

**REPORT OF THE AUDIT OF THE
FORMER FLEMING COUNTY
SHERIFF'S SETTLEMENT - 2021 TAXES**

**For The Period
April 16, 2021 Through August 31, 2022**



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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

Independent Auditor's Report

To the People of Kentucky
The Honorable Andy Beshear, Governor
Holly M. Johnson, Secretary
Finance and Administration Cabinet
The Honorable John Sims, Jr., Fleming County Judge/Executive
The Honorable Gary Kinder, Former Fleming County Sheriff
The Honorable Timothy Smith, Fleming County Sheriff
Members of the Fleming County Fiscal Court

Report on the Audit of the Financial Statements

Opinions

We have audited the accompanying former Fleming County Sheriff's Settlement - 2021 Taxes for the period April 16, 2021 through August 31, 2022 - Regulatory Basis, and the related notes to the financial statement.

Unmodified Opinion on Regulatory Basis of Accounting

In our opinion, the accompanying financial statement presents fairly, in all material respects, the taxes charged, credited, and paid for the period April 16, 2021 through August 31, 2022 of the former Fleming County Sheriff, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

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 section of our report, the financial statement does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the taxes charged, credited, and paid of the former Fleming County Sheriff, for the period April 16, 2021 through August 31, 2022.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and 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 Sheriff's Tax Settlements*. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statement section of our report. We are required to be independent of the former Fleming County Sheriff and to meet our ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.



To the People of Kentucky
 The Honorable Andy Beshear, Governor
 Holly M. Johnson, Secretary
 Finance and Administration Cabinet
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 The Honorable Timothy Smith, Fleming County Sheriff
 Members of the Fleming County Fiscal Court

Basis for Opinion (Continued)

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 former Fleming County Sheriff on the basis of accounting practices prescribed or permitted by the laws of Kentucky to demonstrate 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. 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 and pervasive.

Responsibilities of Management 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 and budget laws. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for the Audit of the Financial Statement

Our objectives are to obtain reasonable assurance about whether the financial statement as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not an absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgement made by a reasonable user based on the financial statement.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statement, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statement.
- Obtain an understanding of internal control relevant to the audit 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 former Fleming County Sheriff's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statement.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the former Fleming County Sheriff's ability to continue as a going concern for a reasonable period of time.

To the People of Kentucky
The Honorable Andy Beshear, Governor
Holly M. Johnson, Secretary
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The Honorable Gary Kinder, Former Fleming County Sheriff
The Honorable Timothy Smith, Fleming County Sheriff
Members of the Fleming County Fiscal Court

Auditor's Responsibilities for the Audit of the Financial Statement (Continued)

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant findings, and certain internal control-related matters that we identified during the audit.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated March 8, 2023, on our consideration of the former 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 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 effectiveness of internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the former Fleming County Sheriff's internal control over financial reporting and compliance.

Based on the results of our audit, we have presented the accompanying Schedule of Findings and Responses, included herein, which discusses the following report finding:

2021-001 The Former Sheriff's Annual Settlement Was Materially Misstated

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
Frankfort, Ky

March 8, 2023

FLEMING COUNTY
GARY KINDER, FORMER SHERIFF
SHERIFF'S SETTLEMENT - 2021 TAXES

For The Period April 16, 2021 Through August 31, 2022

	County	Special Taxing Districts	School	State
<u>Charges</u>				
Real Estate	\$ 955,599	\$ 1,751,268	\$ 2,741,383	\$ 710,736
Tangible	75,334	157,127	215,677	181,874
Fire Protection	1,302			
Total Per Sheriff's Official Receipt	1,032,235	1,908,395	2,957,060	892,610
<u>Other Taxes & Charges</u>				
Franchise Taxes	93,682	185,485	268,404	
Limestone, Sand, and Gravel Reserves	107	195	308	80
Penalties	4,506	8,284	12,908	3,410
Gross Chargeable to Sheriff	1,130,530	2,102,359	3,238,680	896,100
<u>Credits</u>				
Exonerations	1,237	2,282	3,549	1,112
Discounts	16,916	31,373	48,463	14,594
Delinquent Real Estate	17,954	33,147	51,434	13,335
Delinquent Tangible	154	317	442	426
Mineral Rollover to 2022	12	22	41	9
Total Credits	36,273	67,141	103,929	29,476
Taxes Collected	1,094,257	2,035,218	3,134,751	866,624
Less: Sheriff's Commissions*	46,506	84,993	47,022	36,831
Taxes Due Districts	1,047,751	1,950,225	3,087,729	829,793
Taxes Paid	1,046,802	1,948,492	3,085,312	829,080
Refunds (Current and Prior Year)	938	1,701	2,688	710
Taxes Due Districts (Refund Due Sheriff)	\$ 11	\$ 32	\$ (271)	\$ 3

**

* and ** See next page.

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

FLEMING COUNTY
 GARY KINDER, FORMER SHERIFF
 SHERIFF'S SETTLEMENT - 2021 TAXES
 For The Period April 16, 2021 Through August 31, 2022
 (Continued)

* Commissions:

4.25% on \$ 3,394,628

4% on \$ 601,471

1.50% on \$ 3,134,751

** Special Taxing Districts:

Library District \$ 67

Health District 61

Extension District (12)

Soil Conservation District 45

Ambulance District (119)

Fox Creek Watershed (10)

Due Districts or

(Refunds Due Sheriff) \$ 32

FLEMING COUNTY
NOTES TO FINANCIAL STATEMENT

August 31, 2022

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. 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.

B. Basis of Accounting

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. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

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).

D. Preparation of State Settlement

The Kentucky Department of Revenue prepares the settlement relating to taxes collected for the state under the provision of KRS 134.192(2)(a). This is reported as the "State Taxes" column on the financial statement.

Note 2. Deposits

The former Fleming County Sheriff maintained deposits of public funds with federally insured banking institutions as required by the Department for Local Government's (DLG) *County Budget Preparation and State Local Finance Officer Policy Manual*. The DLG Manual strongly recommends perfected pledges of securities covering all public funds except direct federal obligations and funds protected by federal insurance. In order to be perfected 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. These requirements were met.

FLEMING COUNTY
NOTES TO FINANCIAL STATEMENT
August 31, 2022
(Continued)

Note 2. 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 former Fleming County Sheriff does not have a deposit policy for custodial credit risk, but rather follows the requirements of the *DLG County Budget Preparation and State Local Finance Officer Policy Manual*. As of August 31, 2022, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 3. Tax Collection Period

A. Property Taxes

The real and personal property tax assessments were levied as of January 1, 2021. Property taxes were billed to finance governmental services for the fiscal year ending June 30, 2022. Liens are effective when the tax bills become delinquent. The collection period for these assessments was September 15, 2021 through April 18, 2022.

B. Limestone, Sand, and Gravel Reserves

The limestone, sand, and gravel property tax assessments were levied as of January 1, 2021. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was February 26, 2022 through August 31, 2022.

C. Franchise Taxes

The franchise tax assessments were levied by the Department of Revenue for various tax years. Franchise taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was May 16, 2021 through April 18, 2022.

Note 4. Sheriff's 10% Add-On Fee

The former Fleming County Sheriff collected \$23,904 of 10% add-on fees allowed by KRS 134.119(7). As of March 8, 2023, the former sheriff owed \$771 in 10% add-on fees to his fee account.

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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

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

The Honorable John Sims, Jr., Fleming County Judge/Executive
The Honorable Gary Kinder, Former Fleming County Sheriff
The Honorable Timothy Smith, Fleming County Sheriff
Members of the Fleming County Fiscal Court

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 former Fleming County Sheriff's Settlement - 2021 Taxes for the period April 16, 2021 through August 31, 2022 - Regulatory Basis and the related notes to the financial statement and have issued our report thereon dated March 8, 2023. The former 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.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statement, we considered the former Fleming County Sheriff's internal control over financial reporting (internal control) as a basis for designing 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 former Fleming County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the former 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 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 Schedule of Findings and Responses, 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 Schedule of Findings and Responses as item 2021-001 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)

Report on Compliance And Other Matters

As part of obtaining reasonable assurance about whether the former Fleming County Sheriff's financial statement is free from 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 financial statement. 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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,

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

Mike Harmon
Auditor of Public Accounts
Frankfort, Ky

March 8, 2023

SCHEDULE OF FINDINGS AND RESPONSES

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FLEMING COUNTY
GARY KINDER, FORMER SHERIFF
SCHEDULE OF FINDINGS AND RESPONSES

For The Period April 16, 2021 Through August 31, 2022

INTERNAL CONTROL - MATERIAL WEAKNESS:

2021-001 The Former Sheriff's Annual Settlement Was Materially Misstated

The former sheriff's annual settlement was materially misstated. The former sheriff's annual settlement did not include the following:

- Franchise Taxes of \$547,571
- Franchise Tax Discounts of \$2,145
- Franchise Tax Commissions of \$15,824
- Franchise Taxes Paid \$529,759
- Sheriff's Official Receipts \$179,407
- Refunds \$5,328

In addition to the items left out, the former sheriff included the following overages:

- Delinquent Taxes \$23,627

Since the settlement was not accurate, amounts shown as owed or due to the taxing districts were incorrect. Adjustments and reclassifications have been made to correctly account for the tax collections of the audited period. The former sheriff did not implement proper internal controls to ensure the activity for tax collections was accurately reflected in the annual tax settlement. By not having an accurate tax settlement, the fiscal court cannot determine whether problems exist in tax collections.

Effective internal controls over financial reporting are essential to ensure financial reports are accurate. The settlement is to show the amount of taxes collected and disbursed for the county, school district, and each taxing district.

We recommend the sheriff's office prepare an accurate annual settlement.

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