

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

SPECIAL INVESTIGATION REPORT
OF

POLICE DEPARTMENT
CITY OF MARTINSVILLE
MORGAN COUNTY, INDIANA

June 5, 2017 to January 18, 2019



FILED
09/30/2019

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF MARTINSVILLE, MORGAN COUNTY, INDIANA

This is a special investigation report for the City of Martinsville (City), for the period June 5, 2017 to January 18, 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 payroll concerning compensatory time and sick leave. 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 8, 2019

POLICE DEPARTMENT
CITY OF MARTINSVILLE
RESULTS AND COMMENTS

BACKGROUND

Matthew Long (M. Long) was appointed to the position of Police Chief for the City of Martinsville (City) on September 14, 2016. As part of his duties, he recorded the various leave time for the employees who served within his department. City officials became aware that there were irregularities in the accounting for leave time regarding two police department employees by M. Long.

The Indiana State Board of Accounts was notified by City officials of the irregularities in accordance with Indiana Code 5-11-1-27. The Indiana State Board of Accounts examined the records and reviewed timesheets and other documents related to the accounting for accrued compensatory/overtime and sick leave. The following describes noncompliance with statutes or the *Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*.

EXCESS COMPENSATORY TIME OFF

M. Long, in his position as Police Chief, was in charge of recording various leave time in a software application maintained at the Police Department for the employees of the Police Department. This included compensatory time accrued and used.

Kirsten Clayton (Clayton) was hired on June 5, 2017, to work part-time positions at the Police Department window and as Court support. A review of her timesheets from her hire date to October 31, 2017, when she became the Administrative Assistant to the Mayor, a full-time position, showed that there were 37.5 hours worked for which she was not paid. Therefore, 37.5 hours would be an appropriate amount to show as compensatory time earned. On November 20, 2017, M. Long made an entry in the software application to post 80 hours to Clayton's compensatory time and noted it as "Earned at beginning of time on MPD." There has been no documentation provided that would support the 80 hours that were posted. The additional 42.5 hours are not considered as accrued compensatory time earned.

During 2018, Clayton took compensatory leave time off totaling 86 hours. With the only documentation showing compensatory time earned as 37.5 hours, Clayton received 48.5 hours of pay for compensatory hours that she had not accrued. Clayton's hourly pay rate for 2018 was \$22.18. Excess compensatory time off paid to Clayton totaled \$1,075.73.

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 Cities and Towns*, Chapter 1)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any official or employee may be the personal obligation of the responsible official or employee. (*Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*, Chapter 1)

We requested that Clayton and M. Long, jointly and severally, reimburse the City \$1,075.73 for excess compensatory time off paid. Clayton reimbursed the City \$1,075.73 on August 8, 2019. (See Summary of Charges, page 13)

POLICE DEPARTMENT
CITY OF MARTINSVILLE
RESULTS AND COMMENTS
(Continued)

UNUSED SICK LEAVE OVERPAID

M. Long, in his position as Police Chief, was in charge of recording various leave time in a software application maintained at the Police Department for the employees of the Police Department. This included sick leave accrued and used as well as the accumulated sick bank for police officers.

The City had a policy for law enforcement officers requiring that officers must accumulate a sick bank of 110 days (880 hours). This accumulation was to be made from the unused regular sick days given to the officers each year. The purpose of the sick bank was to provide a long-term sick leave plan for law enforcement officers because of the nature of their work. The policy required that any unused regular sick days at year end be moved to the sick bank until the total reached 110. After that has been accomplished, City policy allowed for the unused regular sick days to be paid to the officers at year end. Individuals were paid based on the number of unused regular sick days they had remaining to a maximum of \$765; one to three days was paid at \$75 per day; four to six days was paid at \$85 per day; and seven to nine days was paid at \$95 per day.

Blake Long (B. Long) was hired as a police officer on January 26, 2009. Per the personnel policy, he received 30 banked days after his year probationary period in 2009. In each subsequent year, his unused sick leave days (9) were moved to the sick bank so that by the end of 2017, B. Long should have had 102 sick bank days. However, the computer program showed B. Long's unused sick leave balance as 103 days. No explanation was given for the one day difference.

On January 1, 2019, M. Long added 7 days to B. Long's sick bank. There was no documentation to support this addition. M. Long then submitted a voucher for 9 unused sick leave days for B. Long. This resulted in an overpayment for seven unused sick leave days of \$615.

Each unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any official or employee may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested that B. Long and M. Long, jointly and severally, reimburse the City \$615 for unused sick leave overpaid. (See Summary of Charges, page 13)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the investigation of the Police Department leave time issues.

Audit costs incurred because of theft and shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested that M. Long, B. Long, and Clayton, jointly and severally, reimburse the State of Indiana \$3,191.67 for special investigation costs. (See Summary of Charges, page 13)

POLICE DEPARTMENT
CITY OF MARTINSVILLE
RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROL DEFICIENCIES

We noted deficiencies in the internal control system concerning the handling of compensatory and unused sick leave paid out. These deficiencies included, but were not limited to, the lack of oversight of the accruing and recording of leave balances by the Police Chief. M. Long was responsible for the posting of accrued and used leave time. There was no documentation indicating that anyone had oversight to ensure that the leave time was being posted properly. Also, documentation was not presented indicating that anyone verified the overtime accrued or unused sick leave time prior to it being paid out.

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. . . ."

INVESTIGATION BY LAW ENFORCEMENT AGENCY

An investigation into the Police Department payroll issues has also been conducted by the Indiana State Police.

CRIME INSURANCE COVERAGE

The following is information regarding crime insurance obtained by the City:

<u>Period</u>	<u>Amount</u>
12-01-16 to 12-01-17	\$ 25,000
12-01-17 to 12-01-18	25,000
12-01-18 to 12-01-19	25,000

POLICE DEPARTMENT
CITY OF MARTINSVILLE
EXIT CONFERENCE

The contents of this report were discussed on August 8, 2019, with Blake Long, Police Officer; Kirsten Clayton, Administrative Assistant; Rebecca J. Tumey, Clerk-Treasurer; Shannon Kohl, Mayor; and Terry Buster, Common Council member.

TO: Bill Vinson, Indiana State Board of Accounts
FROM: Lt. Blake A. Long, Martinsville Police Department
DATE: August 13, 2019
REF: Non-Compliance Report/Sick Day Pay Out

Sir,

After speaking with you last week, I researched the City Policy Manual, dated February 6, 2017. Upon reviewing policy 4.5 (REGULAR SICK LEAVE BENEFITS), it is my belief that the sick time that I was paid out for, follows policy. When speaking with you, you stated that an employee does not receive sick time until the completion of their probationary period. At that time, they receive 30 days, which are placed into the catastrophic sick bank. The following is from policy 4.5 from the City of Martinsville Policy Manual:

4.5 REGULAR SICK LEAVE BENEFITS

The City provides paid sick leave benefits to all regular full-time employees for periods of temporary absence due to non-job-related illness or injury.

All employees shall receive nine (9) paid regular sick days. Compensation for said days may require proof of illness, i.e., physician's statement or hospital receipt indicating treatment was rendered. Employees will not be entitled to sick leave usage until the completion of their probationary period.

I have spoken with Chief Wiltermood, as well as Ben Merida from the Clerk Treasurer's Office. We are all in agreeance that the above policy reads that an employee would be given nine (9) sick days upon being hired. However, that employee would not be able to use those sick days until the completion of the probationary period.

The Martinsville City Policy 4.6.1 BANKED SICK LEAVE-POLICE states: All Police Officers hired after June 22, 2004, will receive thirty (30) banked sick days after the probationary period has been completed. The banked sick days will be utilized only for major or catastrophic injury/illness. Police Officers are required to accrue the maximum number of banked sick days before they are eligible to receive payment for unused regular sick days.

The City Policy states that the Unused sick leave bank shall be cumulated from year to year, up to a maximum of one hundred-ten (110) days.

If you take City Policy 4.5 into account and give me credit for the nine (9) sick days I received when I was hired in 2009, there is no longer a “non-compliance”. The following is the breakdown of sick days for my career:

2009: 9 days

2010: 9 days

2011: 9 days

2012: 9 days

2013: 9 days

2014: 9 days

2015: 9 days

2016: 9 days

2017: 9 days

2018: 9 days

TOTAL: 90 days- Then add the thirty (30) days given to me on January 26, 2010, and there is a total of One hundred-twenty (120) days. I was paid out for 9 days in January of 2019, leaving One hundred-eleven (111) days in my catastrophic bank. This bank can only hold a maximum of (110) days, so there is an extra day that I have not used, nor have I been paid out for, during my time of employment.

When given credit for the 9 days I received when I was hired, everything equals out, and there is not an overpayment of \$615.00.

I spoke with the Clerk Treasurer, Becky Tumey, on August 13, 2019. I requested an interpretation of this policy, from her office. I was told that she would not be able to provide an interpretation, as she did not write the policy. I was hoping to speak with you to determine who provided the interpretation to you during the investigation, so that I could possibly speak with them about the policy, if necessary.

I appreciate your time and effort in this matter. I am just hoping to clear things up before the report is released, as I do not feel that there should be a non-compliance report for this issue.

Please feel free to contact me at (765) 318-6363. I have attached the PDF file of the Sick Leave Policy, to keep you from having to find any copies you may have already received.

Thank you in advance for your consideration and assistance.

Blake A. Long

If an employee is required to work on a holiday, he/she will receive eight (8) hours' pay in addition to such holiday pay at time and one-half (1 ½).

If a designated holiday falls on Sunday, it will be observed on the following Monday; if it falls on Saturday, it will be observed on the preceding Friday.

In observance of each authorized holiday, both full-time and part-time employees will normally be granted the day off from work. Only full-time employees shall receive straight-time holiday pay for each authorized holiday.

4.4.1 Fire Holidays

Holiday pay, for each firefighter that works a shift on one of the following days, is \$120.00 as set by City of Martinsville Salary Ordinance. The holiday shift is the shift that begins at 7:00 a.m. the morning of the holiday.

New Years Day
Martin Luther King Jr. Birthday
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Christmas Day

4.5 REGULAR SICK LEAVE BENEFITS

The City provides paid sick leave benefits to all regular full-time employees for periods of temporary absence due to non-job related illness or injury.

All employees shall receive nine (9) paid regular sick days. Compensation for said days may require proof of illness, i.e., physician's statement or hospital receipt indicating treatment was rendered. Employees will not be entitled to sick leave usage until the completion of their probationary period.

Employees (excluding Fire and Police) may take regular sick days off in increments of one-half (½) day at a time if they notify their supervisor prior to the end of their last work shift taking personal time off.

To be eligible for regular sick leave, an employee must report his/her illness to the employer one (1) hour prior to the time he/she is scheduled to report to work, or as soon thereafter as possible.

If an employee receives worker's compensation for lost time benefits, the employee cannot receive City paid sick leave benefits.

All unused regular sick days will be paid according to the following schedule/rates:

1 st three (3) days bought out	\$75.00 per day
4 th through 6 th days bought out	\$85.00 per day
7 th through 9 th days bought out	\$95.00 per day

Note: Firefighters and Police Officers are required to accrue the maximum number of banked sick days before they are eligible to receive payment for unused regular sick days.

Violations of this policy may result in disciplinary action, up to and including termination.

4.6 **BANKED SICK LEAVE**

The City provides banked sick leave for regular full-time employees for catastrophic or major illnesses. Use of banked sick leave must be approved in advance by the Mayor.

Catastrophic or major illness is defined as an illness, injury, impairment, physical or mental condition that involves:

Inpatient care in a hospital, hospice, or residential medical care facility and/or continuing treatment by a health care provider. For an illness, injury, impairment, or condition requiring continued treatments by a health care provider to qualify under this definition, the illness, injury, impairment, or condition must impair the individual to such a degree that the individual cannot safely and effectively perform his/her duties.

Each full-time employee (excluding Fire and Police) regularly working a forty (40) hour workweek shall be allowed sick leave with pay at the rate of two (2) workdays for each completed calendar month of service. No sick leave credit shall be allowed for any calendar month in which an employee is off duty and not in paid status.

Unused banked sick leave shall be cumulated from year to year, up to a maximum of one hundred-ten (110) days.

4.6.1 **Banked Sick Leave – Police**

All Police Officers hired on or before June 22, 2004, will receive one hundred ten (110) banked sick days. All Police Officers hired after June 22, 2004, will receive thirty (30) banked sick days after the probationary period has been completed. The banked sick days will be utilized only for major or catastrophic injury/illness.

Police Officers are required to accrue the maximum number of banked sick days before they are eligible to receive payment for unused regular sick days.

4.6.2 Banked Sick Leave - Fire

All Firefighters hired on or before June 22, 2004, will receive fifty-five (55) banked sick days. All Firefighters hired after June 22, 2004, will receive fifteen (15) banked sick days after the probationary period has been completed. The banked sick days will be utilized only for major or catastrophic injury/illness.

Firefighters are required to accrue the maximum number of banked sick days before they are eligible to receive payment for unused regular sick days.

4.7 PERSONAL DAYS (Except Firefighters and Police Officers)

All full-time employees shall receive six (6) paid personal days. These days shall accrue at a rate of six (6) days per year of continuous employment and may be used at a maximum rate of six (6) days per year. Any employee using personal days must advise his/her immediate supervisor twenty-four (24) hours in advance when he/she intends to use a discretion day. This provision may be waived by consent of the parties in case of an emergency.

Employees may take personal days off at one-half ($\frac{1}{2}$) day at a time, if they notify their supervisor prior to the end of their work shift before taking personal time off.

Personal days shall not be used before or after a paid holiday (holidays being defined in *Section 4.4 Holidays*) of this Personnel Policies Handbook. For computation of holiday pay, personal days shall not be classified officially excused. No more than two (2) consecutive personal days may be taken, and such days may not be added to a holiday period.

Part-time or seasonal employees are not eligible for personal leave.

4.7.1 Personal Days - Fire

Firefighters will receive six (6) personal days per calendar year earned in addition to birthday and anniversary date of hire paid days off work.

4.7.2 Personal Days – Police Department (8-Hour Shift)

In lieu of holidays, police officers (8-hour shift), administrative staff, and civilian officers shall receive one and one-half ($1 \frac{1}{2}$) days per month of personal leave. Personal days shall be earned in addition to birthday and anniversary paid days off work. Personal days shall not exceed twenty (20) days per calendar year.

POLICE DEPARTMENT
CITY OF MARTINSVILLE
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance</u>
Kirsten Clayton, Administrative Assistant, and Matt Long, Police Chief, Jointly and Severally: Excess Compensatory Time Off, page 3 Payment received from Kirsten Clayton, pages 3 and 4	\$ 1,075.73	\$ 1,075.73	\$ -
Blake Long, Police Officer, and Matt Long, Police Chief, Jointly and Severally: Unused Sick Leave Overpaid, page 4	<u>615.00</u>	-	<u>615.00</u>
Totals	<u>1,690.73</u>	<u>1,075.73</u>	<u>615.00</u>
Kirsten Clayton, Administrative Assistant; Blake Long, Police Officer; and Matt Long, Police Chief, Jointly and Severally: Special Investigation Costs, page 4	<u>3,191.67</u>	-	<u>3,191.67</u>
Totals	<u>\$ 4,882.40</u>	<u>\$ 1,075.73</u>	<u>\$ 3,806.67</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, William F. Vinson, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the City of Martinsville, Morgan County, Indiana, for the period from June 5, 2017 to January 18, 2019, is true and correct to the best of my knowledge and belief.

Wm. F. Vinson
Field Examiner

Subscribed and sworn to before me this 30th day of September, 2019.

Juann Mayhew
Notary Public

My Commission Expires: 03/29/23
County of Residence: HANCOCK