LAKE COUNTY COUNCIL

LAKE COUNTY GOVERNMENT CENTER
2293 NORTH MAIN STREET
CROWN POINT, INDIANA 46307
219-755-3280
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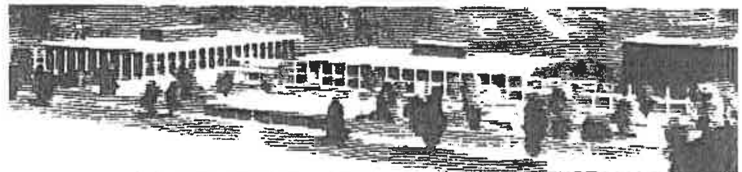

LAKE COUNTY GOVERNMENT CENTER
CROWN POINT, INDIANA

June 10, 2025

The Honorable Peggy Katona
Lake County Auditor
2293 N. Main Street
Crown Point, Indiana 46307

Via Hand Delivery

RE: 2022 State Board of Accounts Audit Finding Regarding Sheriff's Pay

Dear Ms. Katona:

As you are aware, the 2022 State Board of Accounts Audit had exceptions for the Sheriff's receipt of additional funds above his statutory salary for a clothing allowance, longevity pay, lateral pay and proficiency pay. At the exit interview, the State Board representatives made it clear that these additional payments were inappropriate and needed to be corrected. Although it is my belief that the longevity pay and clothing allowance are appropriate based upon the fact that the County Council has approved an ordinance for those items, the Board made it clear that the other additional payments needed to stop.

At a recent State Board of Accounts' meeting I inquired about the status of the payments to the Sheriff, and determined that they had not stopped, and I was told that a letter should come to you from the Lake County Council. In that you are the Chief Financial Officer of the County, it would seem that that decision should have been made by you, but the State Board made it clear at the exit interview not only that it needed to be stopped, but that prior payments made inappropriately needed to be recovered. It is my understanding that these payments continue to be made to this date, and it is the Lake County Council's position that your payroll department needs to correct this immediately. The State Board of Accounts, both in person at the exit conference and through their manual, has indicated that the overpayment must be recovered. Therefore, the Auditor should proceed with collecting the overpayments made from September 2017 through the current payroll, in accordance with Indiana Code Section 22-2-6-4. If you have any comments or questions, please do not hesitate to contact me.

Thank you for your attention to this matter.

Sincerely,

CHRISTINE CID
President of the Lake County Council

CC/is

COUNTY SHERIFF
LAKE COUNTY

INTERNAL CONTROLS - COMPLIANCE

Condition and Context

Internal control deficiencies resulted in noncompliance over:

- Compensation - Elected Official
- Gateway Monthly Uploads

These internal control deficiencies are further detailed in the comments below.

Criteria

The Indiana 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. . . .
>
> 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. . . ."

COMPENSATION - ELECTED OFFICIAL

Condition and Context

Internal controls were not in place to ensure that compensation was properly paid to the County Sheriff.

The County entered into a Collective Bargaining Agreement (CBA) on December 17, 2020, with the Fraternal Order of Police, Chris Anton Lodge #125 and the Lake County Police Association Local #72 AFL/CIO (Union) to set such items as hours of employment, wages, and fringe benefits, for the period from January 1, 2021 to December 31, 2023.

Section 1.1 of the CBA states:

"The Employer hereby recognizes the Indiana Fraternal Order of Police Labor Council, Inc. on behalf of Fraternal Order of Police Lodge #125 and the Lake County Police Association #72 AFL-CIO as the sole and exclusive bargaining representatives with respect to wages, hours and other terms and conditions of employment for all permanent sworn employees of the Lake County Police Department including; all Police Officers, Corporals, Sergeants, Lieutenants, Captains, Deputy Commanders, Commanders and the Deputy Chief of Police. Excluding employees in 'upper level policy making positions' as defined by Indiana State Statute. All other employees of the Employer are excluded from this bargaining unit."

The County Sheriff, as the elected official, is in the upper level policy making position and, thus, would not be covered by the CBA.

In 2022, the County Sheriff was paid a total of $188,850. Of that total, $164,972 was base salary, $920 in longevity, $1,300 in clothing allowance, $19,758 in lateral pay, and $1,900 in proficiency pay. The base salary and longevity were paid in accordance with the County's salary and longevity ordinances. However, the clothing allowance, lateral pay, and proficiency pay amounts were allowed per the CBA only to the officers covered by the agreement. The County Sheriff was excluded from the agreement and should not have received the benefits of the agreement as his position is an elected official and not an employee. There were no other labor contracts, employee handbooks, salary ordinances, resolutions, or salary schedules adopted by the County Council to support the compensation paid to the County Sheriff totaling $22,958.

Criteria

Indiana Code 36-2-5-13 states:

"(a) As used in this section, 'compensation' means the total of all money paid to, or on behalf of, an elected county officer for performing duties as an elected county officer, regardless of the source of funds from which the money is paid. The term includes all employee benefits paid to an elected county officer, including life insurance, health insurance, disability insurance, retirement benefits, and pension benefits. For purposes of determining an increase or decrease in compensation of an elected county officer, the term does not include any of the following:

(1) Payment of an insurance premium.

(2) Payments in recognition of:

(A) longevity;

(B) professional certifications; or

(C) educational advancements;

that are separately identified on a salary ordinance or resolution.

(3) Payment of a stipend or per diem allowed by statute.

(b) Compensation shall be established using an annual, monthly, or biweekly salary schedule. An elected county officer is not required to report hours worked and may not be compensated based on the number of hours worked.

(c) Except as provided in subsection (d), the compensation of an elected county officer may not be changed in the year for which it is fixed. The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

(1) the application of the county fiscal body or the affected officer, department, commission, or agency; and

(2) a majority vote of the county fiscal body.

(d) In the year in which a newly elected county officer takes office, the county fiscal body may at any time change the compensation for holding the county office for that year if:

(1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and

(2) the county fiscal body votes to approve the change."

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution, or salary schedule adopted by the governing body unless otherwise authorized by law. Compensation must be paid in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

Units must collect any overpayments made. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

GATEWAY MONTHLY UPLOADS

A similar comment also appeared in management letters addressed to the County Sheriff for the audit periods ending December 31, 2019 and 2020. A similar comment also appeared in prior Report B61303, entitled *GATEWAY MONTHLY AND ANNUAL UPLOADS.*

Condition and Context

Internal controls were not in place for the County Sheriff's required monthly uploads to the Indiana Gateway for Government Units financial reporting system. The required monthly uploads include the County Sheriff Form 54, the County Sheriff's Cash Book; Form 205, the Ledger of Receipts, Disbursements, and Balances for the Commissary Fund; and Form 358, the Ledger of Receipts, Disbursements, and Balances for the Inmate Trust Fund, all bank reconcilements, bank statements, and outstanding check lists.

The County Sheriff did not comply with the directive since several of the monthly files noted above were not uploaded for 2022. In addition, the bank statements, bank reconcilements, and outstanding check listings for the Drug Task Force and Civil Divisions were not uploaded. Subsequently, the Civil Division began uploading the required files as of July 2023; however, these files were still not uploaded for the Drug Task Force Division in 2023.

Criteria

All counties, cities, towns, townships, libraries, schools and special districts will use the Engagement Uploads to upload files containing financial and governmental unit information on Gateway to allow the SBOA to conduct audit planning and audit processes prior to on-site work at a unit. This remote process will provide for more efficient data processing and save audit costs for our clients. (Amended State Examiner Directive 2018-1, Updated November 9, 2020, and effective with uploads due February 15, 2021)

Units are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, court decisions and filing requirements concerning reports and other procedural matters of federal and state agencies. Units must file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

Kopack & Associates Attorneys at Law

John M. Kopack
Attorney at Law

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Tx: (219) 738-2978
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October 11, 2024

OFFICIAL RESPONSE

Via Email To:
officialresponse@sboa.in.gov

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

RE: Lake County Sheriff's Department
2293 N. Main Street, Crown Point, IN 46307
Audit Period: January 1, 2022 to December 31, 2022

Dear Examiner Joyce,

On October 1, 2024, SBOA field examiners Cynthia David and Mark Butkus conducted an exit interview relating to an audit of Lake County Sheriff Department ("LCSD") for calendar year 2022. During this meeting the field examiners advised the SBOA had two (2) audit concerns relating to "Internal Control Compliance," namely: **1.** Internal controls to ensure that compensation was properly being paid to the Sheriff; and **2.** Internal controls not in place for the Sheriff's monthly uploads to the Indiana Gateway for Government Units financial reporting system. After meeting with staff and the Sheriff's consulting CPA, the Sheriff's official response to the two audit concerns of the SBOA, are stated below.

1. Compensation Paid to Sheriff.

SBOA Audit Concern: "In 2022, the County Sheriff was paid a total of $188,850.64. Of that total, $164,971.90 was base salary, $920 in longevity, $1,300 in clothing allowance, $19,758.74 in lateral pay, and $1 ,900 in proficiency pay. The base salary and longevity were paid in accordance with the County's salary and longevity ordinances. However, the clothing allowance, lateral pay, and proficiency pay amounts were allowed per the CBA only to the officers covered by the agreement. The Sheriff was excluded from the agreement and should not have received the benefits of the agreement as his position is an elected official and not an employee. There were no other labor contracts, employee handbooks, salary ordinances, resolutions, or salary schedules adopted by the County Council to support the compensation paid to the County Sheriff totaling $22,958.74."

Sheriff's Response:

Oscar Martinez, Jr. has been a sworn Lake County Police Officer since 1993 and was sworn in as the Sheriff of Lake County on September 16, 2017. When Sheriff Martinez took office it was a past practice of the Lake County to continue paying a clothing allowance, lateral pay, and proficiency pay to Lake County Police Officers who attained the office of Sheriff. This past practice has been verified by LCSD Bookkeeper Melanie Dillon after her review of the payroll records of a former Sheriff. The records reviewed confirmed that when Lake County Police Officer John Buncich was serving as the Lake County Sheriff in 2002, he continued to receive his merit police officer clothing allowance, proficiency pay, and lateral pay, in addition to his base salary.

Salaries and compensation paid to elected officials and county employees are set by the Lake County Council. "The county fiscal body shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county general fund, county highway fund, county health fund, county park and recreation fund, aviation fund, or any other fund from which the county auditor issues warrants for compensation. This includes the power to: (1) fix the number of officers, deputies, and other employees; (2) describe and classify positions and services; (3) adopt schedules of compensation; and (4) hire or contract with persons to assist in the development of schedules of compensation." See Ind. Code § 36-2-5-3.

In addition, Sheriff Martinez currently holds the permanent merit rank of Lieutenant with the Lake County Police Department and is required by statute to "successfully complete a minimum of twenty-four (24) hours of in-service training each calendar year" to maintain his merit rank as a police officer. See Ind. Code § 5-2-1-9(g) and 250 Ind. Admin. Code 2-7-1. Hence, it's well within the discretion of the Lake County Council to compensate a county police officer, who gets elected to the Office of Sheriff, with the same clothing allowance, proficiency pay, and lateral pay based on the officer's permanent merit rank with the county police department.

Lastly, the SBOA indicated in its audit report that the statutory definition of an "upper level policy making position" applies to county Sheriffs. However, the applicable Indiana statutes related to the term "upper level policy making positions" only apply to cities and towns and are not applicable to county police departments.

Ind. Code § 36-8-1-12 states: "'upper level policymaking position' refers to the position held by the police chief or fire chief and to each position held by the members of the police department or fire department in: (1) The next rank and pay grade immediately below the chief, if the authorized size of the department is: (A) More than ten (10) but less than fifty-one (51) members, in the case of a police department; or (B) More than ten (10) but less than two hundred one (201) members, in the case of a fire department; or (2) The next two (2) ranks and pay grades immediately below the chief, if the authorized size of the department is: (A) More than fifty (50) members, in the case of a police department; or (B) More than two hundred (200) members, in the case of a fire department."

However, the definition of upper level policymaking position in Ind. Code § 36-8-1-12 only applies to the "disciplinary powers of safety boards in cities, towns and townships."

> Ind. Code § 36-8-3-4. Disciplinary powers of safety boards in cities, towns and townships.
>
> (a) This section also applies to all:
>
> > (1) towns and townships that have full-time, paid police or fire departments;
> >
> > (2) fire departments of fire protection districts established under IC 36-8-11 and fire protection territories established under IC 36-8-19 that have full-time fire departments; and
> >
> > (3) conservancy districts that have a full-time, paid conservancy district marshal or deputy conservancy district marshal under IC 14-33-25.
>
> For purposes of this section, the appropriate appointing authority of a town, township, fire department of a fire protection territory or fire protection district, or conservancy district is considered the safety board of a town, township, fire department of a fire protection territory or fire protection district, or conservancy district. In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town for police department purposes.

. . .

(m) Except as provided in IC 36-5-2-13, the executive may reduce in grade any member of the police or fire department who holds an upper level policy making position. The reduction in grade may be made without adhering to the requirements of subsections (b) through (l). However, a member may not be reduced in grade to a rank below that which the member held before the member's appointment to the upper level policy making position.

Accordingly, and pursuant to the statutes cited above, the term "upper level policymaking position" clearly only applies to cities and towns - and not to Indiana counties.

2. Internal Controls - Sheriff's monthly uploads to Indiana Gateway for Government Units.

This particular audit issue is being addressed in a Corrective Action Plan under Ind. Code § 5-11-5-1.5(c) being developed by the Sheriff's administrative staff and Don Smith, CPA.

The resolution of this issue will be fully detailed and outlined in the forthcoming Corrective Action Plan, which will be completed and uploaded to the SBOA within a reasonable time frame after the filing of this official response.

3. Conclusion.

The Sheriff and his staff appreciate the guidance and comments contained in the SBOA's preliminary audit report of October 1, 2024, and the opportunity to provide this official response pursuant to Indiana Code § 5-11-5-1(b). We hope this response will be fairly considered and result in pertinent revisions to your report.

Sincerely,

John M. Kopack
Attorney at law

JMK/cw

cc: Sheriff Oscar Martinez, Jr.
Chief Vincent Balbo
Cmdr. John Gruszka, Staff Services
Donald Smith, CPA

ORDINANCE NO. 1500G

LAKE COUNTY
LONGEVITY ORDINANCE FOR 2025

WHEREAS, the Lake County Council has determined that it is in the best interest of the employees of Lake County that a scheduled longevity pay be established.

NOW, THEREFORE, LET IT BE ORDAINED AS FOLLOWS:

That the schedule of longevity pay listed below be adopted for all elected officials, all full-time county employees and all part-time county employees working at least 20 hours per week.

The total amount of longevity pay shall be paid in the fourth quarter of the year and shall be calculated as follows:

1. For full-time employment add the aggregate number of years completed as of December 31, 2024.

2. For part-time employees add the consecutive years completed as of December 31, 2024. Prior years shall not count unless they are consecutive as of December 31, 2024.

3. For former part-time employees who are hired as full-time employees, the years completed as prior part-time employees shall not count towards calculating longevity pay. This includes part-time employment which is consecutive with full-time employment.

Years Completed	Amount
5 Years	$220.00
10 Years	$320.00
15 Years	$440.00
20 Years	$620.00
25 Years	$920.00
30 Years and over	$1,220.00

(Lake County Code Sec. 39.06 LONGEVITY)

DULY ADOPTED THIS 15 DAY OF October, 2024.

CHRISTINE CID, President

DAVID HAMM

ABSENT
CHARLIE BROWN

RANDELL C. NIEMEYER

ABSENT
RONALD G. BREWER, SR.

PETE LINDEMULDER

TED F. BILSKI

Members of the Lake County Council

ORDINANCE NO. 1500H

LAKE COUNTY SHERIFF UNIFORM
CLOTHING ALLOWANCE ORDINANCE FOR 2025

WHEREAS, the Lake County Council desires that the Lake County Sheriff, all full-time deputy sheriffs, correctional officers, work release custody officers and court security officers be given a yearly allowance to purchase uniforms to wear while on duty.

NOW, THEREFORE, LET IT BE ORDAINED BY THE LAKE COUNTY COUNCIL AS FOLLOWS:

SECTION I. The Lake County Sheriff who also serves as a sworn officer and full-time deputy sheriffs shall receive an annual uniform clothing allowance of $1300.00.

SECTION II. Full-time correctional officers shall receive an annual uniform clothing allowance of $700.00.

SECTION III. Full-time court security officers shall receive an annual uniform clothing allowance of $550.00.

SECTION IV. That such clothing allowance shall be paid on or before the 1st day of December, of each calendar year, beginning on or before the 1st day of December, 2024, for the calendar year of 2025.

SECTION V. This Ordinance shall be in full force and effect from and after the date of its passage according to law.

DULY ADOPTED BY THE COUNTY COUNCIL OF THE COUNTY OF LAKE, State of Indiana, this 15 day of October, 2024.

Christine Cid
CHRISTINE CID, President

David Hamm
DAVID HAMM

ABSENT
CHARLIE BROWN

RANDELL C. NIEMEYER

ABSENT
RONALD G. BREWER, SR.

PETE LINDEMULDER

TED F. BILSKI

Members of the Lake County Council