

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

AUDIT REPORT  
OF  
COUNTY PROSECUTING ATTORNEY  
PORTER COUNTY, INDIANA  
January 1, 2008 to December 31, 2008



**FILED**

11/30/2009



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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Prosecuting Attorney	Brian T. Gensel	01-01-08 to 12-31-09
President of the County Council	Robert Poparad	01-01-08 to 12-31-09
President of the Board of County Commissioners	Robert Harper	01-01-08 to 12-31-09



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF PORTER COUNTY

We have audited the records of the County Prosecuting Attorney 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 Result and Comment. The financial transactions of this office are reflected in the Annual Report of Porter County for the year 2008.

STATE BOARD OF ACCOUNTS

September 8, 2009

COUNTY PROSECUTING ATTORNEY  
PORTER COUNTY  
AUDIT RESULT AND COMMENT

BAD CHECK ACCOUNT

The Prosecuting Attorney and County Commissioners have contracted with the American Corrective Counseling Services (ACCS) to provide a pretrial misdemeanor bad check diversion program. A \$35 service fee is assessed to the participants in the program. The ACCS collects all payments and remits \$25 to the Prosecuting Attorney as the County's share. The Prosecuting Attorney retains full prosecutorial discretion and sets and modifies the seminar fees and terms of payment from participants.

The County's share of the bad check service fee is being deposited into the Prosecutor's Check Deferral Fund (Fund 281). The County Commissioners passed an ordinance establishing this fund in December 2006 and submitted it to the Indiana State Board of Accounts for review in December 2007. The State Board of Accounts recommended that the ordinance be amended to require the fees to be deposited in the County General Fund and be subject to appropriation by the County Council. Fund 281 had a balance of \$27,774.30 as of December 31, 2008. A similar comment appeared in the prior report.

Prosecuting Attorneys desiring to maintain a Bad Check Account should submit a written request to the State Board of Accounts. The request should indicate whether all, or a portion of, the service charge on a bad check is to be retained by the Prosecuting Attorney. If a service fee is retained by the Prosecuting Attorney, it should be pursuant to enactment of a "Home Rule" ordinance that has been enacted in accordance with Indiana Code 36-1-3 concerning the imposition of costs and service charges, and a copy of the Ordinance should accompany the written request for approval from this office. The State Board of Accounts will review the ordinance and the proposed program with corresponding comments concerning what the audit position will be in a letter of response to the inquiring prosecutor.

If the prosecuting attorney assesses and retains a service charge for processing bad checks, that fee or service charge becomes the property of the county and must be submitted to and receipted by, the County Auditor for deposit into the county general fund. Funds so received by the county may be expended by the prosecuting attorney only by following the budget appropriation and claim procedure. Funds collected through imposition of a bad check service charge may not be disbursed from the bad check account for the direct payment of prosecuting attorney office expenses. Such funds may only become available for this purpose upon appropriation by the county council from the county general fund into a line item in the prosecuting attorney's budget. (The County Bulletin and Uniform Compliance Guidelines, April 2006, Volume 354, Page 10)

COUNTY PROSECUTING ATTORNEY  
PORTER COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on September 8, 2009, with Brian T. Gensel, Prosecuting Attorney.