

STATE OF INDIANA )  
)SS:  
COUNTY OF CLINTON )

IN THE CLINTON CIRCUIT COURT

STATE OF INDIANA

VS

RICHARD L. KELLY  
953 E. State Rd 38  
Frankfort, IN 46041  
DOB: 03-23-1970

CAUSE NO. 12C01-2202-

and

ASHLEY A. KELLY  
953 E. State Rd 38  
Frankfort, IN 46041  
DOB: 06-05-85

CAUSE NO. 12C01-2202-

PROBABLE CAUSE AFFIDAVIT

Sgt. Joseph White, of the Indiana State Police (ISP) Special Investigations Section of the Organized Crime and Corruption Unit (OCCU), swears or affirms that he believes and has good cause to believe that Richard L. Kelly (RK) and Ashley A. Kelly (AK), have committed the offenses of Criminal Conflict of Interest (IC 35-44.1-1-4) and Official Misconduct (IC 35-44.1-1-1), and would show the Court, to-wit:

Summary

The Indiana State Police on February 3, 2021, received a report of allegations of criminal activity by two sworn police officers. These two officers are RK, the Sheriff of Clinton County, Indiana, and his wife, AK. AK was appointed by her husband RK to the position of matron. RK also contracted with Leonne LLC to manage the commissary operations at the Clinton County Jail. Both RK and his wife AK are the sole owners of Leonne LLC.

Both RK and/or AK failed to file the written Conflict of Interest Disclosure required by the criminal Conflict of Interest statute (IC 35-44.1-1-4). However, both persons formed a corporation, Leonne LLC, to operate the commissary and receive its profits. RK and AK, as the only two owners of Leonne LLC, had a pecuniary interest because AK as the commissary manager would write checks from commissary profits to Leonne LLC. RK would also spend from this Leonne LLC account. Accordingly, RK as the Sheriff entered a contract with himself and his wife AK, wherein he and his wife had a pecuniary interest. This violated the criminal Conflict of Interest statute (IC 35-44.1-1-4).

These deposits into Leonne LLC totaled over \$177,000 from commissary profits in the first two years. These payments to Leonne, written by AK, were in addition to the Sheriff's regular salary and AK's matron's salary. This procedure also challenged the transparency of what was occurring with these funds by RK and AK by their both failing to file Disclosures under the statute.<sup>1</sup> These same violations are also cited by the Indiana State Board of Accounts (SBOA) in a written report.

#### Investigation

An investigation by the ISP and a special audit by the SBOA commenced in early 2021 after the report to ISP. Subpoenas were issued, and documents were examined. Different funds and bank statements were reviewed. Interviews were conducted. The investigation showed that RK and/or AK did not file a Disclosure form as mandated by the Criminal Conflict of Interest statute under these circumstances. The following additional investigative findings were also made.

#### Opportunity and Identity

Both RK and AK had the opportunity to commit these alleged crimes. RK was elected Clinton County Sheriff and assumed office in early 2019. AK, appointed by her husband RK, assumed her matron position and verbal contract as commissary manager at that same time. Both RK and AK are "public servants" in these roles (IC 35-31.5-2-261). Accordingly, a crime by a public servant qualifies for the offense in the Official Misconduct statute (IC 35-44.1-1-1(1)).

Documents obtained through a subpoena revealed the creation of Leonne LLC and the dual ownership of that entity solely by RK and AK. Other documents reveal the handling of the commissary monies by AK. In short, RK and AK were the persons in top authority within their governmental structure and were deliberately choosing this course of action. These actions also show that RK and AK operated together, as husband and wife, and as sheriff and matron and commissary manager. Both created Leonne LLC and jointly participated in LLC transactions. We believe this shows the principal and accomplice relationship (IC 35-41-2-4) in these operations, and accordingly both are charged with these alleged offenses.

Additional investigative findings also support a violation of the Criminal Conflict of Interest statute by the failure of RK and AK to file a Disclosure.

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<sup>1</sup> The relevant portion of the Indiana Criminal Conflict of Interest statute states: "A public servant who knowingly or intentionally (1) has a pecuniary interest in; or (2) derives a profit from, a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Level 6 felony... [I]t is not an offense under this section if ... [a Disclosure is filed]." IC 35-44.1-1-4(b) and (c)(6).

1

Filing a Disclosure is not difficult. The form is attached hereto as Exhibit A. It is a two-page form with an additional signature page. This form is already drafted by the SBOA and is easily accessible on-line through a simple internet search.

2

We also found that a past sheriff in Clinton County who hired his spouse successfully filed this form. Accordingly, the custom in Clinton County was to follow this law, and reveals that this process was not new.

3

Both RK and AK were law enforcement officers, trained on enforcing the many state criminal laws. Throughout their careers first with the ISP, and later as the Sheriff and matron, they participated frequently with enforcing the law against other citizens. RK was an ISP police officer from 1993 through 2018, and AK started as an ISP officer in 2008 and still is associated with ISP while being on disability and receiving payment in that status, in addition to her income at the Sheriff's Office.

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Both RK and AK also showed unique abilities, both in acumen and financial knowledge, when starting the Sheriff's term in 2019. They both had the wherewithal just prior to taking office to hire a CPA to form their corporation Leonne LLC. Documents uncovered in the investigation also revealed attorney fee billings to the Sheriff's office from reputable lawyers, to assist RK and AK in their sheriff duties.

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The investigation also showed awareness by RK and AK on the topic of Conflict of Interest and Disclosure. Both RK and AK were trained on these topics. The Clinton County Employee Handbook, on page 35, warns employees of this law. This language states in relevant part:

CONFLICTS OF INTEREST

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interests. Conflicts of interest are defined by Indiana law which may, under some circumstances, prohibit a transaction or require written disclosure and approval before a contract or transaction is entered. Employees may refer questions about actual or potential conflicts to the Auditor. . . .

[T]he County may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with: (1) an individual who is a relative of an elected official or; (2) a business entity that is wholly or partially owned by a relative of

an elected official only if the elected official files a full disclosure which must:

- be in writing
- describes the contract or purchase
- describes the relationship of the official to the business
- affirmed under penalty of perjury
- submitted to the legislative body prior to final action
- filed (within 15 days of final action) with the State Board of Accounts (SBoA) and the County Clerk. . . .

Handbook, at 35.

RK also received training on Conflicts of Interests and Disclosures. This is training received by all new sheriffs elected in the State of Indiana when they attend mandatory “new sheriffs school”. We found that RK attended this one-week school/training at the Muncie, Indiana Convention Center in December of 2018, just before assuming office in 2019. These issues were a topic at this training.

In addition to the above training and assistance on this issue, both RK and AK as members of the ISP took the mandatory ethics training provided to state employees. This included previous training on conflicts of interest, and specifically with contracts. Both RK and AK took this training multiple times.

6

Confusion resulted with the Leonne LLC system devised by RK and AK. This further frustrated the transparency benefit in addition to not filing a public Disclosure. Until the ISP investigation started in early 2021, an administrative assistant at the Sheriff’s Office did not even know what or who Leonne LLC was for more than two years. This same person oversaw multiple other accounts within the Sheriff’s Office and reported that AK controlled the commissary fund where the Disclosure was required, and that AK wrote the checks to herself. An interview with a County Commissioner, Joshua Uitts, revealed that the Commissioner did not know initially what or who Leonne LLC was, as well.

Further confusion resulted from the filing of vague commissary reports with the County Council. This is another transparency law (IC 36-8-10-21(e)) that mandates that SBOA forms be used to file a record of commissary receipts and disbursements semi-annually. These filings failed to use the SBOA form and were often reported in summary fashion. This further obscured the review of commissary transactions and the payments to Leonne LLC, and this vagueness was criticized by a County Councilman, Alan Dunn, in our interviews.

Hurdles were placed by RK and AK in our investigation which further complicated transparency in addition to their not filing Disclosures. Originally, RK and AK’s CPA, Dennis Hayden, who helped them form the Leonne LLC entity, responded on February 5, 2021, to a prosecutor subpoena by stating that he would not respond to the subpoena, based upon his client’s wishes. An attorney for RK and AK quickly remedied this.

Several days later, on February 9, 2021, AK advised the SBOA that she would not provide documents to the SBOA, except through her attorney. This was remedied.

And on March 5, 2021, RK advised the SBOA that none of his employees would be interviewed until these requests first went through his attorneys.

It should be noted that RK and AK did finally file a Disclosure in October of 2021. However, this late notice was still not in compliance with the statute, was more than two years after they commenced their activities, and was submitted only after being confronted by the ISP investigation.

In summary, RK and AK operated the commissary fund in violation of the criminal Conflict of Interest statute for more than two years without filing the necessary Disclosure. In that time, they amassed over \$177,000.00 that was deposited into their Leonne LLC entity. This was in addition to their other government incomes, which totaled the following their first two years in employment with the Sheriff’s Office:

	2019	2020	Two-year totals
RK's Sheriff Salary	86,996	99,873.71	186,869
RK's ISP pension	49,866	49,866	99,732
AK's matron salary	44,013	55,185	99,198
AK's ISP disability	37,900	37,900	75,800
Commissary receipts	64,154	113,610	177,764
<b>ANNUAL TOTALS</b>	<b>282,929</b>	<b>356,434</b>	<b>639,363</b>

With this much money being derived from public service in addition to base salaries, the reason for the mandatory Disclosure law is enhanced, to explain who and why these public servants are receiving money beyond their government salaries.

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As addressed above, RK was an owner of Leonne LLC and receiving direct profits from this entity which he contracted with. Because he is prohibited from doing this, he was not entitled to these commissary funds deposited with Leonne LLC, and accordingly he exercised unauthorized control over these funds.

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We also obtained documents associated with the nepotism and conflict of interest issues in Clinton County, Indiana. Both RK and AK signed statements dated 12-21-18 where each signed, under penalties of perjury, that they were not in the direct line of supervision of each other. This likewise is untrue. The matron is within the supervision of the RK.

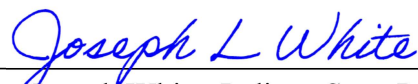
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We offered RK and AK recorded interviews to explain these allegations by leaving voicemails on their CCSO desk phones and through their attorney of record on February 23<sup>rd</sup> 2022 through March 4<sup>th</sup> 2022. We did not receive a commitment or indication of their willingness to be interviewed.

For all the above reasons, including the above personal statements from witnesses corroborated by physical documentation, I am requesting that probable cause be approved for the charges of Criminal Conflict of Interest and Official Misconduct.

I affirm under the penalties of perjury that the above information is true to the best of my knowledge.

Dated: 3/4/2022



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Sgt Joseph White, Indiana State Police  
Special Investigations Section of the  
Organized Crime and Corruption Unit