

**WRITTEN NOTICE OF CIRCUMSTANCES OF CLAIM
PURSUANT TO §893.80(1d)(a), WISCONSIN
STATUTES**

TO:

Ashland County
c/o County Clerk Heather W. Schutte
201 Main Street West
Room 202
Ashland, WI 54806

715-682-7000

CLAIMANTS:

Town of La Pointe, as a body politic and representing the individual residents and property owners thereof. The Town of La Pointe Hall is located at 240 Big Bay Road, P.O. Box 270, La Pointe, WI 54850.

Glenn Carlson, Town of La Pointe resident and property owner, with an address of P.O. Box 482, 2229 Hagen Road, La Pointe, WI 54850.

Michael Childers, Town of La Pointe resident and property owner, with an address of P.O. Box 482, 2229 Hagen Road, La Pointe, WI 54850.

Michael Brenna, Town of La Pointe resident and property owner, with an address of P.O. Box 161, 961 Snow Place Road, La Pointe, WI 54850.

Susan Brenna, Town of La Pointe resident and property owner, with an address of P.O. Box 161, 961 Snow Place Road, La Pointe, WI 54850.

John Carlson, Town of La Pointe resident and property owner, with an address of P.O. Box 693, 1271 Big Bay Road, La Pointe, WI 54850.

Aimee Baxter, Town of La Pointe resident and property owner, with an address of P.O. Box 532, 636 Brian's Road, La Pointe, WI 54850.

**TIME/DATE/LOCATION
AND CIRCUMSTANCES
GIVING RISE TO CLAIM:**

On November 15, 2022, the Ashland County Board passed its budget for 2023 at the County seat in Ashland, Wisconsin, which excluded any payments to the Town of La Pointe to purchase law enforcement services from the Town Police Department for the fiscal year of 2023, in lieu of providing direct law enforcement services via the Ashland County Sheriff's Department to the Town of La Pointe. Ashland County and the Town of La Pointe had previously contracted for the County to fund law enforcement services for the Town of La Pointe that the County Sheriff's Department does not provide to the Town, unlike those services it provides to comparable municipalities within the County, ostensibly due to the Town's geographic location on Madeline Island.

As a result, the Town of La Pointe shall be required to either provide and pay for additional law enforcement protection, or go without critical and indispensable law enforcement services. The Ashland County Sheriff's Department has indicated, through words and actions, that it does not intend to provide law enforcement services to the Town of La Pointe that are comparable to those services it will provide to other municipalities within the County in 2023. Rather, the Sheriff's Department has advised that it will provide only extremely limited services comparable to those provided in 2022, while the County was under an agreement to purchase law enforcement services from the Town.

The Ashland County Sheriff's Department, through its Sheriff, has indicated that it does not have the resources or ability to provide adequate law enforcement services to the Town. Wisconsin Statute Section 60.56 authorizes, but does not require, a town to establish a police department. In fact, nothing in Wisconsin Statute Section 60.56 mandates a town to perform any specific law enforcement function, nor does it abdicate the Sheriff's responsibilities as to law enforcement. The Sheriff has several statutory duties to the Town including, but not limited to enforcement of all state laws. See Wis. Stat. Sec. 59.27 (2022-23); 81 Op. Att'y Gen. 24, 24 (1993); *Manitowoc County v. Local 986B*, 168 Wis. 2d 819, 830, 484 N.W.2d 534 (1992); *Andreski v. Industrial Comm'n*, 261 Wis. 234, 240, 52 N.W.2d 135 (1952); 58 Op. Att'y Gen. 72 (1969).

The Sheriff is the chief law enforcement officer of the entire county, not just those areas that are easily accessible or convenient. "Sheriffs and their undersheriffs, and deputies shall keep and preserve the peace in their respective counties and quiet and suppress all affrays, routs, riots, unlawful assemblies and insurrections; for which purpose, and for the service of processes in civil or criminal cases and in the apprehending or securing any person for felony or breach of the peace they and every coroner and constable may call to their aid such persons or power of their county as they consider." Wis. Stat. Sec. 59.28(1) (2021-2022). The Sheriff must provide legally sufficient law enforcement services county-wide, keeping the peace and enforcing state law and county ordinances throughout the county regardless of municipal boundaries. See 75 Op. Att'y Gen. 119, 121 (1986); 61 Op. Att'y Gen. 256, 258 (1972). "Although the Sheriff possesses some discretion as to the manner in which he may carry out his duty to preserve public order, he must respond when called upon to investigate or aid in the apprehension of law breakers and from this duty springs a duty to assist other law enforcement officers in the apprehension and detention of such persons." 50 Op. Att'y Gen. 47, 48 (1961). Even if a Sheriff is experiencing budgetary and/or manpower limitations, they may not abdicate their underlying duty to investigate the full range of criminal activity within the boundaries of a particular town. See 81 Op. Att'y Gen. 24, 24 (1993).

As a direct result of the aforementioned facts and circumstances, the Town of La Pointe, its residents, and its property owners, including the individual claimants, will be paying taxes for County law enforcement services that they are not receiving, either directly from the County Sheriff's Department or through contract between the County and the Town to fund such services to be provided by the Town Police Department. The resulting situation is that the Town of La Pointe and its residents, including the individual claimants, are paying taxes to the County at the same level as every other municipality within Ashland County, but not receiving nearly the same level of law enforcement service(s) as other municipalities. This is in direct violation of Article VIII, Section 1 of the Wisconsin Constitution which requires the rule of taxation to be uniform. There is no territorial equality throughout the taxing district. See *Buse v. Smith*, 74 Wis. 2d 550, 247 N.W.2d 141 (1976). The claimants are injured on an ongoing basis. Unless the County reverses this decision, the claimants will commence an action to seek relief. Such action may be pursuant to the Declaratory Judgment Act, common law certiorari, or other causes of action, without restriction.

The Town of La Pointe, both as a body politic and on behalf of its individual residents and property owners, Glenn Carlson, Michael Childers, Michael Brenna, Susan Brenna, John Carlson, and Aimee Baxter have a claim for damages suffered, due to violations of the United States Constitution, Wisconsin Constitution, all other laws, and general principals of equity.

The County has actual notice of this claim and is intimately aware of the circumstances; however, this Written Notice of Circumstances of Claim is being provided under Wis. Stat. Sec. 893.80(1d)(a) as a prophylactic measure.

Dated this 10th day of January, 2023.

Glenn Carlson
By: Glenn Carlson
Town of La Pointe Board Chair

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2026

DORGENE GOETSCH
Notary Public
State of Wisconsin

Dated this 10th day of January, 2023.

Glenn Carlson
By: Glenn Carlson, Individually

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2026

DORGENE GOETSCH
Notary Public
State of Wisconsin

Dated this 1/10/23 day of January, 2023.

Michael Childers
By: Michael Childers

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2026

DORGENE GOETSCH
Notary Public
State of Wisconsin

Dated this 10th day of January, 2023.

Michael Brenna
By: Michael Brenna

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2024

DORGENE GOETSCH
Notary Public
State of Wisconsin

Dated this 10th day of January, 2023.

Susan Brenna
By: Susan Brenna

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2024

DORGENE GOETSCH
Notary Public
State of Wisconsin

Dated this 1-10 day of January, 2023.

John Carlson
By: John Carlson

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2024

DORGENE GOETSCH
Notary Public
State of Wisconsin

Dated this 1/10/2023 day of January, 2023.

By: 
Aimee Baxter

Subscribed and sworn to before me
this 10th day of January, 2023.

Dorgene Goetsch
Dorgene Goetsch
Notary Public, State of Wisconsin
My commission expires 1-12-2026

DORGENE GOETSCH
Notary Public
State of Wisconsin

NOTE: THIS WRITTEN NOTICE OF CIRCUMSTANCES OF CLAIM IS GIVEN AS REQUIRED BY §893.80(1d)(a), WISCONSIN STATUTES. THIS IS NOT A CLAIM FOR DAMAGES UNDER §893.80(1d)(b), WISCONSIN STATUTES.
