

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

SPECIAL INVESTIGATION REPORT
OF

1953 POLICE PENSION PLAN
CITY OF INDIANAPOLIS
MARION COUNTY, INDIANA

May 1, 2004 to June 30, 2019



FILED
04/27/2021

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF INDIANAPOLIS, MARION COUNTY, INDIANA

This is a special investigation report for the 1953 Police Pension Plan, City of Indianapolis (City), for the period May 1, 2004 to June 30, 2019, and is in addition to any other report for the City as required under Indiana Code 5-11-1. All reports pertaining to the City may be found at 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 1953 Police Pension Plan. 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

February 10, 2021

1953 POLICE PENSION PLAN
CITY OF INDIANAPOLIS
RESULTS AND COMMENTS

BACKGROUND

The City's Pension Relief Secretary was made aware on June 21, 2019, by the Indiana Public Retirement System (INPRS), of an Indianapolis Metropolitan Police Department (IMPD) spouse pensioner, who had continued receiving monthly pension payments after her death.

The Indiana State Board of Accounts was notified by the City of the pension overpayments in accordance with Indiana Code 5-11-1-27. The Indiana State Board of Accounts examined the records and reviewed the procedures for the pension payments. The following describes noncompliance with statutes or the Accounting and Uniform Compliance Guidelines Manual for Cities and Towns.

POLICE PENSION OVERPAYMENTS

John Metzger (J. Metzger), a retired IMPD officer and member of the 1953 Pension Plan, passed on March 12, 1981, at which time his widow, Irene Metzger (I. Metzger), began receiving the benefits as the surviving spouse. I. Metzger passed on May 12, 2004, at which time her benefits should have ceased. The death of I. Metzger was not reported to the City. Monthly pension checks continued to be directly deposited into I. Metzger's bank account until July 2019. I. Metzger was the only person on the signature card for the account.

The following table summarizes the pension benefits deposited to I. Metzger's bank account after her death.

<u>Years</u>	<u>Gross Earnings</u>
2004	\$ 9,577.48
2005	15,372.60
2006	15,372.60
2007	16,391.76
2008	16,883.64
2009	17,699.88
2010	18,880.44
2011	19,000.44
2012	19,236.24
2013	19,502.64
2014	20,043.36
2015	20,848.68
2016	21,304.32
2017	21,943.32
2018	22,382.40
2019	<u>11,415.00</u>
Total	<u>\$ 285,854.80</u>

1953 POLICE PENSION PLAN
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RESULTS AND COMMENTS
(Continued)

An analysis was performed of the disbursements and withdrawals from the bank account after I. Metzger's passing, when pension benefits should have ceased.

Per a review of subpoenaed bank statements and check copies for the period September 18, 2012 to June 14, 2019, checks and/or ACH payments totaling \$129,788.96 were disbursed each month following the deposit of the pension payment. A total of \$10,736.26 was paid to Joanne Flowers (Flowers) by check. A total of \$98,070.62 was paid to Fifth Third Bank to a mortgage account owned by Flowers. In addition, property taxes totaling \$2,089.51 were paid for property owned by "Metzger John Etux." The remaining \$18,892.57 was issued for other miscellaneous payments. All checks contained a signature of "Irene Metzger." Flowers passed on March 13, 2019. Pension payments continued to be paid into I. Metzger's account after Flowers' death, and ACH payments to Fifth Third Bank continued to be transferred into a mortgage account owned by Flowers.

Bank records were not available for the period January 1, 2004 to August 31, 2012. The ending balance of the bank account at June 14, 2019, was \$1,178.55.

The City annually issued Federal Forms 1099-R Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. in I. Metzger's name and monthly deposit advices to Flowers' address. In addition, when the direct deposits of the pension payments stopped being made, the City received no inquiry or communication regarding the payments from Flowers' estate.

Indiana Code 36-8-7.5-13.6 states in part:

"(a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter).

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member of the fund who dies from any cause after having served for one (1) year or more. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. . . .

(g) Except as otherwise provided in this subsection, the annuity payable under subsection (b) equals one (1) of the following:

- (1) For the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a first class patrolman.
- (2) For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of:
 - (A) thirty percent (30%) of the monthly pay of a first class patrolman; or
 - (B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death. . . ."

1953 POLICE PENSION PLAN
CITY OF INDIANAPOLIS
RESULTS AND COMMENTS
(Continued)

Indiana Code 5-11-6-3 states:

"If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under this chapter or under any other statute discloses:

- (1) malfeasance, misfeasance, or nonfeasance in office or of any officer or employee;
- (2) that any public money has been:
 - (A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not lawfully entitled to receive it; or
 - (B) obtained by fraud or in any unlawful manner; or
- (3) that any money has been wrongfully withheld from the public treasury;

a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, and to the inspector general."

Indiana Code 5-11-7-1 states:

"When, under the provisions of this article, any report or reports are certified to the attorney general by the state examiner of the state board of accounts charging any public official, any former public official, and/or any other person named in such report with having illegally received, and/or having illegally retained, and/or failed to account for and pay over any money so received, and/or having illegally expended public moneys or any moneys placed in custody of such public official or former public official by authority of law, and the attorney general brings an action for the recovery of such moneys, such action shall be brought in the name of the state of Indiana upon the relation of the attorney general as plaintiff."

We requested the estate of Flowers to reimburse the City for police pension overpayments in the amount of \$285,854.80. (See Summary of Charges, page 9)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the special investigation of the pension plan overpayments.

Indiana Code 5-11-1-27(m) states:

"If the attorney general institutes civil proceedings related to this section or under IC 5-11-5-1, the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

- (1) costs incurred by the state board of accounts; and
- (2) all costs and reasonable attorney's fees incurred by the attorney general; in connection with the civil proceedings."

1953 POLICE PENSION PLAN
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RESULTS AND COMMENTS
(Continued)

We requested the estate Flowers to reimburse \$8,963.25 to the State of Indiana for special investigation costs. (See Summary of Charges, page 9)

INTERNAL CONTROL DEFICIENCIES

Internal controls were insufficient due to the lack of oversight and monitoring of the 1953 Police Pension Plan. The City did not have internal controls in place to verify existence and eligibility of the pensioners, such as reviewing and monitoring obituaries on a periodic basis or determining some other method of verification. The City was relying upon the families of the pensioners and surviving spouses to notify them of individuals who passed away.

The State Board of Accounts (SBOA) is required under Indiana 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. The 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. The fundamental premise of segregation of duties is that an individual or small group of individuals should not be in a position to initiate, approve, undertake, and review the same action. Separating the ability to record, authorize, and approve the transactions along with the handling of the related asset reduces the risk of error or fraudulent actions. It also reduces the risk of management override.

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. Clear documentation should be maintained for continuity as well as ease of communication to outside parties.
..."

1953 POLICE PENSION PLAN
CITY OF INDIANAPOLIS
EXIT CONFERENCE

The contents of this report were discussed on February 10, 2021, with Barbara Lawrence, Marion County Treasurer; Brandon Herget, Chief Financial Officer/Policy Director; Ken Clark, Controller; and Brett Wineinger, Deputy Controller.



OFFICIAL RESPONSE

Date: February 17, 2021

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

Re: Formal Response to Exit Interview – Metzger

The City of Indianapolis attended an Exit Interview on February 10, 2021 with Ms. Lynn Spencer of the State Board of Accounts (SBOA). The City would like to formally respond to the SBOA findings:

1. The City was informed of the actions of Ms. Joanne Flowers inappropriate pension payments by the Indiana Public Retirement System (INPRS) on June 21, 2019, notification was provided to our Indianapolis Metropolitan Police Department (IMPD) Pension Specialist.
 - a. The City IMPD Pension Board President was notified on or shortly after June 21, 2019.
 - b. The Office of Finance and Management (OFM) was notified immediately and OFM fulfilled the City's responsibility for notifying SBOA under Indiana Code § 5-11-1-27.
2. OFM met with IMPD staff and determined to turn the case over to IMPD for investigation.
3. OFM, in conjunction with the IMPD Pension Board of Trustees' staff reviewed, selected and implemented a new program with LexisNexis. This program allows the City to monitor over 1,400 pensioners for proper verification of deceased status. As part of this process, staff receives automatic notification of deceased status when there is a match against our pensioners and surviving spouses/dependents.
 - a. This program and process have been in place since January of 2020.
4. During the SBOA review, it was inferred that the Indiana Attorney General would pursue recovery of the funds from the estate of Ms. Joanne Flowers, however in 2020 INPRS reduced the pension relief reimbursement to the City by the value of the overpaid funds, including interest. At that time, the State of Indiana was made whole and the City became the damaged party, the City filed cause number 49D08-1909-EU-037604 in Marion County Superior Court.
5. This case had extenuating circumstances that lead to the failed notification, which impacted the delay in INPRS also recognizing that Ms. Metzger was deceased. The City acknowledges there was a deficiency in internal controls. While there were processes in place including; pension board staff periodically checking obituaries, these processes were not sufficient, in timely identifying the pensioner's surviving spouse or dependents death. Once the City became aware of the issue, we took immediate action to ensure the appropriate processes and controls were implemented to continuously monitor our pensioners status. These actions were taken prior to any notification of SBOA findings.

Regards,

Ken L. Clark, Controller – City of Indianapolis

1953 POLICE PENSION PLAN
 CITY OF INDIANAPOLIS
 SUMMARY OF CHARGES
 (Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Estate of Joanne Flowers:			
Police Pension Overpayments, pages 3 through 5	\$ 285,854.80	\$ -	\$ 285,854.80
Special Investigation Costs, pages 5 and 6	<u>8,963.25</u>	<u>-</u>	<u>8,963.25</u>
 Totals	 <u>\$ 294,818.05</u>	 <u>\$ -</u>	 <u>\$ 294,818.05</u>

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

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AFFIDAVIT

STATE OF INDIANA)
Marion COUNTY)

I, Lynne Spencer, Field Examiner, being duly sworn on my oath state that the foregoing report based on the official records of the City of Indianapolis, Marion County, Indiana, for the period from May 1, 2004 to June 30, 2019, is true and correct to the best of my knowledge and belief.

Lynne Spencer
Field Examiner

Subscribed and sworn to before me this 19 day of March, 2021

Terri R. Diehl
Notary Public

My Commission Expires: 2.24.2029

County of Residence: Deane

