. Notations on the checks indicated these payments were donations or sponsorships to the Ranch. The allowability of these donations, without County Council approval, are not covered under Indiana code 36-8-10-21(d). The following is a schedule of the checks paid to the Ranch:

Check Date	Check Number	Check Amount	Memo on Check
04-10-17	3350	\$ 1,000	Donation Towards Ranch
02-23-18	3698	2,000	N/A
05-01-18	3760	1,000	N/A
08-21-19	4208	1,000	Donation Shotgun Shoot
01-27-20	4377	2,000	Donation
03-09-20	4406	1,000	412049
09-10-21	4856	5,000	Sponsorship/Donation
01-10-22	4954	90,000	Swimming Pool Donation
08-09-22	5109	1,000	Sponsorship
	Total	<u>\$ 104,000</u>	

Per the Ranch's Facebook page, the Ranch is available to students from all 92 counties across Indiana and offers life lessons about respect, animals, nature, character, and health. It is a not-for-profit organization offering field trips, overnights, and weeklong leadership camps to Indiana teens. It opened in the summer of 2018. This organization is not within the jurisdiction of the County Sheriff.

We were not provided with documentation that any youth from the County attended the Ranch or any employees of the County Sheriff's Department participated in training at the Ranch from 2017 to 2022. In addition, we were not made aware of any activities or programs that were created by the County Sheriff's Department resulting from the payments made to the Ranch. Finally, there was no evidence that the County Sheriff and the County fiscal body mutually agreed upon another purpose that benefited the County Sheriff's Department as allowed per Ind. Code § 36-8-10-21 (d)(9).

Ind. Code § 36-8-10-21 states:

"(a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as 'the fund'. The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or the sheriff's designee, shall deposit all money from commissary sales into the fund, which the sheriff or the sheriff's designee shall keep in a depository designated under [IC 5-13-8](#).

COUNTY SHERIFF'S DEPARTMENT  
RIPLEY COUNTY  
RESULTS AND COMMENTS  
(Continued)

(d) The sheriff, or the sheriff's designee, at the sheriff's or the sheriff's designee's discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (1) merchandise for resale to inmates through the commissary;
- (2) expenses of operating the commissary, including, but not limited to, facilities and personnel;
- (3) special training in law enforcement for employees of the sheriff's department;
- (4) equipment installed in the county jail;
- (5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, 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;
- (6) an activity provided to maintain order and discipline among the inmates of the county jail;
- (7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:
  - (A) Substance abuse.
  - (B) Child abuse.
  - (C) Domestic violence.
  - (D) Drinking and driving.
  - (E) Juvenile delinquency;
- (8) expenses related to the establishment, operation, or maintenance of the sex and violent offender registry web site under [IC 36-2-13-5.5](#); or
- (9) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the county fiscal body. The semiannual reports are due on July 1 and December 31 of each year."

COUNTY SHERIFF'S DEPARTMENT  
RIPLEY COUNTY  
RESULTS AND COMMENTS  
(Continued)

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for examination 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**

Internal controls were insufficient to detect the payment of the nine checks from the commissary fund to the Ranch over the period reviewed. Internal controls over the commissary fund should be in place to ensure expenditures from the commissary fund comply with Ind. Code § 36-8-10-21.

The Indiana State Board of Accounts (SBOA) is required under Ind. Code § 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. These standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

COUNTY COUNCIL OF RIPLEY COUNTY, INDIANA  
102 West First North Street  
Versailles, Indiana 47042

**OFFICIAL RESPONSE**

Date: September 1, 2023

Indiana State Board of Accounts  
302 West Washington St. Room E418  
Indianapolis, IN 46204-2765

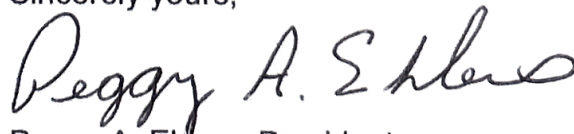
Re: Exit Conference – Results and Comments  
Ripley County Sherriff's Department –January 1, 2017 to December 31, 2021

On behalf of the County Council of Ripley County, Indiana, I thank Mr. Christopher Sedam and Mr. Ed Wheele for conducting the Exit Conference with a few members of the County Council, one Commissioner, the Auditor, the current Sheriff and County Attorney. I appreciate the explanation of your findings.

Ripley County had hoped the State Board of Accounts would find enough information to proceed with a Civil Order, however, the County accepts your explanation of why that did not occur. I would request that if you learn of any additional information from former Sheriff, Jeff Cumberworth, that would lead you to a different conclusion, that you provide said information and/or notice of any future action, as no final decision has been made as to the County's position related to civil action.

It is good to know that the State Board of Accounts will be providing greater, and possibly, more specific guidance on a Sheriff's use of Commissary Funds in relation to the subject matter discussed. I am confident more specific guidance will be of great assistance to Sheriffs, Auditors and County Fiscal Bodies throughout the State of Indiana. If you have any follow up information or questions, please reach out to me through, Amy Copeland, Auditor of Ripley County, Indiana at (812) 689-6311.

Sincerely yours,



Peggy A. Ehlers, President  
Ripley County Council

September 6, 2023

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

VIA EMAIL ONLY  
officialresponse@sboa.in.gov

Re: OFFICIAL RESPONSE  
Unit Examined: Ripley County  
Period Examined: January 1, 2017, to December 31, 2022  
Date of Conference: August 29, 2023  
Office or Department: Sheriff's Department

Dear Sir or Madam:

This correspondence serves as the Official Response of Jeffrey A. Cumberworth, former Sheriff of Ripley County, Indiana, to the State Board of Accounts' Results and Comments alleging unauthorized payments from the sheriff's commissary funds following its audit of the Ripley County Sheriff's Department commissary fund from January 1, 2017, to December 31, 2022.

I served as Legal Deputy to the Ripley County Sheriff from 2017 through 2022 and now represent Jeffrey A. Cumberworth.

First and foremost, it is important to establish that the source of all the money in question was commissary funds. Commissary funds are not derived from taxpayers' dollars. Rather, they are generated from the sale of merchandise to inmates at the county jail, which merchandise is purchased by inmates during their incarceration for their own personal use or consumption.

Instead of having a third-party vendor operating the commissary for its profit, Sheriff Cumberworth operated his commissary with department employees, generating more commissary revenue than ever before. What the State Board of Accounts omits in its findings is that Sheriff Cumberworth, throughout his eight (8) year tenure, donated \$450,000 in commissary funds, more than any other past sheriff, back to the County Council of Ripley County to be used to offset other expenses of the sheriff's department that otherwise would have had to have been paid with taxpayer dollars, such as vehicle purchases for the department.

The expenditure by the sheriff of commissary funds does not require appropriation by the County Council, except under special circumstances, which do not apply here. Specifically, Indiana Code §36-8-10-21(d) allows a sheriff, at his or her discretion and without appropriation by the County Council, to disperse money from its commissary funds for purposes such as at subparagraph (d)(5) for animal training, and at subparagraph (d)(7) for any activity or program of the sheriff's department intended to reduce or prevent occurrences of substance abuse, child abuse, domestic violence, drinking and driving, and juvenile delinquency.

**PRINCIPAL OFFICE**  
817 E. Main Street, Suite B  
Vevay, IN 47043  
Phone/Fax: (812) 427-2135

**BY APPOINTMENT ONLY AT**  
102 Miles Ridge Road  
Madison, IN 47250  
wg.goeringlaw@gmail.com  
Mobile: (812) 599-0088

**PARALEGAL**  
Rychel A. Vossler  
rv.goeringlaw@gmail.com

Second, it is important to establish that there are no jurisdictional requirements or limitations in these applicable sections that require the funds to be expended in Ripley County.

Third, there is no monetary limit regarding the amount of funds which can be expended under these sections.

Fourth, a county sheriff, as a constitutional officer in Indiana, is not subordinate to the Board of Commissioners or County Council. *Lake Cnty. Bd. of Comm'rs v. Martinez*, 199 N.E.3d 366 (Ind. Ct. App. 2022) (transfer denied 2023). In that case, the Lake County Sheriff Oscar Martinez, Jr., in his official capacity, executed a contract with an organization to provide medical and healthcare services to inmates at the Lake County Jail during the 2022 calendar year. The Lake County Board of Commissioners, as executive of Lake County, Indiana government, refused to approve the 2022 contract or authorize the payment of claims for those services. The Sheriff filed a complaint against the Board seeking, in relevant part, a declaration that he had the authority to enter into contracts related to the operation of the jail and the care of its inmates. The Board filed a counterclaim seeking a contrary declaration that it had the sole authority to approve any contract with a third-party for the provisions of medical services at the jail. The Indiana Court of Appeals, affirming the trial court's decision, held:

... the law is well settled that the Board does not have control over the acts of the Sheriff, who occupies a “constitutionally-created office that is separate from the county executive” and who is charged with “actual administration of the jail and treatment of prisoners....” *Citing Waldrip v. Waldrip*, 976 N.E.2d 102, 119 (Ind. Ct. App. 2012).

What this case clearly demonstrates is the inherent and independent authority of a sheriff to act within his or her purview and discretion, without the oversight of the Board of Commissioners or County Council, who serve respectively in executive and fiscal functions of county government.

In this instance, Jeffrey A. Cumberworth, in his official capacity as the sheriff of Ripley County and in conjunction with many other law enforcement officials in the state of Indiana, joined together in a project known as the Indiana Sheriffs' Youth Ranch, which is a non-profit organization having the purposes of operating a safe haven for children ages 8-18 throughout the 92 Indiana counties by providing an educational and training retreat and a training facility for Indiana law enforcement agencies to accomplish the objective of reducing or preventing substance abuse, child abuse, domestic violence, drinking and driving, and juvenile delinquency. In partnership with the Indiana Department of Homeland Security, among others, the purpose of the youth ranch is also to provide facilities for the training of animals used by law enforcement officers in the detection and prevention of crimes.

**PRINCIPAL OFFICE**  
817 E. Main Street, Suite B  
Vevay, IN 47043  
Phone/Fax: (812) 427-2135

**BY APPOINTMENT ONLY AT**  
102 Miles Ridge Road  
Madison, IN 47250  
wg.goeringlaw@gmail.com  
Mobile: (812) 599-0088

**PARALEGAL**  
Rychel A. Vossler  
rv.goeringlaw@gmail.com

Each of these uses of commissary funds by Sheriff Cumberworth is specifically authorized by Indiana law.

Next, the Results and Comments prepared by the State Board of Appeals alleging the unauthorized payments from the Ripley County Sheriff commissary funds covers a six (6) year period from January 1, 2017, to December 31, 2022, every year of which has already been audited by the State Board of Appeals without any findings or recommendations critical of the Ripley County Sheriff's Department or its sheriff.

The real focus of these Results and Comments appears to be the amount of Sheriff Cumberworth's contribution, along with the fact that it was for a project outside of Ripley County. However, neither of those factors are included in or required by I.C. §36-8-10-21. Therefore, the expenditure of commissary funds by the Ripley County Sheriff's Department, in this instance, is clearly within the province and discretion of the Sheriff, without input from the Board of Commissioners or County Council.

In the schedule of payments included in the Results and Comments, the \$90,000 donation from the commissary fund dated January 10, 2022, was identified by the State Board of Accounts as a "Swimming Pool Donation." That description, at this point, is misleading. Initially, there was a third-party donation match available to fund the swimming pool, which match did not occur. Instead, the commissary funds donated by Sheriff Cumberworth were designated and used to provide a law enforcement animal training facility at the youth ranch. Not only does I.C. §36-8-10-2 cover the purpose of the youth ranch itself, but also, specifically, animal training is a permitted use of commissary funds.

This training facility, located at the youth ranch, is available not only for training animals for Ripley County, but also to every other county in the state of Indiana and the Indiana Department of Homeland Security. The fact that this facility has not yet been used to train animals for Ripley County is immaterial as it is now available to Ripley County, and other law enforcement agencies, for that purpose. What *is* important is that the funds donated by Sheriff Cumberworth were used to create this facility and, together with the funds from multiple law enforcement agencies within Indiana, the goals of the youth ranch were accomplished; namely, to educate children about substance abuse, child abuse, domestic violence, drinking and driving, and juvenile delinquency, and to train animals for crime detection and prevention. These efforts should be applauded not criticized.

**PRINCIPAL OFFICE**  
817 E. Main Street, Suite B  
Vevay, IN 47043  
Phone/Fax: (812) 427-2135

**BY APPOINTMENT ONLY AT**  
102 Miles Ridge Road  
Madison, IN 47250  
wg.goeringlaw@gmail.com  
Mobile: (812) 599-0088

**PARALEGAL**  
Rychel A. Vossler  
rv.goeringlaw@gmail.com

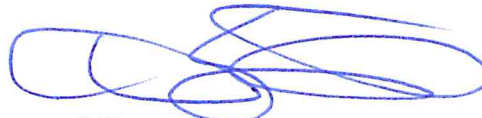
Wilmer E. Goering, II  
Goering Law LLC  
September 6, 2023  
Page 4

The findings in the State Board of Accounts' Results and Comments regarding the lack of internal controls are not only not supported by the law, but they are also not supported by the facts. I.C. §36-8-10-21 requires the sheriff to make semi-annual reports of all commissary fund income and disbursements on the form prescribed by the State Board of Accounts, which Sheriff Cumberworth appropriately and timely made to the County Council. These reports were made as required and the information contained therein was and is available to the State Board of Accounts, as well as to the County Council, at all times.

The Results and Comments prepared by the State Board of Accounts critical of Sheriff Cumberworth for his use of the commissary funds are contrary to the law and contrary to the facts. Moreover, the State Board of Accounts' findings critical of Sheriff Cumberworth in his support of a project of this scope and nature, in light of the type of expenditure being specifically authorized pursuant to I.C. §36-8-10-21(d)(5) and (d)(7), should be withdrawn.

Sincerely,

GOERING LAW LLC



Wilmer E. Goering, II

cc: Edward M. Wheele, Director of Special Investigations, at [ewheele@sboa.in.gov](mailto:ewheele@sboa.in.gov)  
Christopher G. Sedam, Special Investigator, at [csedam@sboafe.in.gov](mailto:csedam@sboafe.in.gov)

**PRINCIPAL OFFICE**  
817 E. Main Street, Suite B  
Vevay, IN 47043  
Phone/Fax: (812) 427-2135

**BY APPOINTMENT ONLY AT**  
102 Miles Ridge Road  
Madison, IN 47250  
[wg.goeringlaw@gmail.com](mailto:wg.goeringlaw@gmail.com)  
Mobile: (812) 599-0088

**PARALEGAL**  
Rychel A. Vossler  
[rv.goeringlaw@gmail.com](mailto:rv.goeringlaw@gmail.com)

COUNTY SHERIFF'S DEPARTMENT  
RIPLEY COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on August 29, 2023, with Amy Copeland, County Auditor; Rob Bradley, County Sheriff; Kendall Hankins, County Commissioner; Ronald J. Decker, County Council member; David Tebbing, County Council member; Katie Bailey, County Council member; Peggy A. Ehlers, President of the County Council; and John A. Ertel, County Attorney.

The contents of this report were discussed on August 29, 2023, with Jeff Cumberworth, former County Sheriff.