

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2765

SPECIAL AUDIT REPORT
OF

CLERK OF THE CIRCUIT COURT
SUPERIOR COURT 4
LAPORTE COUNTY, INDIANA

January 1, 2004 to February 28, 2006



FILED
08/28/2006

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk	Lynne Spevak Robert Behler	01-01-02 to 12-31-05 01-01-06 to 12-31-09
President of the County Council	John W. Jones Jerry Cooley	01-01-04 to 12-31-05 01-01-06 to 12-31-06
President of the Board of County Commissioners	William Hager Marlow Harmon	01-01-04 to 12-31-04 01-01-05 to 12-31-06



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF LAPORTE COUNTY

We have performed a special audit of the cash receipts of the Clerk of the Circuit Court, Superior Court 4, for the period from January 1, 2004 to February 28, 2006, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Report of Laporte County for the year 2005.

STATE BOARD OF ACCOUNTS

April 27, 2006

CLERK OF THE CIRCUIT COURT
SUPERIOR COURT 4
LAPORTE COUNTY
AUDIT RESULTS AND COMMENTS

CASH BOND COLLECTIONS NOT DEPOSITED

The Laporte County Sheriff's Department and the Michigan City Police Department both collect cash bonds. The cash bonds are then transferred to the respective Clerk of the Court (Clerk) office depending on the type of case.

The following procedures were followed for cash bonds collected at the Sheriff's Department and transferred to the Clerk's Superior 4 office located in the County Courthouse in Michigan City:

1. A Jail Sergeant delivers the cash bond collections to the Clerk's Superior 4 office. The cash bonds are delivered in a sealed envelope with the following information on the outside of the envelope:
 - A. Date and Time
 - B. Prisoner Name
 - C. Cash Bond Amount
 - D. Paid By
 - E. Address
 - F. Appearance Date
 - G. Received By and Unit No. of the Laporte County Sheriff
 - H. Charge
2. Upon delivering the cash bonds to the Clerk's Superior 4 division, the Jail Sergeant is given a memo for each cash bond delivered which states that a bond was received from the Sheriff, for whom it was posted, the amount posted, who posted by, and the charges. The memo is completed from the information provided on the outside of the sealed envelope.

The following procedures were followed for cash bonds collected at the Michigan City Police Department and transferred to the Clerk:

1. A police officer delivers the cash bond collections to the Clerk's Superior 4 division located in the County Courthouse in Michigan City. The cash bonds are delivered in a sealed envelope with the following information on the outside of the envelope:
 - A. Date, Time and Michigan City Police Receipt Number
 - B. Prisoner Name
 - C. Charge(s)
 - D. Cash Bond Amount
 - E. Paid By
 - F. Received By and PE# Michigan City Police Department
 - G. Appearance Date
2. A memo or receipt is not given to the Michigan City Police Department nor is a log initialized which would reflect that the cash bond was received by the Clerk's office.

In an attempt to trace the Sheriff and Police Departments duplicate receipts to the Clerk's Superior 4 records for the period from January 1, 2004 to February 23, 2006, the collections that could not be traced totaled \$3,050. All the collections which could not be traced were determined to have been transferred to the Clerk's Superior Court 4 division located in the County Courthouse in Michigan City.

CLERK OF THE CIRCUIT COURT
SUPERIOR COURT 4
LAPORTE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

We requested the former Clerk, Lynne Spevak, reimburse the Clerk of the Circuit Court, Superior Court 4, \$1,950 for the collections which could not be traced to Clerk's records as deposited for the time period January 1, 2004 to December 31, 2005. On June 9, 2006, the Clerk of the Circuit Court, Superior Court 4, received reimbursement of \$1,950 from Lynne Spevak, former Clerk. The current Clerk, Robert Behler, has initiated an investigation with the LaPorte County Sheriff's Department to recover the remaining balance of \$1,100.

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 Clerks of the Circuit Courts, Chapter 13)

RECEIPT ISSUANCE AND TIMELY DEPOSITS

Based on our review of the procedures for all the Clerk's offices, the cash bonds from the Sheriff and Police Departments were receipted and deposited anywhere from 4 to 128 days after the initial collection.

Indiana Code 5-13-6-1 requires all public funds shall be deposited not later than the business day following the receipt of funds on business days of the depository. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts, Chapter 18)

CASH BONDS RELEASED

During our review of the internal control procedures, we noted that in some instances cash bonds received by the Clerk's office from the Sheriff or Police Department have been released back to the person who posted the bond without being receipted to the clerk's records. The bonds are released back if the prosecutor has determined that there is no probable cause to substantiate the charges. The Clerk's office does have the person receiving the cash bond refund sign the envelope that they received it back if possible. It was determined that \$11,830.21 was released back between January 2004 to February 2006.

It is the duty of the clerk, in his or her official capacity, to enter the receipt of all money in the proper records. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts, Chapter 7)

All bonds which are required by law to be filed, approved or recorded by the clerk must be entered of record and indexed in a book provided for that purpose. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts, Chapter 3)

RECEIPTS

1. The original and duplicate receipts were not always retained for voided receipts.
2. Receipts 137770-137772 and 137774-137780 from April 30, 2004, could not be located physically or found posted to the daily transaction journal.
3. Total receipts for May 6, 2004, were \$9,701.52. Of the \$9,701.52, \$2,635.46 represents checks received by the Clerk's office. The cash was deposited timely; however, the checks were not deposited until May 10, 2004.

CLERK OF THE CIRCUIT COURT
SUPERIOR COURT 4
LAPORTE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

4. On March 18, 2004, receipts 135548-135549 and 135552-135557 were voided per the daily transaction journal for Anthony Flaherty for \$500; however, no original or duplicate receipts were retained. The description in the daily transaction journal was "money lost." On March 23, 2004, \$500 receipt was posted for Anthony Flaherty.
5. On September 30, 2005, receipts 161634-161635 were voided per daily transaction journal for Frank Gipson for \$500; however, no original or duplicate receipts were retained. The description in the daily transaction journal was "could not find." On October 7, 2005, \$500 receipt was posted for Frank Gipson.

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.

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 Clerks of the Circuit Courts, Chapter 13)

CASH CHANGE/PETTY CASH FUND

On March 13, 2006, a verification of all cash on hand in the Clerk's Michigan City office was performed. The cash on hand represented the accumulation of copy fees collected by all Superior 4 clerk employees. The money was used to make change as needed and sometimes used to purchase supplies for the office. No itemized receipts of the purchases made had been retained. The total amount counted on March 13, 2006, was \$343.21. On March 15, 2006, the cash on hand was receipted and deposited.

Clerks of the circuit courts are to establish a cash change fund to facilitate making change in handling collections. Such fund may be established in an amount, as determined and approved by the county council. [IC 36-1-8-2] (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts, Chapter 9)

In like manner, a petty cash fund may be established for the purpose of paying small or emergency items of operating expense. A receipt shall be taken for each expenditure made from such fund. Periodically a voucher shall be filed by the clerk with the auditor to reimburse the fund for the expenditures so made. No reimbursement shall be made unless all original receipts in support of the cash expended are attached to the claim. The claim for reimbursement shall be approved and made in the same manner as is required for other expenditures (by the board of county commissioners). [IC 36-1-8-3] (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts, Chapter 9)

All fees for certified copies of record in any action or of any filing belong to and are the property of the county. There may be a charge for additional copies of not to exceed the amount specified in IC 3-37-5-1(b); and all of which funds so received shall be placed in the general fund of the county. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts, Chapter 7)

CLERK OF THE CIRCUIT COURT
SUPERIOR COURT 4
LAPORTE COUNTY
EXIT CONFERENCE

The contents of this report were discussed on June 19, 2006, with Robert Behler, Clerk. The official concurred with our findings.

The contents of this report were sent by certified mail on May 25, 2006, to Lynne Spevak, former Clerk. The official response has been made a part of this report and may be found on page 8.

To: State Board of Accounts
Field Supervisor

June 8, 2006

Re: Special Audit January 1, 2004 – February 28, 2006
Superior Court No 4 La Porte County Michigan City Indiana

I was informed through Kristi, SBOA of the following cases in which bond money was never allocated to the docket with a receipt. These bonds were taken through the sheriff department and hand delivered to the bookkeeper in Superior Court No 4.

46D04-0410-CM-001902 \$350.00
46D04-0508-FD-001754 \$600.00
46D04-0512-CM-002589 \$500.00
46D04-0512-CM-002674 \$500.00

I am submitting payment of \$1950.00 for the bonds listed.

I am refusing to reimburse the Clerk's office for the following bonds:

46D04-0512-FD-002655 \$600.00

Warrant served on defendant on Friday, December 30, 2005.

Bond money given to Clerk's office on or about Tuesday, January 3, 2006.

46D04-0601-CM-000105 \$500.00

Court case was created on January 17, 2006.

Both cases were past my tenure as an elected official.

Respectfully,

Lynne Spevak

CLERK OF THE CIRCUIT COURT
SUPERIOR COURT 4
LAPORTE COUNTY
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Lynne Spevak, former Clerk: Cash Bond Collections Not Deposited, pages 4 and 5, for January 1, 2004 to December 31, 2005	<u>\$ 1,950</u>	<u>\$ 1,950</u>	<u>\$ -</u>