

**REPORT OF THE AUDIT OF THE
BREATHITT COUNTY
SHERIFF**

**For The Year Ended
December 31, 2015**



**MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS
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EXECUTIVE SUMMARY

AUDIT OF THE BREATHITT COUNTY SHERIFF

**For The Year Ended
December 31, 2015**

The Auditor of Public Accounts has completed the Breathitt County Sheriff's audit for the year ended December 31, 2015. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the receipts, disbursements, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

There were no excess fees in the prior year and no excess fees as of December 31, 2015. Receipts decreased by \$34,110 from the prior year and disbursements increased by \$2,316, resulting in a deficit of \$36,426 as of December 31, 2015.

Report Comments:

- 2015-001 The Sheriff's 2015 Fee Account Is In A Deficit Totaling \$36,426
- 2015-002 The Sheriff's State Advancement Was Not Paid In Full At Calendar Year End
- 2015-003 The Sheriff Had \$5,982 In Disallowed Disbursements For Calendar Year 2015
- 2015-004 Election Board Payments Were Not Deposited Into The Official's Fee Account
- 2015-005 The Sheriff Had \$4,375 In Disallowed Disbursements In His 2009 Fee Account That Remain Unpaid
- 2015-006 The Sheriff Had \$339 In Disallowed Disbursements In His 2012 Fee Account That Remain Unpaid
- 2015-007 The Sheriff's Office Lacks Adequate Segregation Of Duties

Deposits:

The sheriff's deposits as of December 3, 2015, were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$197,437

The sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the sheriff's deposits in accordance with the security agreement.

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable John Lester Smith, Breathitt County Judge/Executive
The Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

Independent Auditor's Report

Report on the Financial Statement

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Sheriff of Breathitt County, Kentucky, for the year ended December 31, 2015, and the related notes to the financial statement.

Management's Responsibility for the Financial Statement

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *Audit Guide for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



The Honorable John Lester Smith, Breathitt County Judge/Executive
The Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles

As described in Note 1 of the financial statement, the financial statement is prepared by the Breathitt County Sheriff on the basis of the accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinion on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of each fund of the Breathitt County Sheriff, as of December 31, 2015, or changes in financial position or cash flows thereof for the year then ended.

Opinion on Regulatory Basis of Accounting

In our opinion, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the Breathitt County Sheriff for the year ended December 31, 2015, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

Other Matter

Our audit was conducted for the purpose of forming an opinion on the financial statement taken as a whole. The schedule of excess liabilities over assets is presented for purposes of additional analysis and is not a required part of the financial statement. Such information has been subjected to auditing procedures applied in the audit of the financial statement and, in our opinion, is fairly stated in all material respects in relation to the financial statement taken as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated May 30, 2017, on our consideration of the Breathitt County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance.

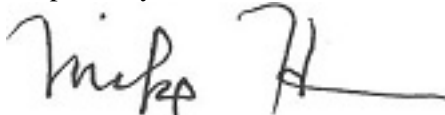
The Honorable John Lester Smith, Breathitt County Judge/Executive
The Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

Other Reporting Required by *Government Auditing Standards* (Continued)

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discuss the following report comments:

- 2015-001 The Sheriff's 2015 Fee Account Is In A Deficit Totaling \$36,426
- 2015-002 The Sheriff's State Advancement Was Not Paid In Full At Calendar Year End
- 2015-003 The Sheriff Had \$5,982 In Disallowed Disbursements For Calendar Year 2015
- 2015-004 Election Board Payments Were Not Deposited Into The Official's Fee Account
- 2015-005 The Sheriff Had \$4,375 In Disallowed Disbursements In His 2009 Fee Account That Remain Unpaid
- 2015-006 The Sheriff Had \$339 In Disallowed Disbursements In His 2012 Fee Account That Remain Unpaid
- 2015-007 The Sheriff's Office Lacks Adequate Segregation Of Duties

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal line extending to the right.

Mike Harmon
Auditor of Public Accounts

May 30, 2017

BREATHITT COUNTY
 RAY CLEMONS, SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2015

Receipts

State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)	\$	4,142	
State Fees For Services:			
Sheriff Security Service	\$	63,503	
Cabinet For Health And Family Services		<u>5,948</u>	69,451
Circuit Court Clerk:			
Fines and Fees Collected			1,189
Fiscal Court			139,213
County Clerk - Delinquent Taxes			25,423
Commission On Taxes Collected			165,535
Fees Collected For Services:			
Auto Inspections		80	
Accident and Police Reports		303	
Serving Papers		11,610	
Carry Concealed Deadly Weapon Permits		<u>2,620</u>	14,613
Other:			
Transports		5,100	
Telecommunications Tax		1,616	
Add-On Fees		14,948	
Miscellaneous		<u>4,215</u>	25,879
Interest Earned			249
Borrowed Money:			
State Advancement			<u>50,000</u>
Total Receipts			495,694

The accompanying notes are an integral part of this financial statement.

BREATHITT COUNTY
 RAY CLEMONS, SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2015
 (Continued)

Disbursements

Operating Disbursements and Capital Outlay:

Personnel Services-

Deputies' Salaries	\$ 26,735
Part-Time Salaries	60,235
Other Salaries	75,976
KLEFPF Salaries	4,791

Employee Benefits-

Employer's Share Social Security	17,964
Employer's Share Retirement	25,206
Employer's Share Hazardous Duty Retirement	38,432
Employer's Workmans Compensation	11,659
Employer's Unemployment Insurance	6,287
Employer Paid Health Insurance	33,686

Contracted Services-

Advertising	136
Vehicle Maintenance and Repairs	17,983
Prisoner Transport	1,381

Materials and Supplies-

Office Materials and Supplies	1,565
Uniforms	6,016

Auto Expense-

Gasoline	29,537
Vehicle Insurance	6,882
Law Enforcement Liability Insurance	5,400

Other Charges-

Telephone	12,214
Dues	417
Postage	22
Computer Expenses	6,182
Bond	3,094
Training Expense	665
Audits	4,500
Miscellaneous	8,361

\$ 405,326

BREATHITT COUNTY
 RAY CLEMONS, SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2015
 (Continued)

Disbursements (Continued)

Debt Service:

State Advancement	\$ 5,966	
Unpaid Obligation - State Advancement	<u>44,034</u>	\$ 50,000

Total Disbursements 455,326

Less: Disallowed Disbursements

Meritorious Award	<u>5,958</u>	
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Total Allowable Disbursements \$ 449,368

Net Receipts 46,326

Less: Statutory Maximum 82,752

Fee Account Deficit at Completion of Audit \$ (36,426)

BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2015

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the sheriff as determined by the audit. KRS 134.192 requires the sheriff to settle excess fees with the fiscal court at the time he files his annual settlement with the fiscal court on or before September 1 of each year. KRS 64.830 requires an outgoing sheriff to settle excess fees with the fiscal court of his county by March 15 immediately following the expiration of his term of office.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Under this regulatory basis of accounting receipts and disbursements are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2015 services
- Reimbursements for 2015 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2015

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the county treasurer in the subsequent year.

C. Cash and Investments

KRS 66.480 authorizes the sheriff's office to invest in obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems (KRS). This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute five percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008, are required to contribute six percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 17.67 percent for the first six months and 17.06 percent for the last six months.

Hazardous covered employees are required to contribute eight percent of their salary to the plan. Hazardous covered employees who begin participation on or after September 1, 2008, are required to contribute nine percent of their salary to be allocated as follows: eight percent will go to the member's account and one percent will go to the KRS insurance fund. The county's contribution rate for hazardous employees was 34.31 percent for the first six months and 32.95 percent for the last six months.

In accordance with Senate Bill 2, signed by the Governor on April 4, 2014, plan members who began participating on, or after, January 1, 2014, were required to contribute to the Cash Balance Plan. The Cash Balance Plan is known as a hybrid plan because it has characteristics of both a defined benefit plan and a defined contribution plan. Members in the plan contribute a set percentage of their salary each month to their own accounts. Members contribute five percent (nonhazardous) and eight percent (hazardous) of their annual creditable compensation and one percent to the health insurance fund which is not credited to the member's account and is not refundable. The employer contribution rate is set annually by the Board based on an actuarial valuation. The employer contributes a set percentage of the member's salary. Each month, when employer contributions are received, an employer pay credit is deposited to the member's account. A member's account is credited with a four percent (nonhazardous) and seven and one-half percent (hazardous) employer pay credit. The employer pay credit represents a portion of the employer contribution.

The sheriff's contribution for calendar year 2013 was \$ 65,869, calendar year 2014 was \$59,065, and calendar year 2015 was \$63,638.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008, must meet the rule of 87 (member's age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55. For hazardous employees who begin participation on or after September 1, 2008, aspects of benefits include retirement after 25 years of service or the member is age 60, with a minimum of 60 months of service credit.

CERS also provides post-retirement health care coverage as follows:

BREATHITT COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2015
 (Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

For members participating prior to July 1, 2003, years of service and respective percentages of the maximum contribution are as follows:

Years of Service	% Paid by Insurance Fund	% Paid by Member through Payroll Deduction
20 or more	100%	0%
15-19	75%	25%
10-14	50%	50%
4-9	25%	75%
Less than 4	0%	100%

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

Hazardous employees whose participation began on or after July 1, 2003, earn 15 dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. Upon the death of a hazardous employee, such employee's spouse receives ten dollars per month for insurance benefits for each year of the deceased employee's hazardous service. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

KRS issues a publicly available annual financial report that includes financial statements and required supplementary information on CERS. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Breathitt County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

BREATHITT COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 3. Deposits (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the sheriff's deposits may not be returned. The Breathitt County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of December 31, 2015, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of December 3, 2015, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured \$197,437

Note 4. Asset Forfeiture Account

The Breathitt County Sheriff's office received forfeiture proceeds from a court order and established an asset forfeiture account. These funds are to be used for law enforcement expenses. The beginning balance in the asset forfeiture account was \$247. The sheriff received \$4,321 and expended \$4,379. As of December 31, 2015, the balance in this account was \$189.

Note 5. Drug Informant Account

The Breathitt County Sheriff's office maintains a drug informant account. The purpose of this account is for undercover operations dealing with illegal drugs. The beginning balance in the drug informant account was \$1,778. The account earned \$5 in interest and expended \$30. As of December 31, 2015, the balance in this account was \$1,753.

BREATHITT COUNTY
 RAY CLEMONS, SHERIFF
SCHEDULE OF EXCESS LIABILITIES OVER ASSETS - REGULATORY BASIS

December 31, 2015

Assets

Cash in Bank		\$ 32,454
Receivables		29,961
Uncollected Receivables:		
Due from Sheriff (Election Board Payments)		1,650
Due from Sheriff (Disallowed Disbursements)		<u>5,958</u>
Total Assets		<u>70,023</u>

Liabilities

Paid Obligations:		
Outstanding Checks	\$ 2,355	
Outstanding Liabilities	<u>60,060</u>	
Total Paid Obligations		<u>\$ 62,415</u>

Unpaid Obligations:		
State Treasurer-		
State Advancement - Remaining Balance	38,954	
Other Accounts-		
Due to 2016 Fee Account for State Advancement	5,080	
Total Unpaid Obligations		<u>44,034</u>

Total Liabilities		<u>106,449</u>
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Total Fund Deficit as of December 31, 2015		<u>\$ (36,426)</u>
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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable John Lester Smith, Breathitt County Judge/Executive
The Honorable Ray Clemons, Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

**Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Breathitt County Sheriff for the year ended December 31, 2015, and the related notes to the financial statement and have issued our report thereon dated May 30, 2017. The Breathitt County Sheriff's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statement, we considered the Breathitt County Sheriff's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Breathitt County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Breathitt County Sheriff's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying comments and recommendations, we identified a certain deficiency in internal control that we consider to be a material weakness.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying comments and recommendations as item 2015-007 to be a material weakness.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With *Government Auditing Standards*
(Continued)

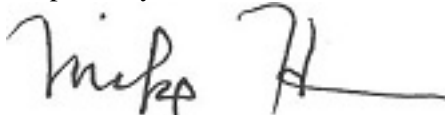
Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Breathitt County Sheriff's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying comments and recommendations as items 2015-001, 2015-002, 2015-003, 2015-004, 2015-005, and 2015-006.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,

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Mike Harmon
Auditor of Public Accounts

May 30, 2017

COMMENTS AND RECOMMENDATIONS

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BREATHITT COUNTY
RAY CLEMONS, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2015

STATE LAWS AND REGULATIONS:

2015-001 The Sheriff's 2015 Fee Account Is In A Deficit Totaling \$36,426

The sheriff's 2015 fee account is in a deficit totaling \$36,426. In order to settle the 2015 fee account, the sheriff needs to collect and pay the following:

Collect:

Personally from Sheriff	
Election Board Payments	\$ 1,650
Disallowed Disbursement - Meritorious Award	5,958
Fund Deficit as of 12/31/15	<u>36,426</u>
 TOTAL TO COLLECT FROM SHERIFF	 <u>\$ 44,034</u>

Pay:

2016 Fee Account for State Advancement	\$ 5,080
State Advancement Balance	<u>38,954</u>
 TOTAL AMOUNTS TO PAY	 <u>\$ 44,034</u>

There are three reasons the sheriff's 2015 fee account is in a deficit. First, the sheriff failed to pay back his 2015 state advancement (See Finding 2015-003 for additional details). This was the first year the sheriff had taken a state advancement and he was unaware of the requirement that the advancement must be paid back by year end. Second, the sheriff had disallowed disbursements totaling \$5,982 in his 2015 fee account (See Finding 2015-004 for additional details). Since the sheriff was unaware the state advancement had to be paid back by year end, he thought he had the funds available to pay the meritorious award. Finally, the sheriff failed to deposit election board payments totaling \$1,650 into his 2015 fee account (See Finding 2015-005 for additional details). The sheriff was unaware the election board payments were not his personally. These issues create liabilities that still exist in the 2015 fee account. The sheriff is also in violation of statutes related to election board payments and salary maximums.

KRS 64.820 requires the fiscal court to "collect any amount due the county from county officials as determined by the audit" or to "direct the county attorney to institute suit for the collection of the amount reported by the Auditor" if the amount due cannot be collected without lawsuit.

We recommend the sheriff deposit funds of \$44,034 to cover the 2015 fee account deficit, disallowed expenditures, and election board payments not deposited. After these funds have been deposited, we recommend the sheriff pay the remaining balance of the state advancement totaling \$38,954 and pay the 2016 fee account \$5,080 for a partial state advancement payment made from the wrong fee account.

Sheriff's Response: The official did not provide a response.

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2015
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2015-002 The Sheriff's State Advancement Was Not Paid In Full At Calendar Year End

The sheriff applied for and received a state advancement totaling \$50,000 for 2015 in accordance with KRS 64.140. The sheriff did not pay his calendar year 2015 state advancement back in full by year end. The sheriff's office lacked the funds necessary to pay all year-end expenses so the state advancement was not repaid in full. The sheriff paid \$5,966 from the 2015 fee account and \$5,080 from the 2016 fee account (See Finding 2015-001 for additional details). State advancements must be paid in full from the fee account in which they are received.

Since this was the first time the sheriff has received a state advancement, he was not aware that the advancement had to be paid in full by year-end and that the advancement could not be repaid from other fee accounts. The sheriff did not fully read and understand the terms and conditions of the state advancement contract. Since the sheriff is in violation of the state advancement contract, he owes the portion of the state advancement still outstanding, which totals \$38,954 and he owes the 2016 fee account \$5,080 for the portion of the 2015 state advancement that was paid using 2016 funds.

KRS 64.140(3) states, "[i]f the total of fees and commissions paid into the State Treasury by the sheriff for any calendar year is insufficient to match the amount of advancements made to the sheriff, his or her sureties and the sheriff in his or her official capacity shall be liable to the state for any excess of advancements over the total of fees and commissions paid into the State Treasury."

We recommend the sheriff ensure all state advancements are paid in full by the end of the calendar year. Further, we recommend the sheriff deposit funds to cover the outstanding state advancement and the amount owed to the 2016 fee account.

Sheriff's Response: The official did not provide a response.

2015-003 The Sheriff Had \$5,982 In Disallowed Disbursements For Calendar Year 2015

The sheriff paid \$5,982 as a meritorious award to one employee during calendar year 2015. This is not an allowable disbursement of the fee account and must be personally paid back to the 2015 fee account. The administrative code stipulates that the sheriff must have excess fees available for the meritorious award to be paid. Since the sheriff did not pay back his 2015 state advancement, he is in a deficit for calendar year 2015 and no excess fees were available for the meritorious award (See Findings 2015-001 and 2015-002).

The sheriff's administrative code states "[m]eritorious award shall be allotted to the Tax Clerk when "excess" funds are available. (Not to exceed 10% gross)." However, there is no statutory authorization allowing a fee officer to independently regulate incentive awards to fee officers' employees. A clerk or sheriff cannot create, on their own and without being in the county's personnel system, an incentive based award or incentive payments for their deputies. This type of incentive award would not be allowable even if excess fees existed. The sheriff is in violation of the administrative code and has spent taxpayer funds on incentive payments that are not allowed by statute.

We recommend the sheriff personally reimburse the 2015 fee account \$5,982 paid erroneously as a meritorious award. Further, we recommend the sheriff review and update his administrative code to be in compliance with statutes regarding fee official incentive payments.

Sheriff's Response: The official did not provide a response.

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2015
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2015-004 Election Board Payments Were Not Deposited Into The Official's Fee Account

The sheriff received \$1,650 during calendar year 2015 for his service on the local election board. The election board payments were not deposited into the sheriff's fee account. The sheriff was not aware that these payments are not his personally and are, if fact, part of his official duties as sheriff. As a result, the sheriff personally owes \$1,650 back to the 2015 fee account and is in violation of regulations related to election board payments and salary maximums. KRS 117.035 outlines the regulations applicable to local election boards and KRS 64.5275 establishes salary maximums for fee officials. We recommend the sheriff personally reimburse the 2015 fee account \$1,650 for the total amount of payments received as an election board officer.

Sheriff's Response: The official did not provide a response.

2015-005 The Sheriff Had \$4,375 In Disallowed Disbursements In His 2009 Fee Account That Remain Unpaid

The prior year audit noted that the sheriff had \$4,375 of disallowed disbursements in his 2009 fee account. The sheriff wrote a check in the amount of \$4,375 to a county employee's mother for an accident involving a volunteer deputy, perpetrator, and her vehicle. Since the perpetrator did not have personal vehicle insurance, the sheriff paid the owner the NADA book value of the totaled vehicle. This was not a necessary expense in the operation of the sheriff's office and was disallowed. These disallowed disbursements remain unpaid.

In Funk v. Milliken, 317 S.W.2d 499 (KY 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal in nature.

In addition, KRS 64.820(1) states, "[t]he fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit." Section (2) states, "[i]n the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report."

We recommend the sheriff remit personal funds of \$4,375 to the fiscal court for repayment of the disallowed disbursement. We recommend the sheriff monitor his disbursements to ensure all disbursements are allowable. We will refer this finding to the Breathitt County Attorney.

Sheriff's Response: The official did not provide a response.

2015-006 The Sheriff Had \$339 In Disallowed Disbursements In His 2012 Fee Account That Remain Unpaid

The prior year audit noted that the sheriff had \$339 in disallowed disbursements which includes \$25 in donations, and \$314 in books purchased for students. These were not necessary expenses in the operation of the sheriff's office and were disallowed. These disallowed disbursements remain unpaid.

BREATHITT COUNTY
RAY CLEMONS, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2015
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2015-006 The Sheriff Had \$339 In Disallowed Disbursements In His 2012 Fee Account That Remain Unpaid
(Continued)

In Funk v. Milliken, 317 S.W.2d 499 (KY 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal in nature.

In addition, KRS 64.820(1) states, "[t]he fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit." Section (2) states, "[i]n the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor or certified public accountant to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report."

We recommend the sheriff remit personal funds of \$339 to the fiscal court for repayment of the disallowed disbursement. We recommend the sheriff monitor his disbursements to ensure all disbursements are allowable. We will refer this finding to the Breathitt County Attorney.

Sheriff's Response: The official did not provide a response.

INTERNAL CONTROL - MATERIAL WEAKNESS:

2015-007 The Sheriff's Office Lacks Adequate Segregation Of Duties

The sheriff's office lacks adequate segregation of duties due to the responsibilities of receiving, recording, depositing, and reconciling cash being delegated to the same individual. Since only one person performs these functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. The functions of receiving, recording, depositing, and reconciling cash should be separated whenever possible in order to decrease the risk of undetected errors, misstatements, or fraud. If the sheriff cannot segregate duties due to small staff size, he should implement and document compensating controls to limit the risk associated with inadequate segregation of duties. Examples of compensating controls include: the sheriff comparing daily checkout sheet to receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, performing surprise cash counts, reviewing invoices prior to payment, and reviewing all financial reports. The sheriff could document his review process by initialing reports and supporting documentation. We recommend the sheriff segregate the duties of receiving, recording, depositing, and reconciling cash or implement and document compensating controls to offset this control issue.

Sheriff's Response: The official did not provide a response.