



Auditor of Public Accounts
Mike Harmon

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Contact: **Michael Goins**
Michael.Goins@ky.gov
502.564.5841
502.209.2867

Harmon Releases Audit of Powell County Sheriff's Office

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2015 financial statement of Powell County Sheriff Danny Rogers. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account, and the other reporting on the audit of the fee account used to operate the office.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements, and excess fees of the Powell County Sheriff in accordance with accounting principles generally accepted in the United States of America. The sheriff's financial statement did not follow this format. However, the sheriff's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 sheriff audits in Kentucky.

As part of the audit process, the auditor must comment on noncompliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comments:

The sheriff was not involved in the daily financial activities of his office: The sheriff was not involved in the daily financial activities of his office. Numerous weaknesses in the control environment of the sheriff's office significantly increase the risk of fraud and misappropriation of funds, and decrease the accuracy of records provided. This condition is a result of poorly designed policies and procedures; inconsistent, incomplete, and inaccurate implementation of controls; and lack of management oversight and involvement. The noted weaknesses, such as inadequate segregation of duties and inaccurate or incomplete financial reports and ledgers, could affect the sheriff's ability to ensure that financial data is recorded, processed, and reported in an accurate and

reliable manner. This impacts the sheriff's ability to ensure that assets were sufficiently safeguarded. The cumulative effect of these control weaknesses increases the risk of material misstatement caused by error or fraud.

Management has a responsibility to design and implement internal controls that provide reasonable assurance regarding the reliability of financial reporting. Internal control is a management process for keeping an entity on course in achieving its business objectives. Internal controls should ensure resources are protected from waste, loss, and misuse and ensure reliable data is obtained, maintained, and fairly disclosed. Entities are required to establish controls to provide reasonable assurance that the recording, processing, and reporting of data is properly performed within the framework of financial management systems.

The following recommendations are supplemented by additional recommendations presented throughout this report:

- The sheriff should be more diligent in the day-to-day operations of his office by providing direct oversight of financial reporting for all receipts and disbursements.
- The sheriff should implement internal controls over the financial accounting system that ensure an adequate internal control structure, including management oversight; provide reasonable assurance that assets are safeguarded and transactions are processed in accordance with applicable laws and regulations; and ensure transactions are recorded, reconciled, processed, and summarized to permit the preparation of reliable financial data.
- The sheriff should segregate duties so that no one person can both create and conceal fraudulent activity or commit an undetected material error.
- The sheriff should train employees to ensure that each employee understands both the activities and the accounting principles needed for their positions.
- The sheriff should implement sufficient supervisory review of key functions and activities, and ensure managers clearly understand their roles in the supervisory process. All supervisory reviews should be evidenced in writing.

Sheriff's Response: As Sheriff I am ultimately available for all responsibilities of this office 24-7. I am always aware of activities within my office, not only deputies, but clerks as well. Due to lack of deputies and short staffed, I attempt to rotate my presence in my office as well as work on the road. My office clerk's always inform me the status of daily monetary and activity reports within the office environment.

The sheriff's office lacks adequate segregation of duties: The sheriff's office lacks adequate segregation of duties. The sheriff's bookkeeper collects payments from customers, prepares deposits, writes checks, posts transactions to the receipts ledger, post checks to the disbursements ledger, and prepares monthly and quarterly reports. The sheriff or another employee did not document oversight of any of these activities.

The sheriff indicated this was caused by a limited budget which restricts the number of employees the sheriff can hire or delegate duties to. A lack of oversight could result in the undetected misappropriation of assets and inaccurate financial reporting to external agencies, such as the Department for Local Government.

Segregation of duties over various accounting functions such as opening the mail, preparing deposits, recording receipts and disbursements, and preparing monthly reports, or the implementation of compensating controls, is essential for providing protection from asset misappropriation and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities. The sheriff should separate the duties involved in receiving cash, preparing deposits, posting to ledgers, preparing monthly bank reconciliations, and comparing financial reports to ledgers. If this is not feasible due to a limited budget, cross checking procedures could be implemented and documented by the individual performing the procedure.

Sheriff's Response: There is not enough money in our budget to honor this request. In most instances the two clerk's do discuss daily activities.

The sheriff did not settle his 2015 fee account or present a final settlement to the fiscal court:

The sheriff did not settle his 2015 fee account and he did not present a final settlement to the fiscal court for calendar year 2015. In order to settle the account, the sheriff should collect and pay the following:

Assets

Cash in Bank		\$ 10,413
Receivables:		
Due from Sheriff - Disallowed Disbursements	\$ 875	
Due from 2015 Tax Account - Commissions	<u>2,624</u>	
Total Receivables		<u>3,499</u>
Total Assets		13,912

Liabilities

Unpaid Obligations:		
Due to 2016 Fee Account - Deposited into 2015 in Error	2,663	
Due to Fiscal Court - Serving Paper Fees	<u>3,670</u>	
Total Unpaid Obligations		<u>6,333</u>
Excess Fees Due County for 2015		<u>\$ 7,579</u>

The sheriff does not have procedures in place to ensure that an annual settlement is presented to the fiscal court and that excess fees are properly paid. Also, the sheriff does not have procedures in place to ensure that disbursements are paid from the appropriate bank accounts. The failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. After all amounts are collected and paid, the sheriff will have excess fees due to the county in the amount of \$7,579. KRS 134.192 states that each sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year. A complete statement of all funds received by his or her office for official services, showing separately the total income received by

his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and a complete statement of all expenditures of his or her office, including his salary, compensation of deputies and assistants, and reasonable expenses. We recommend the sheriff take the necessary steps to ensure the amounts above are collected and paid as soon as possible. We further recommend the sheriff settle his accounts before September 1 of each year hereafter.

Sheriff's Response: We are waiting to collect fees from Districts to resolve this issue as soon as possible.

The sheriff did not settle his 2014 fee account: The sheriff did not settle his 2014 fee account. In order to settle the account, the sheriff should collect and pay the following:

Assets

Cash in Bank:

School Resource Officer Account	\$ 6,526
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Receivables:

Due from Sheriff - Disallowed Expenditures	\$ 4,075 *
Due from 2013 Fee - '13 Exp Pd from '14, Dep Error, Loan Pmt	<u>1,861</u>

Total Receivables	<u>5,936</u>
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Excess Fees Due The County For Calendar Year 2014	<u>\$ 12,462</u>
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* This amount has been reduced from the amount reported in the calendar year 2014 audit due to the sheriff paying \$900 in personal funds to the 2014 fee account after the date of that audit

The sheriff does not have procedures in place to ensure that disbursements are paid from the appropriate bank accounts. Also, there were disallowed disbursements in the 2014 audit. The failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. After all amounts are collected and paid, the sheriff will have excess fees due to the county in the amount of \$12,462.

KRS 134.192 states that each sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year. Further, KRS 64.820 states that, “[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 KRS 64.810 if the amount can be collected without suit.” In 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 90 days from the date of receiving the Auditor’s or certified public accountant’s report. We recommend the sheriff take the necessary steps to ensure the amounts above are collected and paid as soon as possible. This matter will be referred to the Powell County Attorney.

Sheriff's Response: We will be working to resolve this issue as soon as possible.

The sheriff did not settle his 2013 fee account: The sheriff did not settle his 2013 fee account. In order to settle the account, the sheriff should collect and pay the following:

Assets

Cash in Bank - 2013 Fee Account		\$	0
Receivables:			
Due From 2012 Fee Account - Deposit Errors	\$	10,043	
Due From Sheriff - Overpayment of Salary		750	
Due From Sheriff - Disallowed Expenditures		419	
			<hr/>
Total Receivables			11,212
			<hr/>
Total Assets			11,212
 <u>Liabilities</u>			
Unpaid Obligations:			
Due To 2014 Fee Account - Various Errors		1,861	
Due To Fiscal Court - Paper Fees		3,594	
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Total Unpaid Obligations			5,455
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Excess Fees Due The County For Calendar Year 2013		\$	5,757
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The sheriff does not have procedures in place to ensure that disbursements are paid from the appropriate bank accounts. Also, there were disallowed disbursements in the 2013 audit.

The failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. After all amounts are collected and paid, the sheriff will have excess fees due to the county in the amount of \$5,757. KRS 134.192 states that each sheriff shall annually settle his or her accounts with the department, the county, and any district for which the sheriff collects taxes on or before September 1 of each year. Further, KRS 64.820 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 KRS 64.810 if the amount can be collected without suit. In 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 90 days from the date of receiving the Auditor’s or certified public accountant’s report. We recommend the sheriff take the necessary steps to ensure the amounts above are collected and paid as soon as possible. This matter will be referred to the Powell County Attorney.

Sheriff's Response: We will be working to resolve this issue as soon as possible.

The sheriff did not resolve the deficit in his 2012 fee account: After all known unpaid liabilities were accounted for, the sheriff had a deficit of \$11,449 in his 2012 fee account. This deficit was caused by deposit errors and disallowed disbursements. The sheriff received a deposit of in lieu of tax money in error and did not reimburse it when received; however, used the receipts to fund his 2012 fee account. These funds were paid back to the fiscal court on April 29, 2013 from the 2013 fee account. Since 2012 expenditures cannot be paid by the 2013 fee account, these funds must be reimbursed to this account from the sheriff. In order to settle the account, the sheriff should collect and pay the following:

Assets

Cash in Bank - 2012 Fee Account	\$	0
Receivables:		
Due From Sheriff - Disallowed Disbursements		947
Total Assets		947

Liabilities

Unpaid Obligations:		
Due To 2013 Fee Account - Deposit Errors	\$	10,043
Due To Fiscal Court - Paper Fees		2,353
Total Unpaid Obligations		12,396
Total Fund Balance as of December 31, 2012		\$ (11,449)

The failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods. KRS 64.820 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 KRS 64.810 if the amount can be collected without suit.” In 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 90 days from the date of receiving the Auditor’s or certified public accountant’s report. We recommend the sheriff take the necessary steps to ensure the amounts above are collected and paid as soon as possible. This matter will be referred to the Powell County Attorney.

Sheriff’s Response: This issue is due to a check deposited into the Sheriff’s Account with same documentation as the Forestry Payment we received for our Co-op. We did not know that this was PILT money which was supposed to have been paid to the County. Whenever this was brought to our attention the money was paid to the Fiscal Court from the Commission of the 2012 Taxes from the 2013 Fee Account. Since this time we have received PILT several times and have had the Bank

return said PILT and since that time County has finally set up their SAM account so that it is deposited in the correct account.

Auditor's Reply: Although the deposit error has been corrected, the 2012 deficit remains and is the responsibility of the sheriff.

The sheriff lacked adequate controls over disbursements: The sheriff's office lacked strong internal controls over disbursements. The lack of adequate controls over disbursements, inadequate segregation of duties, and absence of review procedures, as described in Findings 2015-001 and 2015-002 led to multiple discrepancies as follows:

Due to the lack of effective controls, numerous exceptions were noted as follows:

- 2015 disbursements totaling \$12,954 were paid from the 2014 fee account;
- Disallowed disbursements totaling \$2,123 (see Finding 2015-008);
- Overdrawn bank balances (see Finding 2015-011);
- Invoices paid as much as 23 months late (see Finding 2015-012);
- Disbursements not posted to the ledgers (see Finding 2015-020); and
- A check in the amount of \$5,000 was written to a deputy, which was cashed and used to purchase equipment for the sheriff's office.

There were not adequate review procedures in place, as described in Finding 2015-001, to detect, eliminate, or reduce errors. Taxpayer funds were misspent as noted by disallowed disbursements. Invoices and lease payments not being paid timely could result in substantial late fees, penalties, or other ramifications. Disbursements not properly posted to the ledgers result in incomplete and misstated financial statements. Invoices without adequate detail could lead to improper or disallowed disbursements.

Strong internal controls require that adequate documentation and sufficient review of all disbursements are necessary to reduce the risk of errors and misstatements. We recommend the sheriff implement procedures that strengthen controls over disbursements to eliminate the exceptions noted above in the future.

Sheriff's Response: Due to the Overpayment in the 2015 Tax Account for several districts this caused a financial burden as to the operation of our office. We also at that time received a County Contribution from the County and we used that for payroll which in most instances we had to request this more than once, which caused a delay in deposit for payroll.

The comment in regard to the \$5,000 that was paid to the deputy was paid on 12-31-2015 due to AT&T policy not to take a check. The reason for this was we have to spend our money by the end of the year or we have to turn over as excess fees and we used this for supplies and things we need for upcoming year. This money was used to purchase I Pads, supplies and equipment for the deputies and documentation was provided to the Auditors for description and amounts.

Auditor's Reply: The Department for Local Government's *County Budget Preparation And State Local Finance Officer Policy Manual* requires all disbursements to be by check.

The sheriff had \$2,123 in disallowed disbursements: The sheriff expended a total of \$2,123 for the following disallowed items:

- Overdraft bank charges of \$1,263 were paid as penalties for bank accounts being overdrawn.
- A total of \$706 was paid for items that are not necessary to the operation of the office, including, but not limited to; candy and other items given to kids for Halloween; and other personal items such as food, clothing, and laundry detergent purchased at a retail warehouse club store.
- Late fees of \$154 were paid for payments not made timely.

In April 2017, the sheriff personally repaid \$1,248 to the 2015 fee account for a portion of the bank charges and personal items purchased at a retail warehouse club store during calendar year 2015. This reduces the amount currently owed by him to \$875.

This is a result of a lack of internal controls over disbursements, as described in Finding 2015-007, and lack of management oversight as described in Finding 2015-001. The disallowed expenditures result in taxpayer funds being spent inappropriately. In addition, the sheriff personally owes \$2,123 to the 2015 fee account.

In Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature. We recommend the sheriff reimburse the remaining \$875 to the 2015 fee account from his personal funds for these disallowed disbursements. Furthermore, we recommend the sheriff only expend funds for allowable purposes in the future.

Sheriff's Response: Any candy purchased was used for Safety programs for Halloween and Community Trick or Treat. Also was used for incentives for programs which the School Resource Officer provided for students. Any other purchase in error was already paid back to fee account.

The sheriff did not make lease payments in accordance with the lease agreement: On February 24, 2011, the sheriff entered into a 60 month lease agreement for a copier/printer that requires monthly payments of \$105 plus applicable monthly usage fees for copies exceeding the monthly allotment stipulated in the agreement. The sheriff did not make any lease payments during calendar year 2015 in accordance with the lease agreement. The lease was eventually paid off in June 2017 with funds from the 2015 fee account.

This is a result of a lack of internal controls over disbursements as described in Finding 2015-007, and lack of management oversight as described in Finding 2015-001. The sheriff is in violation of the lease terms outlined in the lease agreement and is in violation of KRS 65.140.

Per the agreement, the sheriff should have remitted minimum monthly lease payments in the amount of \$105 plus applicable print charges. Furthermore, KRS 65.140(2) states in part, "all bills for goods or services shall be paid within thirty (30) working days of receipt of a vendor's invoice[.]" In order

to fulfill contractual agreements, avoid late fees and penalties, and comply with KRS 65.140, we recommend the sheriff remit payment for all leases timely.

Sheriff's Response: We will work to resolve this matter.

The sheriff did not pay the fiscal court fees collected for the service of subpoenas and civil summons to the fiscal court: The sheriff did not pay fiscal court fees collected for serving subpoenas and civil summons for the fiscal court. During calendar year 2015, the sheriff collected \$18,373 in civil summons fees and subpoena fees. Of this amount, \$3,670 constituted fees belonging to the fiscal court. The sheriff is aware of the ordinance and chose not to pay the required amount to the fiscal court. The failure to pay fees timely resulted in an unpaid obligation of \$3,670 to the fiscal court, as noted in Finding 2015-003. As authorized under Judicial Branch Budget Bill (HB 577) and KRS 64.091, and approved by the Powell County Fiscal Court in Ordinance 00-06-29A, an additional fee of \$10 shall be charged for the service of a subpoena and for the service of a civil summons. Amounts collected should be turned over to the fiscal court monthly. We recommend the sheriff pay amounts due to the fiscal court monthly as required by ordinance. We further recommend the sheriff implement controls to ensure all future amounts due the fiscal court are paid timely.

Sheriff's Response: The small amount of money received at \$10.00 per civil paper served is such a small amount of money that would not begin to even be noticed by the monetary needs of the Fiscal Court; but, this small amount is very beneficial to our small department. I continue to request that this Ordinance is done away with.

Auditor's Reply: The sheriff cannot choose to ignore an ordinance because it would be more beneficial to keep these receipts in the sheriff's office. Abolishing the ordinance would simply cease collection of the fee, not transfer the fee from the county to the sheriff.

The sheriff wrote checks on accounts which had insufficient funds to cover the disbursements: The sheriff wrote cold checks on the 2015 fee and the school resource officer bank accounts. The 2015 fee bank account was overdrawn on at least 39 days of the calendar year. The school resource officer bank account was overdrawn on at least eight days of calendar year 2015. The sheriff was not adequately reconciling the fee account to the bank balance throughout the year. The sheriff does not have controls in place to ensure that the cash balance in the bank was sufficient to cover all checks written. The bank charged \$1,263 in overdraft penalties, which the sheriff will have to personally pay back to the fee account.

The state local finance officer, under the authority of KRS 68.210, established minimum accounting requirements which include reconciling receipts and disbursements to monthly bank statements. We recommend the sheriff properly utilize bank reconciliations in order to determine the available funds in all accounts. We further recommend the sheriff reimburse the accounts a total of \$1,263 from his personal funds for these disallowed disbursements, as recommended in Finding 2015-008.

Sheriff's Response: This was due to School delay in signing School Resource contract and delayed payment for officers. This was resolved when we received our Bank Statement. Once the contract was signed this resolved all matters.

The sheriff did not pay invoices timely: At least 18 invoices in our sample of 51 disbursements were not paid within 30 working days, some as much as 23 months late. This is a result of a lack of internal controls over disbursements as described in Finding 2015-007, and lack of management oversight as described in Finding 2015-001.

The late payments resulted in \$154 of late fees and penalties which the sheriff will have to personally pay back. KRS 65.140(2) states in part, “all bills for goods or services shall be paid within thirty (30) working days of receipt of a vendor’s invoice[.]” In order to avoid late fees and penalties and to comply with KRS 65.140, we recommend the sheriff pay invoices within 30 days. We further recommend the sheriff deposit personal funds of \$154 into the 2015 fee account as recommended in Finding 2015-008.

Sheriff’s Response: Due to the financial burden from the overpayment of districts and my office not receiving that money owed, some invoices were not paid as to we made payroll first.

The sheriff lacked adequate controls over payroll: The sheriff’s office lacked adequate internal controls over the processing of payroll, specifically over timesheets and gross wage calculations. A total of 35 timesheets were tested for 12 employees and numerous issues were noted. Review procedures were in place; however, they were not adequately performed to eliminate or reduce errors. Due to the lack of effective controls, numerous exceptions were noted as follows:

- One instance in which one employee was paid their regular pay and vacation pay for the same pay week.
- Two instances in which an hourly employee did not have any hours listed on the timesheet, but was paid for 80 hours.
- Nine instances in which three part time “salary” employees did not have daily totals nor total hours listed on the timesheet.
- Two instances in which two employees’ overtime was not paid correctly - the employee worked more than forty hours per week but was not compensated at time and a half.
- One instance in which one employee’s overtime was not paid correctly - the employee did NOT work more than forty hours per week but was compensated at time and a half.
- Four instances in which four employees’ total hours listed on the timesheet did not agree to the hours documented.
- One instance in which one employee did not sign the timesheet.
- One instance in which the supervisor did not sign the timesheet.

Good internal controls dictate that adequate controls and sufficient review are necessary to reduce the risk of errors and misstatements. One necessary element for internal controls over payroll is that every timesheet list the hours worked each day and each pay period. KRS 337.320 states that every employer shall keep a record of the amount paid each pay period to employees and the hours worked each day and each week for employees. In addition, the hours paid must agree to the hours documented. KRS 337.285 outlines the requirements for overtime compensation, which state employees must be compensated at time and a half for hours worked in excess of forty in one week. Finally, each timesheet should be signed by the employee and a supervisor. We recommend the sheriff review the procedures that are in place and strengthen controls over the payroll process. The

sheriff should ensure compliance with the applicable laws and regulations and ensure all hours worked are completely and accurately documented, timesheets are signed by employees and supervisors, and overtime payments are accurate.

Sheriff's Response: Part of these comments should be directed to the Financial Manager of the Fiscal Court. Other items which refer to the Sheriff's Office as always I will try to improve.

The sheriff did not ensure his W-2 for calendar year 2015 was accurate: The sheriff's W-2 for calendar year 2015 listed wages in excess of the amount actually received. The overstatement totaled \$3,910. The former fiscal court payroll clerk did not properly void a check for training incentive from the payroll system and the check appeared on the 2015 W-2 as if the sheriff had received this payment when he did not. The sheriff did not have adequate controls in place to review payroll documentation prepared by the fiscal court to ensure accuracy. The sheriff's W-2 was overstated by \$3,910, which could have resulted in errors in the amounts of taxes the sheriff paid for that year. In addition, it is a violation of KRS 141.010, KRS 141.335, and Section 3401(a) of the Internal Revenue Code to improperly report wages on a W-2 form. A strong internal control system requires the sheriff to review payroll reports and other payroll documents prepared by another entity to ensure completeness and correctness. Additionally, KRS 141.010 and Section 3401(a) of the Internal Revenue Code define "wages" earned in a given period and KRS 141.335 outlines requirements to report wages to employees. We recommend the sheriff review all W-2 forms and other payroll reports each year to ensure all items are complete and accurate.

Sheriff's Response: My office does not prepare payroll and have asked for this to be corrected.

The sheriff has not resolved a possible conflict of interest: An employee of the sheriff's office is also serving as a magistrate of the fiscal court, which may constitute a conflict of interest. On June 5, 2012, the sheriff hired an individual to serve as deputy sheriff for the sheriff's office. On January 1, 2015, this person was elected to serve as a magistrate of the fiscal court, an incompatible office. The deputy sheriff did not vacate the first office of employment upon being elected to serve on the fiscal court. The employee chose to accept both positions and did not consult with the county attorney or Attorney General regarding the potential conflict of interest in doing so. When this person accepted an appointment as a deputy sheriff then accepted the office of magistrate, his position of deputy sheriff could be vacated as a matter of law. Any actions he has taken as a deputy sheriff after accepting the magistrate appointment may be null and void.

Per the Attorney General's *Conflicts of Interest and Incompatible Offices* manual, a county officer may not serve as a county employee. KRS 61.080(12) makes the positions of magistrate (justice of the peace) and deputy sheriff incompatible. Also, KRS 61.090 states, "[t]he acceptance by one (1) in office of another office or employment incompatible with the one (1) he holds shall operate to vacate the first." In addition, this may constitute a common law incompatibility of office because the office of deputy sheriff, as an employee of the county is subordinate to the position of magistrate. OAG 83-252; Hermann v. Lampe, 194 S.W. 122 (Ky. 1917). We recommend the sheriff seek advice from the county attorney and comply with his recommendations in order to ensure that there are no conflicts of interest.

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

The sheriff did not prepare IRS Form 1099 for all applicable contract labor: As a trustee/agent, the sheriff is responsible for reporting contract labor payments to the appropriate agencies in a timely manner. We noted three vendors for which an Internal Revenue Service (IRS) Form 1099 appeared necessary. The sheriff did not issue any 1099s during calendar year 2015. The sheriff and bookkeeper were unaware of Form 1099 reporting requirements. If 1099 forms are not properly issued to all applicable vendors, it increases the risk that taxable income will not properly be reported to state and federal agencies. In addition, the sheriff is in violation of IRS regulations and could be subject to fines and/or penalties associated with such violations. The IRS requires Form 1099 be issued to individual contractors for services resulting in income of \$600 or more. We recommend the sheriff take the appropriate steps necessary to ensure Form 1099 is prepared and submitted for all vendors that meet the IRS criteria.

Sheriff's Response: We had never been advised we needed to prepare these until 2017 during the Audit and did prepare for 2017 once we were made aware.

Auditor's Reply: Management is responsible for being familiar with and complying with all state and federal laws and regulations.

The sheriff did not provide a written policy and procedures manual for calendar year 2015:

The sheriff was unable to provide auditors with a written policy and procedures manual established for his office to address administrative and personnel standards nor had he adopted the county's policy. There were several issues noted during the audit that would have been clarified had the sheriff enacted a policy and procedures manual or administrative code or adopted the county's administrative code. For example, some deputies earn compensatory time. Without a policy in place, we cannot determine if compensatory time was earned and paid appropriately. Deputies perform off-duty work for private companies. Without a policy in place, there is an increased risk of potential liability, litigation, and claims against the sheriff, the sheriff's office, and/or the county. The sheriff failed to adopt a policy and procedures manual or administrative code for 2015. Auditors were unable to determine if the sheriff was compliant and consistent with office policies and procedures. Good internal controls dictate consistent treatment of personnel and properly executed policies be established and distributed. We recommend the sheriff establish an office-wide policy and procedures manual or adopt the county's administrative code. If he chooses to implement his own policies, he should review them for reasonableness, ensure they do not violate any statutes, put them in writing, and communicate them to all employees.

Sheriff's Response: A Policy and Procedure Manual was provided to the Auditor. I am currently revising this manual.

Auditor's Reply: The Policy and Procedure Manual provided was not put into effect until 2017.

The sheriff did not prepare or submit an annual asset forfeiture report: The sheriff did not comply with KRS 218A.440, which requires law enforcement agencies to file an annual asset forfeiture report. The report was not filed due to lack of controls over report preparation and lack of oversight by the sheriff to ensure all applicable regulations and statutes are followed. Failure to prepare or submit an annual forfeiture report constitutes noncompliance with KRS 218A.440, a lack

of availability of records to approving authorities, and potential ramifications as outlined in the statute. KRS 218A.440(1) states, “[e]ach law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice and public safety, containing a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The listing shall identify all property so seized.” We recommend the sheriff comply with KRS 218A.440 by preparing an annual forfeiture asset report and submitting it to all of the required agencies.

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

The sheriff did not submit all quarterly reports to the Department for Local Government as required: The sheriff did not submit a third or fourth quarter report to the Department for Local Government (DLG) as required. This condition was caused by the lack of management oversight. Failure to comply with these regulations results in a lack of availability of financial records to approving authorities. KRS 68.210 states, “[t]he administration of the county uniform budget system shall be under the supervision of the state local finance officer who may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and shall install, by July 1, 1985, a system of uniform accounts for all counties and county officials.” The state local finance officer requires a cumulative quarterly report be submitted by the 30th day following the close of each quarter. We recommend the sheriff provide all financial records to the DLG when required.

Sheriff's Response: We will try and get those to Local Government in a more timely manner.

The sheriff's fourth quarter report did not accurately reflect total receipts and total disbursements: The sheriff's fourth quarter report, which serves as the sheriff's financial statement, reflected discrepancies in total receipts and total disbursements for calendar year 2015, requiring material audit adjustments. Controls were not in place to ensure that \$50,930 of receipts and \$43,253 of disbursements of the school resource officer bank account were included on the financial statement. A misstatement could result in an increased risk of uncorrected errors, theft, loss, or misappropriated assets. KRS 134.192(11) states that in counties with population of less than 70,000, the sheriff's annual settlement shall include, “[a] complete statement of all funds received by his or her office for official services, showing separately the total income received by his or her office for services rendered, exclusive of his or her commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes[,]” and “[a] complete statement of all expenditures of his or her office[.]” We recommend the sheriff ensure a complete and accurate fourth quarter report is prepared in order to ensure all receipts and disbursements are accounted for properly.

Sheriff's Response: Until Fall of 2016 when the 2014 Audit was being done I had never included the School Resource Account in my Quarterly Reports due to being in a separate account and therefore I was not aware that I had to include it. So it was too late to change for 2015 and 2016. This matter is now resolve in 2017.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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