



**OFFICE OF AUDITOR OF STATE**  
**STATE OF IOWA**

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Rob Sand  
Auditor of State

**NEWS RELEASE**

FOR RELEASE

December 13, 2019

Contact: Marlys Gaston  
515/281-5834

The Office of Auditor of State today released a report on the Iowa Department of Public Safety for the year ended June 30, 2018.

The Iowa Department of Public Safety is a statewide organization charged with promoting the safety of all Iowans from hazards associated with crime, fire and traffic through law enforcement.

Sand recommended the Department review and document the public purpose served by relocation reimbursements to employees with more than one residence and ensure only those costs associated with relocating the employee to the new geographic duty assignment are reimbursed. Prior to authorizing further payments, the Department should establish written policies and procedures, including the requirements for proper documentation of the public purpose served by the disbursements.

A copy of the report is available for review on the Auditor of State's web site at <https://auditor.iowa.gov/reports/audit-reports/>.

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**REPORT OF RECOMMENDATIONS TO THE  
IOWA DEPARTMENT OF PUBLIC SAFETY**

**JUNE 30, 2018**

**Iowa Department of Public Safety**



**OFFICE OF AUDITOR OF STATE**  
STATE OF IOWA

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December 6, 2019

Iowa Department of Public Safety  
Des Moines, Iowa

To the Members of the Iowa Department of Public Safety:

I am pleased to submit to you the Report of Recommendations for Iowa Department of Public Safety for the year ended June 30, 2018. The report includes a finding pertaining to the Department's statutory and other requirements.

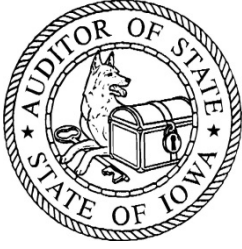
I appreciate the cooperation and courtesy extended by the officials and employees of Iowa Department of Public Safety throughout the audit. If I or this office can be of any further assistance, please contact me or my staff at 515-281-5834.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Sand".

Rob Sand  
Auditor of State

**Iowa Department of Public Safety**



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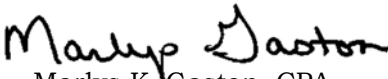
To Stephan K. Bayens, Commissioner of the Iowa Department of Public Safety:

The Iowa Department of Public Safety is a part of the State of Iowa and, as such, has been included in our audits of the State's Comprehensive Annual Financial Report (CAFR) and the State's Single Audit Report for the year ended June 30, 2018.

In conducting our audits, we became aware of an aspect concerning the Department's operations for which we believe corrective action is necessary. As a result, we have developed a recommendation which is reported on the following pages. We believe you should be aware of this recommendation pertaining to the Department's compliance with statutory requirements and other matters. This recommendation has been discussed with Department personnel and their response to this recommendation is included in this report. While we have expressed our conclusion on the Department's response, we did not audit the Iowa Department of Public Safety's response and, accordingly, we express no opinion on it.

This report, a public record by law, is intended solely for the information and use of the officials and employees of the Iowa Department of Public Safety, citizens of the State of Iowa and other parties to whom the Iowa Department of Public Safety may report. This report is not intended to be and should not be used by anyone other than these specified parties.

We would like to acknowledge the many courtesies and assistance extended to us by personnel of the Department during the course of our audits. Should you have questions concerning the above matters, we shall be pleased to discuss them with you at your convenience. Individuals who participated in our audits of the Department are listed on page 11 and they are available to discuss these matters with you.

  
Marlys K. Gaston, CPA  
Deputy Auditor of State

cc: Honorable Kim Reynolds, Governor  
David Roederer, Director, Department of Management  
Glen P. Dickinson, Director, Legislative Services Agency

June 30, 2018

**Findings Reported in the State's Single Audit Report:**

No matters were reported.

**Finding Reported in the State's Report on Internal Control:**

No matters were noted reported.

**Other Finding Related to Internal Control:**

No matters were noted.

**Finding Related to Statutory Requirements and Other Matters:**

Relocation Expense Reimbursement - In June of 2017, Joel Ehler was promoted to Lieutenant and was assigned to District 3 as a District Commander. The District 3 Office is located in Council Bluffs, Iowa. On April 24, 2019, the Department of Safety's Professional Standards Bureau (PSB) received a complaint alleging Iowa State Patrol Lieutenant Joel Ehler was in violation of departmental residency requirements and improperly used relocation expense reimbursement funds paid to him by the State of Iowa.

As a result of the complaint PSB conducted an internal investigation into the allegations. After completing its investigation, the Iowa Department of Public Safety (IDPS) provided an executive summary to the Department of Administrative Services (DAS) for their independent review. After reviewing their internal documents and the executive summary, DAS concluded Lieutenant Ehler complied with all State policies and procedures regarding the relocation reimbursement received and the DPS's residency requirement.

As a result of concerns identified by a newspaper article dated May 7, 2019, the Office of Auditor of State performed procedures to review DAS and DPS policies for relocation, review the actions taken by DPS to investigate the complaint against Lieutenant Joel Ehler, determine if policies were adhered to and determine if actions taken were in the best interest of the taxpayer.

State policy allows for executive branch state employees who are reassigned to a different geographic location to be reimbursed for relocation and related expenses, in accordance with DAS policy 220.100. To be eligible for reimbursement, all of the following conditions must be met:

- The move is for the primary benefit of the State
- A permanent change in duty station
- The individual must change his/her place of personal residence beyond 25 miles. For less than 25 miles, no relocation expenses reimbursement is allowed unless DAS had given prior approval.

The policy allows an employee to elect to relocate temporarily and remain eligible to relocate permanently at any time thereafter for a period up to twelve months from the day before the employee is to report to their new duty station. Temporary living expenses requested for reimbursement during "temporary relocation" shall be included as part of the total amount reimbursable under the State's policy, up to 90 calendar days.

## Report of Recommendations to the Iowa Department of Public Safety

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The events involved proceeded as follows:

- June 30, 2017 – DPS documentation shows Lieutenant Ehler’s effective date of his responsibilities for duty at District 3 was his promotion date of June 30, 2017.
- July through early September 2017 – Lieutenant Ehler obtained temporary lodging in a hotel in Council Bluffs for which he received reimbursement in accordance with the State’s policy.
- Early September 2017 – Lieutenant Ehler secured a residential rental property in Avoca. Because he incurred costs for the rental property within the 90 days allowed by State policy, Lieutenant Ehler was reimbursed the rental cost for September. According to DPS personnel and documentation, the address of the rental property in Avoca became his primary residence and continues to be.
- November 2017 – According to Dallas County Assessor records, Lieutenant Ehler and his wife purchased residential property in West Des Moines. A home was subsequently built on the land. Lieutenant Ehler did not request and did not receive any reimbursements precisely for this transaction.
- July 2018 – Lieutenant Ehler submitted a reimbursement request totaling \$39,465.77 for \$29,233.90 of expenses related selling his home in Adel and \$10,231.87 of income tax assistance. Employees must pay taxes on relocation expenses. At the discretion of the employing department, income tax assistance payments of up to 35% for reimbursement of taxable relocation expenses may be included each time a document is paid. Lieutenant Ehler’s received a rate of 35% on all relocation expense claims. Dallas County Assessor records confirmed the sale date of the home was June 26, 2018. As a result, the sales date is within the 12 months allowed for relocation reimbursement. Lieutenant Ehler received a \$39,465.77 reimbursement in August 2018.

Based on information and documentation we obtained and reviewed, we determined the following:

- Lieutenant Ehler’s changing his primary residence to Avoca was for the primary benefit of the State and was required by his employer.
- The reassignment to the Council Bluffs duty station (District 3) is permanent.
- The remaining requirement to be eligible for relocation expense reimbursement is the individual must change his personal residence beyond 25 miles. Because Lieutenant Ehler currently resides in Avoca during days he is required report to District 3 in Council Bluffs and resides in West Des Moines during his off duty days, it is not clear that this requirement for relocation expense reimbursement was met.

Based on a MapQuest search performed by AOS, mileage between Lieutenant Ehler’s Adel home and the West Des Moines property he and his wife purchased is less than the 25 miles required by policy. However, per discussion with DPS officials, the Department determined Lieutenant Ehler’s primary residence to be Avoca, not Des West Des Moines, and because Avoca is more than 25 miles from Adel, the cost of selling his Adel home was allowable. In addition, DPS officials indicated based on the DAS approval and consistent with Iowa Administrative Code 11-64.9, even if the move is less than 25 miles, the employee is still eligible for reimbursement with DAS approval.



## Report of Recommendations to the Iowa Department of Public Safety

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However, the “Relocation Reimbursement Policy – Statement of Ownership of Principal Residence” form filed with the request for reimbursement did not include the address of any new principal residence. While the relocation expense recap for the costs of selling the Adel home was signed (approved) by a DAS representative, the representative stated she did not know the location of the new residence when she approved the form. She stated she relied on the number of miles documented on the “IRS Tests for Preparing Relocation Expense Claims” form completed by DPS. The change in the number of miles identified by DPS was 69.5 miles.

The DPS’s policy 12-03.04 defines the parameters for residency requirements for all Peace Officers of the IDPS. The reasons stated in the policy are as follows:

- Peace Officers are employed with the understanding that they may be called in times of emergency, disaster or whenever the health or safety of the public is endangered.
- Peace Officers who reside in their assigned area would usually be available for emergency callouts 24 hours a day.
- Response time to an emergency, regardless of duty time or paid on-call status, would be held to a minimum by:
  - Ensuring Peace Officers live and work in their assigned area.
  - Providing a state vehicle to employees to minimize response time in those assigned areas.

Residence, as defined in the policy, is the place declared as an individual’s permanent home. Primary residency factors include, but are not limited to:

- The address listed on the employee’s federal and state tax returns, driver’s license, automobile registration, and voter registration card.
- The employee’s mailing address for bills and correspondence.
- The location of all department issued equipment assigned to that employee.

Guidelines of the policy also states if the employee is a supervisor, the residence shall be within 30 straight-line statute miles of the city limits of which the individual is assigned. Per discussion with Department officials, the DPS does not have a policy or directive regarding where officers spend their off-duty time on scheduled days off. A supervisor such as Lieutenant Ehler, beyond the guidance of DPS’s policy 12-03.04, has no policy-based obligation or directive regarding how or where he would spend his time when he is not on duty and is also not on call. Lieutenant Ehler’s normal work hours are Monday through Friday from 8:00-4:30, when conducting administrative duties at the District Office in Council Bluffs. According to Department personnel, the 30-mile radius requirement is only applicable from Monday through Friday, not on his scheduled days off on Saturday or Sunday.

Our review showed consistently that the “primary residency” factors are that expressly listed supported Avoca as Lieutenant Ehler’s primary residence. The Lieutenant’s Avoca residence is within the 30 straight-line statute miles of Council Bluffs as required by DPS policy. Per interviews conducted on May 1, 2019 by PSB with an individual in Avoca with knowledge, Lieutenant Ehler had been renting the home in Avoca for approximately two years. The individual stated Lieutenant Ehler usually spends Monday through Thursday at the Avoca address and usually spends time with his wife on the weekends.

## Report of Recommendations to the Iowa Department of Public Safety

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During the investigation conducted by PBS in 2019, they learned Lieutenant Ehler's drove his personal vehicle when he visited his family on the weekends. PBS confirmed all of Lieutenant Ehler's issued equipment was located at the residence in Avoca.

PSB also learned during their investigation that upon his promotion, Lieutenant Ehler and his wife searched the Council Bluffs area for a home and employment opportunities for his wife for some time. After exploring all possible options, Lieutenant Ehler's wife did not believe she could remain successful in her present profession in the Council Bluffs area, so they ultimately decided she and her daughter would remain in the Des Moines metropolitan area. Lieutenant Ehler and his wife sold their residence in Adel, Iowa in June 2018, stating that it was an acreage that was too large for Lieutenant Ehler's wife to maintain given his absence. Per the Dallas County Assessor website, the lot size of the Ehler's Adel residence was 3.00 acres while the lot size of their West Des Moines residence was .27 acres.

The PSB investigation concluded Lieutenant Ehler complied with all State of Iowa and departmental policies and procedures for relocation expense reimbursement. PSB concluded the sale of Lieutenant Ehler's Adel home appeared to be a direct result of his establishment of residency in Avoca Iowa and therefore concluded his reimbursement for the costs associated with the sale of his home in Adel, Iowa to be appropriate.

As previously stated, we determined 2 of the 3 criteria for relocation expense reimbursement were clearly met. However, whether the intent of the 3<sup>rd</sup> criteria was met is not clear since the sale of Lieutenant Ehler's home in Adel appears to be more directly related to the purchase of the West Des Moines home, a home not associated with the Lieutenant's duties and not considered his principal residence by the DPS. The sale of the Adel home and purchase of the West Des Moines home appears to have been for convenience. The public benefit for the expense reimbursement for the real estate commission and expenses of selling the Adel home is not evident. In fact, West Des Moines puts Lieutenant further from his station of duty than if he was in Adel. When the public pays for an employee to move due to a geographic reassignment, there is a commonsense assumption the move is to a location within the new geographic area. That assumption is supported by DPS's policy 12-03.04. The points made within that policy provide a "public purpose" for the payment: the employee will be fully residing within their newly assigned area and thus better able to respond to calls when off-duty. But when the move is not to a location within the new geographic area, it is harder to establish a public benefit. Conversely, it is easier to establish a private benefit. In addition, forms related to the reimbursements were not completed in their entirety. That lack of clarity compounds concerns about whether a public purpose exists.

In accordance with Article III, Section 31 of the Iowa Constitution, public funds may only be spent for public benefit and, as defined in an Attorney General's opinion dated April 25, 1979, the public benefits to be derived from the use of public funds is to be clearly documented. According to the opinion, it is possible for certain disbursements to meet the test of serving a public purpose under certain circumstance, although such items will certainly be subject to a deserved close scrutiny. The line between a proper and an improper purpose is very thin.

There is no doubt that relocation is a complicated issue for a public employee and his or her family, and that it often entails some degree of sacrifice. However, that sacrifice was in this manner recognized through promotion in title and pay and is always recognized through its own virtue. It does not inherently create a "public purpose" for the payment of closing costs on the sale of a home, when the amount of time the employee is within their geographically assigned area is not increased, and is arguably decreased, as a result of the sale.

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On a separate issue, in September 2018 Lieutenant Ehler signed a Homestead Tax Credit form for the West Des Moines property indicating he was occupying the home. The Iowa Department of Revenue reported that the Homestead tax credit is a tax credit assigned to the property. Under Iowa law, a married couple is considered joint tenants in common and as such only one spouse needs to occupy the residence for at least six months during the calendar year for the credit to be properly applied. The application and receipt of this tax credit was legal.

Recommendation – When relocation expense reimbursements are requested in instances where the employee has more than one residence, Department officials should ensure only those costs associated with relocating the employee to the new geographic duty assignment are reimbursed. Those are the costs that support the purposes of DPS’s policy 12-03.04. Costs associated with other residences not related to the duty assignment location should not be reimbursed by the Department because they fail to meet the public purpose test. The Department’s consideration of the two residences should be clearly documented. Relocation expense reimbursements should not apply when the residence to which they appear related is not within the newly assigned geographic area. The reimbursements should not apply when the “benefit” becomes subjective to the recipient and discretionary, rather than being plainly in support of the public purposes served by DPS’s policy 12-03.04. The Department should further document the public purpose served by disbursements of this nature before authorizing any further payments. If this practice is continued, the Department should establish written policies and procedures, including the requirements for proper documentation of the public purpose served by the disbursement. In addition, the Department should ensure all documents related to relocation reimbursements are properly completed.

Response – Thank you for taking the opportunity to meet with us to discuss our position regarding the relocation costs and reimbursements necessitated by the Department requiring Lt. Ehler to relocate. At our meeting, you invited the Department to provide a written response detailing our position. The Department believes the authorized relocation reimbursement served a significant and compelling public interest, that Lt. Ehler complied with all residency requirements and policies regarding that reimbursement, and that the Department of Administrative Services approved Lt. Ehler’s reimbursement request under long-standing policies.

The proposed findings do not appear to call into question whether all parties followed the existing policies or that the employee has complied with department-mandated residency requirements. Rather, the proposed findings appear to conclude that the perceived public benefit for the expense reimbursement was not apparent and thus, the expense did not serve a required “public purpose.” The Department respectfully disagrees.

The Department serves the people of Iowa by providing public safety services with leadership, integrity, and professionalism. Part of that mission is furthered by the Iowa State Patrol and its responsibility to preserve lives, rights, and property through courtesy, service, and protection. The Department determines how to best further this mission through its staffing decisions. The public purpose for reimbursement of incurred relocation expenses is to enable those who have demonstrated proven leadership skills to best serve the Department’s mission by strategically placing them where they are needed most. The public purpose of moving expense reimbursement funds permits the best people to be relocated to the areas of greatest need without compelling those leaders to suffer economic loss. The public purpose is supported by reimbursing those individuals for expenses incurred by heeding the call to serve at the sacrifice of relocation. After a competitive application process, the Department determined Lt. Ehler best served the mission by providing his leadership skills as district commander of

## Report of Recommendations to the Iowa Department of Public Safety

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District 3 in Council Bluffs. District 3, covering nine counties, needed a strong, seasoned commander due to its approximate 200 miles of interstate located in the district. Since his relocation, Lt. Ehler has been tasked with coordinating the Department's response to historic flooding in the communities he serves and ably orchestrated public safety efforts with our local law enforcement partners during those times of need.

Additionally, the Department followed DAS policy and the Auditor of State's proposed findings do not appear to conclude otherwise. Section 11-64.9(8A)(2) of the Iowa Administrative Code established by DAS in accordance with Iowa Code section 70A.16 addresses relocation benefits for reassigned state employees and/or newly hired or promoted state employees. To administer the regulations specified in the Administrative Code, DAS developed Procedure 220.100, "Employee Expenses, Relocation Reimbursement Policy." DAS policy provides for several types of relocation reimbursement expenses subject to reimbursement, such as movement of household goods, real estate commission, subsistence expenses, and income tax assistance. The employee must submit documentation the expense occurred, but the policy is void of any requirement the employee document how the reimbursement is utilized. The reimbursement form created and submitted to DAS-State Accounting Enterprises (SAE) containing taxable items are processed through the State's payroll system to ensure the amounts are reported properly on the employee's W-2.

Per DAS policy, the Department reimbursed the employee for the real estate commission on the sale of the employee's former residence, along with income tax assistance equivalent to 35%. Lt. Ehler submitted a reimbursement request for \$29,233.90 for a policy-approved real estate commission expense related to the sale of his former primary residence in Adel. He received reimbursement in the amount of \$10,231.87 of income tax assistance due to the fact the \$29,233.90 was taxable income. This \$10,231.87 is paid to the government, and the \$29,233.90 is to recoup the expense incurred in selling the Adel property. Lt. Ehler did not receive other types of reimbursement expenses potentially available to a relocated employee, such as reimbursement for the movement of household goods. The Department did not reimburse the employee for costs associated with other residences not related to the duty assignment.

Additionally, the proposed findings may not fully consider the employee incurred expenses to move his primary residence to Avoca and that he continues to incur monthly and ongoing expenses as a result of that move while simultaneously providing assistance to a portion of his family who elected to remain in the Des Moines metropolitan area.

The current position of the Auditor of State could also place state agencies in a tenuous position. During the audit consultation, the Auditor of State suggested that if Lt. Ehler had elected to purchase a home in Avoca rather than rent or had his family elected to rent a home in the Des Moines metropolitan area there would be no issue. However, DAS policy does not dictate how the funds received as reimbursement must be expended by the recipient. The requirement regarding use of funds is wholly absent from DAS policy and there exists no authority to permit a state agency to demand proof of how the reimbursement funds were subsequently utilized. Such a demand could potentially raise concerns of inequity if similarly situated employees are expected to incur expenses without reimbursement while others are made whole.

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June 30, 2018

The Auditor of State previously approved this portion of DAS rules on reimbursement of moving expenses. On January 18, 2011, the Auditor of State released a report of relocation benefits for the period of July 1, 2005 through June 30, 2009. This report included a review of the policies established by DAS, including allowable expenses, unallowable expenses, and expense limitations. The audit report stated DAS policy allows for the payment of real estate commission on the sale of the employee's former residence and income tax assistance equivalent to 35% for reimbursable taxable relocation expenses. As part of this report, the Auditor of State tested 91% of the Department of Public Safety's relocation expenses and found no error regarding the use of reimbursement funds. In review of the Findings and Recommendations section of the audit report, there were no recommendations that DAS officials change any policy or otherwise require an employee to purchase a new principal residence in order to be eligible for expenses associated with the sale of a principal residence. Finally, the Department received little direction from Auditor of State staff when guidance was requested on how to proceed in the future to maintain compliance with DAS policy and not run afoul of a subsequent "public purpose" determination. The Department is concerned that a change of course with little explanation or direction for future compliance could create an unstable and unpredictable environment that will be difficult for agencies to follow.

Conclusion – Absent from DPS's response is discussion or acknowledgment of the most important rule and the most important fact related to this finding: DPS's Policy 12-03.04, and the fact that critical information was not disclosed on the form required for reimbursement.

Policy 12-03.04 desires for DPS employees to be in their geographic area of duty as often as possible. It is a wise policy. DPS knows that desire is necessary in order to fulfill its mission: public safety. Some of the response's arguments are difficult to make if DPS acknowledged its own policy. For example, "DAS policy does not dictate how the funds received as reimbursement must be expended by the recipient" wilts when confronted by DPS's own Policy 12-03.04, which states "Response time to an emergency, regardless of duty time or paid on-call status, would be held to a minimum by ensuring Peace Officers live and work in their assigned area."

It is also difficult to assert that DAS policy was followed when information that the policy required was not disclosed to DAS. Even if we were to say that the policy was followed, the act of following policy does not in and of itself ensure the proper use of public funds in every imaginable circumstance. It also does not negate the responsibility of both DPS and AOS to ensure there is a clear public purpose in the use of the funds. Expenditures that go toward staff moving further away from their geographic duty assignment are contrary to Policy 12-03.04 and the public interest. Department officials should establish procedures to ensure relocation reimbursements are made for only those costs associated with relocating an employee to a new geographic duty assignment in line with DPS policy 12-03.04, meaning both on-duty and off-duty times. All forms required for approval of such reimbursements should be complete with all information needed for an informed decision prior to approving the reimbursement.

Had the AOS Office during our 2011 review of relocation reimbursement policies and expenses identified a similar situation (i.e., either failing to disclose critical information, or a transaction supporting a move that puts the employee further away from his or her geographic area of duty, let alone both at once), we would have addressed the situation at that time. That it did not occur then may tend to show such a situation will be rare. Regardless, we respectfully suggest that DPS ensure that future disbursements of taxpayers funds are in accordance with the public purposes of DPS policy 12-03.04, and only made upon all relevant information having been appropriately disclosed. We believe our stance is in the best interests of public safety and taxpayers.

Report of Recommendations to the Iowa Department of Public Safety

Staff

**Staff:**

Questions or requests for further assistance should be directed to:

Marlys K. Gaston, CPA, Deputy  
Deborah J. Moser, CPA, Manager  
Erin J Siestra, Senior Auditor II

Other individuals who participated in the audits include:

Terry J. Erlbacher, Staff Auditor  
Bianca M. Cleary, Staff Auditor