REPORT OF THE AUDIT OF THE FLEMING COUNTY SHERIFF

For The Year Ended
December 31, 2015

MIKE HARMON
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EXECUTIVE SUMMARY

AUDIT OF THE
FLEMING COUNTY SHERIFF

For The Year Ended
December 31, 2015

The Auditor of Public Accounts has completed the Fleming 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:

Excess fees increased by $17,859 from the prior year, resulting in excess fees of $33,901 as of December 31, 2015. Receipts decreased by $74,484 from the prior year and disbursements decreased by $92,343.

Report Comments:

2015-001 The Fourth Quarter Report Was Not Submitted To The Department For Local Government
2015-002 The Sheriff Did Not Present An Annual Settlement To The Fiscal Court And Did Not Pay Excess Fees Of $33,901 For Calendar Year 2015
2015-003 The Sheriff Comingled Charitable Contributions With Donations
2015-004 The Sheriff Comingled Donations With Forfeiture Funds
2015-005 The Sheriff's Office Did Not Process Payroll Transactions Correctly
2015-006 The Sheriff's Office Lacks Segregation Of Duties Over Fee Receipts And Disbursements
2015-007 Financial Information Presented To Auditors Was Inaccurate And Required Material Adjustments

Deposits:

The sheriff's deposits were insured and collateralized by bank securities.

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Gary Kinder, Fleming County Sheriff
Members of the Fleming 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 Fleming 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.

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The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Gary Kinder, Fleming County Sheriff
Members of the Fleming 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 Fleming 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 Fleming 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 Fleming 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 Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated April 5, 2017 on our consideration of the Fleming 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.

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

2015-001 The Fourth Quarter Report Was Not Submitted To The Department For Local Government
2015-002 The Sheriff Did Not Present An Annual Settlement To The Fiscal Court And Did Not Pay Excess Fees Of $33,901 For Calendar Year 2015
2015-003 The Sheriff Comingled Charitable Contributions With Donations
2015-004 The Sheriff Comingled Donations With Forfeiture Funds

The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Gary Kinder, Fleming County Sheriff
Members of the Fleming County Fiscal Court

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

2015-005 The Sheriff's Office Did Not Process Payroll Transactions Correctly
2015-006 The Sheriff's Office Lacks Segregation Of Duties Over Fee Receipts And Disbursements
2015-007 Financial Information Presented To Auditors Was Inaccurate And Required Material Adjustments

Respectfully submitted,

Mike Harmon
Auditor of Public Accounts

April 5, 2017

FLEMING COUNTY
GARY KINDER, 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)	$ 19,375	
Finance and Administration Cabinet	64,619	
Sheriff Security Service	8,784	$ 92,778
Circuit Court Clerk - Fines and Fees Collected		2,582
Fiscal Court		69,359
County Clerk - Delinquent Taxes		12,317
Board of Education - School Resource Officer		38,681
Commission On Taxes Collected		206,413
Fees Collected For Services:		
Auto Inspections	5,999	
Accident and Police Reports	370	
Serving Papers	18,626	
Carrying Concealed Deadly Weapon Permits	4,815	29,810
Other:		
Add-On Fees	25,495	
Telecommunications Tax	3,778	
Contract Buyout	7,099	
Miscellaneous	450	36,822
Interest Earned		316
Borrowed Money:		
State Advancement	200,000	
Bank Note	27,000	227,000
Total Receipts		716,078

FLEMING COUNTY
GARY KINDER, 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	$ 173,395		
Part-Time Salaries	20,306		
KLEFPF Gross Salaries	15,719		
Court Salaries	68,146		
Employee Benefits-			
Employer's Share Retirement	11,581		
Contracted Services-			
Advertising	591		
Vehicle Maintenance and Repairs	8,411		
Communications	6,627		
Contract Transport	1,524		
Contract Labor	4,225		
Materials and Supplies-			
Office Materials and Supplies	7,151		
Uniforms	3,660		
Auto Expense-			
Gasoline	17,675		
Other Charges-			
Computer Expense	821		
Training	1,860		
Fiscal Court Fees	3,355		
Dues	459		
Postage	787		
Miscellaneous	413		
Employment Contract Payout	11,548		
Capital Outlay-			
Office Equipment	2,536		
Vehicles	16,466	$ 377,256	
Debt Service:			
State Advancement	200,000		
Notes	27,095	227,095	
Total Disbursements			$ 604,351

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

FLEMING COUNTY
GARY KINDER, SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2015
(Continued)

Net Receipts	$ 111,727
Less: Statutory Maximum	76,841
Excess Fees	34,886
Less: Training Incentive Benefit	985
Excess Fees Due County for 2015 *	$ 33,901

* - The sheriff presented a check in the amount of $23,723 to the fiscal court for excess fees on April 5, 2017.

FLEMING 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).

FLEMING 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, 2013, 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 $23.405, calendar year 2014 was $32,921, and calendar year 2015 was $11,581.

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:

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 Fleming 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.

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 Fleming 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.

Note 4. Drug Forfeiture Account

The Fleming County Sheriff's office maintains a drug forfeiture account. This account is funded by proceeds from the confiscation, surrender or sale of real personal property involved in drug related convictions. The beginning balance in this account was $742. During 2015, the sheriff's office received $940 in restitution and interest. During the year, $502 was expended for allowable purposes, leaving a balance of $1,180 as of December 31, 2015.

Note 5. Donation Account

The Fleming County Sheriff's office maintains a donation account to account for private and public donations to the sheriff's office. The beginning balance in this account as of January 1, 2015 was $241. During the year, the sheriff's office received $100 and there were no disbursements, leaving a balance of $341 in the donation account as of December 31, 2015.

Note 6. Lease Agreements

A. On February 21, 2014, Fleming County Fiscal Court entered into a $60,317 lease agreement on behalf of the Fleming County Sheriff's office to purchase two vehicles. Principal and interest payments are due by the 20th of each month and are paid by the sheriff's office. The principal outstanding was $33,612 as of December 31, 2015.

B. On April 16, 2015, the sheriff's office entered into a lease agreement for a copier and a printer. The lease agreement requires a base monthly payment of $152 for 60 months, plus variable charges for the number of images over the base amount. The outstanding balance was $7,888 as of December 31, 2015.

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*

MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Gary Kinder, Fleming County Sheriff
Members of the Fleming 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 Fleming County Sheriff for the year ended December 31, 2015, and the related notes to the financial statement and have issued our report thereon dated April 5, 2017. The Fleming 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 Fleming 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 Fleming County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Fleming 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 certain deficiencies in internal control that we consider to be material weaknesses.

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 deficiencies described in the accompanying comments and recommendations as items 2015-006 and 2017-007 to be material weaknesses.

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Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Fleming 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 through 2015-005.

Sheriff's Responses to Findings

The Fleming County Sheriff's responses to the findings identified in our audit are described in the accompanying comments and recommendations The sheriff's responses were not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on them.

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,

Mike Harmon
Auditor of Public Accounts

April 5, 2017

COMMENTS AND RECOMMENDATIONS

FLEMING COUNTY
GARY KINDER, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2015

STATE LAWS AND REGULATIONS:

2015-001 The Fourth Quarter Report Was Not Submitted To The Department For Local Government

The fourth quarter report (year-end financial statement) was not submitted to the Department for Local Government's (DLG) State Local Finance Officer. DLG mailed the sheriff a delinquent notice dated March 17, 2016, and the report still has not been submitted. The sheriff did not ensure that he or his staff submitted the fourth quarter report to DLG. The sheriff's financial condition is not known to the State Local Finance Officer and DLG, the regulatory agency for county officials. KRS 68.210 authorizes the State Local Finance Officer to require officials from local governments to submit financial reports. Quarterly reports are to be submitted by the twentieth day following the close of the quarter in order to satisfy this requirement. We recommend the sheriff ensure quarterly reports are prepared and submitted by the twentieth day of each month following the close of the quarter.

Sheriff's Response: No response.

2015-002 The Sheriff Did Not Present An Annual Settlement To The Fiscal Court and Did Not Pay Excess Fees Of $33,901 For Calendar Year 2015

The sheriff did not present an annual settlement to the fiscal court and did not pay $33,901 in excess fees for calendar year 2015. Before the sheriff can pay excess fees in full, he will need to collect $1,362 from the 2016 fee account for the January 2016 vehicle lease payment paid from the 2015 account, and collect $8,831 of commissions from the 2015 tax account per the 2015 tax settlement audit. These receivables, when added to the 2015 current bank account balance of $23,708, will provide the sheriff with the $33,901 needed to pay excess fees in full. The sheriff did not provide a reason for failing to ensure an annual settlement was presented to the fiscal court and for not making any excess fee payments to fiscal court. The fiscal court provides funds to the sheriff's office when necessary, therefore it is important for them to know the financial condition of the sheriff's office. Without presenting an annual settlement, the fiscal court is unaware of the financial condition of the sheriff's office. Furthermore, excess fees are budgeted as income for the fiscal court, and not receiving excess fees timely impacts the fiscal court's ability to provide budgeted services. KRS 134.192(1) requires the sheriff to settle his accounts annually with the county no later than September 1 of each year. KRS 134.192(11) requires a complete statement of funds received by and expenditures made from his office. KRS 134.192(12) requires the sheriff to pay the governing body of the county excess fees at the time the annual settlement is filed. The sheriff's annual settlement and excess fees payment should have been made by September 1, 2016. We recommend the sheriff establish procedures to ensure an annual settlement is presented to the fiscal court by September 1 of each year and excess fees be paid at that time. Excess fee settlements are subject to correction by audit, so even though the receivables increased the amount of excess fees owed after September 1, the sheriff should have already paid the excess fees owed per his annual settlement.

Sheriff's Response: No response.

STATE LAWS AND REGULATIONS: (Continued)

2015-003 The Sheriff Comingled Charitable Contributions With Donations

The sheriff comingled charitable contributions with donations by depositing $900 of charitable contributions in the donation account. $800 of this amount was spent during calendar year 2015. The sheriff did not know charitable contributions collected for civic activities should remain separate from donations received for official use of the sheriff's office. Charitable contributions can be used for civic activities that would not be allowable activities for a sheriff's office. Comingling the funds gives the appearance that official funds have been used for unallowable purposes. When the charitable contributions were deposited to the sheriff's donation account, the funds became subject to statutory requirements. In this case, the charitable contributions provided a Christmas shopping trip for some local children. KRS 61.310(8)(b) states "[a]ny donation to a sheriff shall only be used to further the public purpose of the office. . ." and KRS 61.310(8)(c) requires all donations to be spent in the same manner as other funds of the sheriff's office. This means that donations to a sheriff's office can be used only for purposes that would otherwise be allowable expenses of a sheriff's office. Based on this criteria, a Christmas shopping trip does not qualify as an allowable expense of a sheriff's office. We recommend the sheriff use the donation account only for donations accounted for under the requirements of KRS 61.310. The sheriff can be personally involved in collecting charitable contributions for civic activities, but those funds should remain separate from the sheriff's official funds.

Sheriff's Response: No response.

2015-004 The Sheriff Comingled Donations With Forfeiture Funds

The sheriff comingled donations with forfeiture funds by transferring $241 from the donation account to the forfeiture account. The sheriff asked the donor to change the intent of the donation so that the funds could be used for drug enforcement. The sheriff did not realize that donations must be used for their original intent. Funds that were donated for a specific reason are at risk for being used for unintended purposes. The forfeiture account is for funds received through the court system for cases involving illegal drug activity under KRS chapter 218A. The donation account is for funds donated by a community member or business to be used for a specific purpose under KRS 61.310. KRS 61.310(8)(a) requires any donation of money or goods to a sheriff's office list the name and address of the donor, a description and value of the donation, and any purpose for which the donation was given. The original purpose of the $241 donation was to buy ammunition. We recommend the $241 be returned to the donation account to be expended for the purpose of the original donation. We further recommend the sheriff maintain donations and forfeited funds separately as required by KRS chapter 218A and KRS 61.310.

Sheriff's Response: Will be put back into donation acc. Used for ammo.

STATE LAWS AND REGULATIONS: (Continued)

2015-005 The Sheriff's Office Did Not Process Payroll Transactions Correctly

Payroll testing revealed the following:

- The sheriff did not pay to employees all earned overtime. The sheriff was allowing only two hours of paid overtime each pay period, regardless of how many overtime hours were worked. Any overtime hours above two were credited as compensatory time on an hour-per-hour basis, rather than at time-and-one-half.
- The sheriff paid the former bookkeeper for bookkeeping and training services during the year. The former bookkeeper was employed by the county attorney's office, and therefore already employed by the county. The payments were made without any tax withholdings, as if the former bookkeeper was a contract labor employee. An individual cannot be both an employee and contract labor for the same employer.

The sheriff was unaware of the overtime rules in regard to overtime calculation and compensation. The sheriff was unaware of contract labor rules in regard to employee compensation. Employees lost income due to not being fully compensated for overtime worked. The former bookkeeper potentially lost overtime wages that could have been earned if all of her work hours for the time periods in question had been considered employee wages. Also, the former bookkeeper did not pay withholdings on the contracted wages, which affects tax liability.

KRS 337.285 requires employees to be compensated for hours worked in excess of 40 per week at a rate of one-half times the hourly wage rate. Employers are also required to obtain written statements from employees indicating that they choose to accept compensatory time in lieu of payment for overtime. Overtime must be paid if worked in absence of the employee's written statement. The Internal Revenue Service does not allow an individual to be both an employee and a contracted laborer for the same employer. Because employees of the county attorney's office and the sheriff's office both report employee wages under the fiscal court's employer identification number, they would be considered the same employer. Furthermore, all wages were subject to tax withholdings and should have been reported on a W-2 form.

We recommend the sheriff comply with KRS 337.285 as it pertains to overtime calculation and compensation. We note that the Kentucky Labor Cabinet conducted an investigation of the sheriff's compliance with Kentucky's wage and hour laws in 2016. This investigation covered calendar year 2015 and the first half of calendar year 2016. The Kentucky Labor Cabinet determined the sheriff owed back wages to three employees. These wages were paid from the 2016 fee account, along with a $250 penalty. The penalty should have been paid from personal funds and will be addressed in the audit of the 2016 fee account. We recommend the sheriff process any future payments to the former bookkeeper as regular payroll transactions with tax withholdings deducted and include these wages on a W-2 form. We also recommend that the sheriff consult with the county treasurer to determine the correct handling of these payments in regard to any potential overtime.

Sheriff's Response: Was told could be paid out of Fee acc. by Labor Cabinet, will be paid back to Fee acc. by myself.

FLEMING COUNTY
GARY KINDER, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2015
(Continued)

INTERNAL CONTROL - MATERIAL WEAKNESSES:

2015-006 The Sheriff's Office Lacks Segregation Of Duties Over Fee Receipts And Disbursements

The sheriff's office lacks segregation of duties over fee receipts and disbursements. The bookkeeper, deputy clerk, and occasionally the sheriff, all collect fee receipts. The bookkeeper prepares a daily bank deposit and reconciles the daily receipts to the income/expense report, and posts items to the receipts ledger. There are initials on the deposit ticket, but no explanation of which initials are those of the preparer, and which belong to the reviewer. The bookkeeper prepares the monthly and quarterly reports. The bookkeeper prepares checks for payment of expenses, and posts checks to the disbursements ledger. The bookkeeper signs the majority of the checks, with the sheriff signing only occasionally. Only one signature is required on the checks. The bookkeeper prepares the monthly bank reconciliation, although there is nothing documented to determine who prepared the reconciliation or that it was reviewed. Also, the reconciliation is only a restatement of bank activity and is not reconciled to the receipts ledger, the disbursements ledger, or the monthly financial reports. Reporting errors would have been found on a monthly basis if a true reconciliation had been performed by the sheriff's office.

The sheriff has not structured his office in a way that segregates duties and responsibilities. The sheriff has also not provided sufficient oversight of the financial reporting process. Without internal controls in place, there is no way to know the fee account financial information is accurate. Internal controls should be implemented and duties should be segregated to decrease the risk of misappropriation of assets, errors, and inaccurate financial reporting to external agencies. By not segregating these duties, there is an increased risk of undetected misappropriation of assets either by error or fraud. Internal controls and proper segregation of duties protect employees and the sheriff in the normal course of performing their daily responsibilities. Good internal controls dictate the same employee should not receive payments, prepare deposits, and post to the receipts ledger; the same employee should not prepare monthly reports, sign checks, and post to the disbursements ledger; and the same employee should not deposit funds, sign checks, post to ledgers, and prepare bank reconciliations and monthly reports.

We recommend the sheriff's office implement internal controls and segregate duties as much as possible. Employees receiving payments and preparing deposits should not be posting to the receipts ledger and preparing bank reconciliations. Employees preparing and signing checks should not be posting to the disbursements ledger and preparing bank reconciliations. A proper segregation of duties may not be possible with a limited number of employees, and in that case, the sheriff could take on the responsibility of preparing or reviewing the daily deposits, receipts and disbursements ledgers, monthly reports, and bank reconciliations. These reviews must be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information does not provide internal control. Furthermore, the sheriff could require dual signatures on all checks, with one signature being the sheriff's.

Sheriff's Response: No response.

INTERNAL CONTROL - MATERIAL WEAKNESSES: (Continued)

2015-007 Financial Information Presented To Auditors Was Inaccurate And Required Material Adjustments

The fourth quarter report, bank reconciliation, receipts ledger, and disbursements ledger presented to auditors contained material errors. The sheriff did not ensure that he or his staff prepared correct quarterly reports, bank reconciliations, and ledgers. Inaccurate financial records provide misleading information to the users of the information. Auditors compared the fourth quarter report, receipts ledger, and disbursements ledger to the bank statement receipts and disbursements and discovered the following:

- Excess fees per the fourth quarter report were $119,332, but actual excess fees were only $33,901 per the audited financial statement.
- Receipts per the fourth quarter report differed from the receipts ledger by $121,371.
- Disbursements per the fourth quarter report differed from the disbursements ledger by $172,646.

Because of the material variances between the fourth quarter report and ledgers, auditors determined the ledgers provided more accuracy when compared to the bank statement receipts and disbursements and used ledgers in place of the fourth quarter report. Even though the ledgers provided more accuracy, the ledgers still needed to be adjusted in following significant amounts:

- Thirteen adjustments to the sheriff’s receipts ledger totaling $31,247.
- Seven adjustments to the sheriff’s disbursements ledger, totaling $16,116.
- Both of these adjustments include over $16,000 of disbursements posted to the receipts ledger.

Auditors also compared the sheriff’s bank reconciliations to the ledgers and bank balance. It was determined the bank reconciliation is only a restatement of the bank activity, and that the bank receipts, disbursements, and ending balance were not actually reconciled to the ledger receipts, disbursements, and excess fees. As an example, the sheriff’s final bank reconciliation includes an amount as an uncleared check that is labeled as a deposit, but was actually a 2016 fee account item, and did not need to be included in the 2015 bank reconciliation. KRS 43.075(3) requires that persons performing an audit determine if the county official is accurately recording receipts and expenditures. Auditors are responsible for determining the accuracy of the sheriff’s financial information, but are not responsible for correcting the sheriff’s financial information. Errors in financial reporting can be corrected during the audit; however, it is time-consuming for auditors, costly for the official, and brings into question the qualifications of those preparing the information. In order to present the most accurate information possible to regulatory agencies, the fiscal court, and the public, we recommend the sheriff implement procedures for ensuring the accuracy of financial information. Ledgers should be posted accurately and the fourth quarter report should agree to ledgers and the bank balance. Receipts and disbursements ledgers should be reconciled to the bank receipts and disbursements on a monthly basis. This would reduce reporting errors.

Sheriff’s Response: No response.