

Friday August 16, 2024

Dear Switzerland County Council,

Peace and greetings in 2024! I hope this letter finds you well as we all continue to serve Switzerland County. I write you today in my official capacity as Prosecuting Attorney for the 91st Judicial Circuit (“Prosecutor”). As Prosecutor, I am submitting a written memorandum in support of my Budget request for the 2025 fiscal year.

Summary

The Prosecutor’s administrative team members are its most valuable assets. Recruiting and retaining talented, dedicated employees is more important—and more difficult—than any time in recent memory. Especially in the public sector, where salaries cannot compete with those offered by private sector firms. And like small businesses, small governmental entities are impacted by these conditions far worse than large entities.

Currently, Prosecutor’s support staff makes less than \$40,000 annually. Market research conducted in 80 of the 92 Indiana Counties shows that the salaries for this Prosecutor’s Office are between 13% and 23% lower than the *lowest* recommended salary ranges for qualified employees.¹ Analysts from Waggoner, Irwin and Scheel (WIS) conducted this research and created the Salary Research Report. WIS is the same firm trusted by Switzerland County Council and Commission to create personnel policy manuals since 2009. And WIS analyzed every neighboring county in our region—but also almost every county our size and smaller.²

Keeping our dedicated team is critical. So critical that I am asking you to cut my salary of any and all Switzerland County tax dollars, so those funds

¹ See: *Critical Need for Staffing Workload Measures, Baseline Salary Determinations, and Job Descriptions, Prosecutor Analysis Report, 2023* Authored by Waggoner Irwin, Scheel & Associates, INC.; See Also *IPAC Prosecutor Non-Attorney Salary Schedule- Draft, June 23, 2024*. I have attached both documents in entirety as exhibits to this memorandum. I take careful note that the 2024 Salary Schedule was based on analysis of over 60 Indiana Counties, while the 2023 report analyzed 80/92 counties. However I base all salary recommendations on the 2023 data as it identifies the specific counties considered in the Salary Research Report.

² See *Indiana Counties By Population*, Kristen Carney, June 2024 at https://www.indiana-demographics.com/counties_by_population. Switzerland County ranks 87/92 in population with 10,019 people. The 2023 Salary Research Report analyzed not only every neighboring county: Jefferson, Ohio, and Ripley, but also counties smaller than us, including Martin County (population 9,897); Benton County (population 8,729); Warren County (population 8,518); and Ohio County (6,004).

can be distributed to my staff. My request is likely unprecedented. However, economic inflation impacts all of us, including my staff. Accordingly, I am asking those funds be taken from me, so that they can be reinvested into the salaries of my staff. Due to the strength of our County's investments, I believe we can fund this request for essentially no meaningful impact to the general fund, let alone the taxpayer. I will step through this analysis below.

First, I am an official of the 91st Judicial Circuit, not the County. Therefore, the majority of my salary is set, controlled, and paid by the State of Indiana through state law, the statewide budget process, and 2023 annual statewide tax revenue.³ Neither my Chief Deputy nor myself draw health insurance, or retirement benefits from Switzerland County funds. However like many counties, Switzerland County has supplemented the Prosecutor's salary in an amount of \$5,000.00 dollars a year. Switzerland County has paid its Prosecuting Attorney an additional \$5,000.00 dollars since shortly after the creation of the 91st Judicial Circuit. I know the former Prosecutor requested and received \$5,000.00 for many years, including in the 2023 budget that was approved in 2022. And I followed suit in 2023 for the 2024 budget. However, my review of the salaries for my office's administrative positions reveals they are in critical need of redress and thus motivates this request.

Our County should pay me less—in fact the County should pay me nothing—so we can use those dollars to pay my staff more. Pursuant to this request, I ask you cut my personal salary in the amount of \$5,000.00 dollars/year, the maximum amount of funds provided by Switzerland County tax dollars. This is the only amount of salary I receive from Switzerland County tax dollars. This pay-cut would officially reduce my personal salary burden on county tax dollars at \$0.00.

Next, I ask Council to divide that \$5,000.00 equally amongst two employees in the Criminal Division, and then match that equally with an additional \$2,500.00 dollars increase for a full increase of \$5,000.00 for each administrative staff member. That would place total salaries for our Criminal Division's administrative team at \$43,666.00⁴ annually. While that is still

³ See *State of Indiana's Financial Report...at your service*, Office of Indiana State Comptroller Elise Nieshalla, Issue Date: June 2024.

⁴ Annual Salary based on full-time non-FSLA exempt status given these requested salaries fall below 2025 FSLA income threshold of over \$58,000.00 for non-exempt status. Similar to the Highway Department, The Prosecutor's Office is somewhat unique in that it may be required to respond to emergencies, as both administrative staff and attorneys may be required to work in addition to "normal" Courthouse hours of 40-hour workweek. As the Prosecutor's Office is open and appropriately staffed and may be called in emergency circumstances to provide real-time administrative or legal support in the event of complex cases or investigations, such as homicide investigations or to accommodate Speedy Trial

lower than the 2023 lowest recommended salary range for paralegals, office managers, and victim advocates, it is realistic and attainable.⁵

I am also asking Council to fund the same increase for our Child Support Division's IV-D Administrator. However, we receive a massive subsidy and reimbursement through state funds for our child support division. For every dollar of county funds spent, this department is reimbursed at 66% from the State of Indiana under our cooperative agreement.⁶ This reimbursement is guaranteed through contract. That 66% reimbursement means that Council can fund a \$5,000.00 increase while the actual budgetary impact for that position is only \$1,700.00 dollars after reimbursement.

When factoring in the Prosecuting Attorney's requested pay cut and the reimbursement from the State of Indiana for child support funds, this investment results in a net additional \$6,700.00, spread across three full-time employees. Let's walk through that here. First, start with the total requested amount: \$5,000.00 dollar increases for three employees equals a total of \$15,000.00. However, factoring in the Prosecutor's pay cut, that additional amount is reduced to \$10,000.00, as \$5,000.00 dollars will be taken from me to fund the increases for 2 positions in the criminal division. One of the 3 administrative positions, our Child Support Administrator will be reimbursed at 66% of the total funds spent for this position, making the County able to grant a \$5,000.00 increase and expect \$3,300.00 to be reimbursed. Thus, only \$1,700.00 additional dollars will come from County funds. Under this request, the County will fund the remaining \$5,000.00, and result in a net increase of \$6,700.00 dollars, spread across 3 employees. To be sure, this investment is a wise one as I explain below.

Investing in valuable employees is much cheaper than losing them to other jobs. In fact, each lost employee has been determined to cost Switzerland County taxpayers \$44,000.00 in turnover costs.

requests per Indiana Criminal Rule 4 and other controlling authority. Thankfully, we have not yet had an event requiring after-hours/overtime administrative support, however our attorneys routinely field calls and provide legal support in real-time long after the Courthouse doors close.

⁵ See *2023 Salary Research Report, Prosecutor Non-Attorney Salary Schedule*: Salaries for Paralegal range: \$44,684.00 to \$57,096.00; Victim Advocate range: \$47,643.00 to \$60,878.00; Office Manager range: \$43,723 to \$55,868.00. I have also included a job posting for a Child Support Caseworker from Marshall County that was recently advertised at a starting salary of \$45,227.00 annually plus benefits for a 35-hour workweek.

⁶ See *2024-2025 Cooperative Agreement for Federal Financial Participation for Prosecuting Attorneys Performing Title IV-D Services*, Page 14.

That analysis was presented via PowerPoint presentation to Switzerland County Council at a public meeting in May, 2023 by the firm ADP.⁷ According to ADP's analysis, each employee lost to "turnover" costs the County \$44,000.00.

The takeaway for future budget purposes is that personnel losses, even sporadic, can result in massive costs. Hypothetically, even a turnover of 25 employees in 12 months would—under ADP's analysis—result in a cost to the County of 1.1 million dollars.⁸ Each of the 3 administrative team members leave it would cost Switzerland County taxpayers an additional \$132,000.00.

When you compare the potential turnover costs to the requested increases, it is cheaper to retain employees than to lose them. Even one lost employee to a more competitive wage would take almost 3 years worth of the requested total *gross* annual salary increase in this request (\$15,000.00) to recoup turnover costs. And it would take almost 6.5 years worth of the requested *net* increase (\$6,700.00) to make up for the lost expertise.

Put simply, paying the wages necessary to retain qualified employees is cheaper than the turnover costs of replacing them. So much cheaper, that it would take between 3-6.5 years worth of increased salaries to match the cost of replacing even a single qualified employee. And if the entire department's administrative team were lost to turnover, turnover costs would be recouped only after 9-19.5 years, based on the turnover cost analysis provided by ADP.

And if you look at the job market, the reality is we probably *cannot* replace qualified employees at all. America currently faces a nationwide shortage of qualified employees in most, if not all industries. Here is a chart below:

⁷ Based on the presentation presented by ADP's analysts, Switzerland County Council appropriated funding for the development of payroll solutions. See *Switzerland County Council Public meeting, May 10, 2023*. Switzerland County Government Facebook Page, recorded meeting. Presentation begins approximately at minute 49:00.

⁸ 25 employee turnovers multiplied by \$44,000.00 per employee turnover is $25 \times \$44,000.00 = \$1,100,000.00$

U.S. Chamber of Commerce

Labor force shortage by industry

June 2024

● Available workers ● Unfilled job openings

Source: U.S. Chamber Analysis, Bureau of Labor Statistics Data



This labor analysis chart was designed by the US Chamber of Commerce, and is available online, with a link provided in the footnotes.⁹ This chart reveals a critical shortage: 1 out of every 2 jobs in the “Professional and Business Services” field remains unfilled. The administrative positions in the Prosecutor’s Office each require such skillsets. As such, it is more difficult—and more expensive—than ever to replace valuable employees with such skillsets.

The loss of key personnel is likely even more expensive in small departments, as a large value of institutional knowledge leaves with each

⁹ See: *Understanding America’s Labor Shortage: The Most Impacted Industries*. Accessed August 9, 2024. <https://www.uschamber.com/workforce/understanding-americas-labor-shortage-the-most-impacted-industries>

turnover. Unlike larger departments, there are only 3 total administrative positions, spread across two departments.

In small teams, the value of each team member's contribution increases. That is true for each staff member in the Prosecutor's Office due to multiple factors. First, as a very small department, each staff member is expected to assume work duties that would be spread across a wider range of positions in larger offices. In the Criminal Division, each staff member is expected to assist in being (1) a Receptionist (2) an Office Manager, (3) Paralegal, and (4) Victim Advocate.¹⁰

Second, there are only 2 administrative employees in the Criminal Division, which makes flexibility and cross-training critical in the event of the complex cases, illness, emergencies, or even simply excused absence due to PTO. That is even more acute in the Child Support Division that houses only 1 administrative position.

Put simply, like most public offices, we must find ways to do more with less. If the old adage is true: "2 is one and 1 is 0," that means these hybrid job duties render each employee critical. WIS study calculates necessary support at 1.1 support staff for each attorney. In an office that features only 2 attorneys, we are already slightly *under* the recommended staffing. In a Child Support Division, 4 support staff is recommended for every attorney. Case volume and competent staffing permit us to operate with a single IV-D Administrator with attorney support. Still, the IV-D Administrator must also serve as their own receptionist, which requires considerable time in fielding communications from the public in addition to the remainder of all job duties.

Fortunately, we currently possess the right team members for this task. Each of our current administrative team members has decades of work history across various industries ranging from corporate executive administrative support to paralegal and office management. For example, our most experienced paralegal has over 30 years in the legal support field. Our newest team member has helped support organizations of all sizes, ranging from the Switzerland County YMCA to Novolex, a multi-national corporation that specializes in packaging.

Our administrative workers are more valuable than ever, as they now have the training and skills to manage complex online case management databases in a largely paperless, digital office. Given the varied prior work

¹⁰ See *Salary Research Report*, Sample Standardized Job Descriptions for a general understanding of various administrative positions common to Prosecutors Offices. Obviously, given our small staff size requires hybrid work duties. However these sample descriptions give general background.

histories, each team member brings unique skills and experience. And cross training with our team helps each other cultivate the skills necessary to fulfill the hybrid positions essential to a small department.

In small teams, employee engagement is critical. Employees who are engaged are 1.8 times less likely to voluntarily leave within 6 months.¹¹ Employee engagement decreases the likelihood of employee turnover, which in turn decreases the likelihood of the County suffering turnover costs.

The good news is we have other resources that can be used to boost engagement—and thus retention—through continued training and learning. Utilizing these funds would not result in budget increases, let alone an additional burden on the General Fund. The dollars in funds 4903 and Fund 1182 are already located within those funds in the excess of requested amounts, and will not result in a negative balance.

The Prosecutor's Office has access to two funding streams that can be utilized for training and staff development. Discretionary funds from 2 different accounts, Fund 4903 and Fund 1182 permit the Prosecutor's Office to build capacity both internally and with other agencies. For instance, the Prosecutors' Office can fund evidence-based training for skills that better help it more successfully deal with child victims, electronic data storage, case management, administrative efficiency, etc. And those funds can also be used to provide police with additional training for basic digital forensics, trauma-informed interviewing, etc. My request is well short of the total amount of available funds. Please note this is the same request I made last year, but was apparently denied as no such funding occurred. I am accordingly requesting Council to create accounts within those funds for training and staff development in the amount of \$8,000.00 and \$4,000.00 respectively.¹² Since those dollars are already located in those funds, I am asking Council to permit my office to use them. Notably, these funds do not revert to the general fund, so they may stay in these accounts indefinitely and are likely to support necessary training and staff development efforts for multiple years with no additional cost to the taxpayer.

As you can see, this budget request is intended to address retention and avoid turnover costs in addition to the requested compensation. Research analysts have revealed multiple drivers of employee retention, that when

¹¹ See *Keeping Your Talent: 7 effective employee retention strategies*, ADP. Accessed online at <https://www.adp.com/-/media/adp/resourcehub/pdf/guidebooks/adp-retention-guide-2022.pdf?rev=7832e806a7154192909c8fa3ff95cf6f> on August 14, 2024. P. 15

¹² See Prosecutor's 2025 Budget Worksheets, including Fund 4903 and 1182.

used in concert, can reduce turnover costs.¹³ While not every retention strategy is applicable for our department, the Prosecutor’s Office employs as many retention strategies as it can.

Weekly after-action sessions and employee “check-ins” are shown to boost employee engagement and thus increase the likelihood of retaining employees.¹⁴ Our office utilizes frequent check-ins with employees: performance evaluations occur in real time based on individual assignments, as well as weekly office-wide staff meetings. Such evaluations include staff evaluations of attorney management and direction, and not just one-way communication of expectations. This strategy has been shown to boost employee engagement. That style of meeting and debrief has been cultivated through careful study of small teams with successful cultures, including high performing military units and successful companies and organizations.¹⁵

Our office provides opportunities for employee growth and development through various resources, such as trainings offered by leading national organizations including the National District Attorneys Association, and the Indiana Internet Crimes Against Children Taskforce. While the work of the Prosecutor is often unsusceptible to the quantitative metrics often found in for-profit firms, and often subject to privilege such as attorney work product, we find qualitative feedback essential.

I can assess performance in this manner without revealing confidential case information.¹⁶ Put simply: our staff is effective, competent, and seeking mastery in skills. Our morale is as high as can be expected, given the traumatic nature of the subject matter, and our team is working daily to reach its full potential.

¹³ See *ADP: Keeping you talent: 7 effective employee retention strategies*, 2022. <https://www.adp.com/-/media/adp/resourcehub/pdf/guidebooks/adp-retention-guide-2022.pdf?rev=7832e806a7154192909c8fa3ff95cf6f> Accessed on August 14, 2024.

¹⁴ ID.

¹⁵ See *The Culture Code: The Secrets of Highly Successful Groups*, author Daniel Coyle, Penguin Random House Publishing UK. Published 2019 ISBN: 9781847941275; *The Culture Playbook: 60 Highly Effective Actions to Help Your Group Succeed*, author Daniel Coyle, Penguin Random House Publishing, LLC New York, published 2022. ISBN: 978-0-593-50091-0; *Extreme Ownership: How Navy SEALs Lead and Win*, authors Jocko Willink and Leif Babin, Published 2017, Gopsons Papers Ltd. At ISBN 978-1-250-18386-6, Chapters 9-11.

¹⁶ See generally: *Ind. Rules of Professional Conduct 3.6; 3.8* obliging attorneys to refrain from extrajudicial statements regarding pending matters unless exempted, as well as specific requirements to ensure that all statements relevant to criminal cases include the reminder that any criminally accused enjoys the presumption of innocent unless and until proven guilty at trial or hearing; *2024-2025 Cooperative Agreement for Federal Financial Participation for Prosecuting Attorneys Performing Title IV-D Services*, sections requiring most case material remain confidential.

Overall Budgetary Impact

In making this request, I am mindful of the big picture: total cost of services for the Switzerland County taxpayer.¹⁷ The impact is minimal, and we may have a potential source of additional funding, due to the wise investments of Switzerland County tax dollars.

First, these funds would come from the County General fund. In 2024, the Switzerland County General Fund provided approximately \$4,467,033.22 in revenue to run operations in Switzerland County. While the Prosecutor's Office is not a "county" department,¹⁸ Indiana law as outlined in I.C. 33-39-6-2 mandates necessary funding for the Prosecutor's office.

We are asking for an additional \$6,700.00 in funds after including my requested pay-cut and guaranteed state child support reimbursement. The total impact to the General Fund budget would be: 0.149%.

¹⁷ At this time, I project no additional expenditures for any budgeted account, despite operating on essentially the same budget amounts granted in 2022. Given inflation, this is evidence that our office is operating with reasonable efficiency despite a cumulative inflation rate of 7.5% between 2022 and 2024. See *Inflation Calculator* at <https://www.usinflationcalculator.com/> accessed on August 14, 2022 analyzing cumulative inflation between 2022 and 2024.

¹⁸ I have previously written extensively about the role of the Prosecutor and according relationship to County offices in a letter to the County Attorney in January 2024. The Prosecuting Attorney has a unique jurisdiction. The prosecuting attorney's authority exists not in each county, but in "each judicial circuit" of the state. Therefore, prosecuting attorneys are not state, county, or township officers, but instead are officers of the circuit. *State ex rel. Pitman v. Tucker*, 46 Ind. 355, 359 (1874); *State v. Patterson*, 181 Ind. 660, 663, 105 N.E. 228, 229 (1914). While Switzerland County Executive has been provided this information as a courtesy upon their request, to be sure, full authority to fund the Office of the Prosecuting Attorney lies with County Council, subject to the metes and bounds of the Indiana Constitution, relevant case law and specific authority under various Indiana statutes, including but not limited to I.C. 33-39-6-2:

"The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit."

Burns Ind. Code Ann. § 33-39-6-2

Here is an easy and clear way to visualize this request where we simplify the numbers for clarity: Imagine it cost a flat \$100.00 dollars a year to fund Switzerland County Operations this request, taking into account the Prosecutor's pay-cut and guaranteed Child Support reimbursement would cost an additional 14.9 cents.¹⁹

The good news is Council could potentially accomplish this request without meaningful impact on the Switzerland County Taxpayer if it leverages a tiny portion of the *interest* earned from its funds during the 2023 fiscal year. Year to date interest from 2023 Switzerland County tax dollars deposited in investments earned \$433,991.08 in *interest*.²⁰ This alone could fund this \$6,700.00 net request from 2025 to 2088.

These requested salaries are a critical component of retaining valuable team members, such that (1) I am requesting the maximum possible pay-cut. from County funds; (2) the turnover costs of even 1 lost employee far outweigh this request multiple times over and (3) the overall budgetary impact to the Switzerland County Taxpayer is effectively minimal should the County leverage even a small piece of its investments. And even if they don't, this request results in pennies on the dollar in terms of overall budgetary impact. Most importantly, this request helps ensure our valuable staff members remain in strong position to continue their service to Switzerland County.

Thank you in advance for your time and commitment in considering this request. All our jobs are very difficult, and you have my respect and gratitude for your service.

Gratefully Yours,

/s/Ryan M. Marshall

Ryan M. Marshall, 32265-69

Prosecuting Attorney, 91st Judicial Circuit

¹⁹ Calculations derived: The net request, after Prosecutor's pay cut and guaranteed Child Support reimbursement of \$6,700 divided by \$4,467,033.22 = 0.00149 multiplied by 100 = .149%; Gross amount \$15,000.00 divided by \$4,467,033.22 = .33%. Naturally the hypothetical posed is designed to simplify the math behind these figures and, under that hypothetical the Prosecutor's pay-cut and Child Support reimbursement would also be scaled down relative to the analysis in the hypothetical.

²⁰ See *2021- 2023 Interest Income Comparison Report*, Public Record Switzerland County Treasurer's Office.

