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Harmon Releases Audit of Green County Sheriff's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2021 financial statement of Green County Sheriff Robby Beard. 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 Green 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.

Finding 4 of the audit report will be referred to the Kentucky Labor Cabinet for further review.

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 Green County Sheriff's fourth quarter report was inaccurate: This is a repeat finding and was included in the prior year audit report as Finding 2020-001. The Green County Sheriff's fourth quarter report was not accurate. Receipts and disbursements were not categorized properly, and all receipts and disbursements were not included. The sheriff's bookkeepers do not post receipts and disbursements consistently between the receipts and disbursements ledgers and the quarterly reports. The following deficiencies were noted:

- Reclassifications were necessary to correct the receipts on the fourth quarter report totaling \$115,739. Payments from the fiscal court of \$101,022, payments from the state of \$14,547, payments from the circuit court clerk of \$50, and payments for transporting patients of \$120 were misclassified.
- Reclassifications were necessary to correct the disbursements on the fourth quarter report totaling \$79,001. Employee withholdings of \$67,684 were recorded as employee benefits instead of being included with salaries. Employer's share retirement of \$3,032 was also recorded as employee benefits. Payments totaling \$8,285 for contracted services were included with salaries in error.
- Receipts of \$24,802 from the fiscal court for reimbursement under the CARES Act were not included on the fourth quarter report.
- Disbursements of \$362 for miscellaneous expenses were not included on the fourth quarter report.
- Adjustments were necessary to remove \$51,327 recorded as receipts on the fourth quarter report in error. These included a disbursement for 2020 excess fees paid to the fiscal court in the amount of \$48,263, a December 2020 payment from the state of \$1,258, and bank errors and corrections of \$1,806.
- Adjustments were necessary to remove \$106,810 recorded as disbursements on the fourth quarter report in error. These included excess fees paid to the fiscal court for 2020 in the amount of \$49,534, excess fees paid to the fiscal court for 2021 in the amount of \$55,470, and bank errors and corrections of \$1,806.
- The sheriff overstated the disbursement to the state for the repayment of the state advancement by \$6,000 on the fourth quarter report.

The reclassifications and errors resulted from a lack of oversight over the financial recording process and preparation of the fourth quarter report. Although the fourth quarter report was signed by the sheriff, it was inaccurate. Also, no documented review of comparing the fourth quarter report to the receipts and disbursements ledgers was noted. The lack of oversight could result in the undetected misappropriation of assets or inaccurate financial reporting to external agencies such as Department for Local Government (DLG) and the fiscal court.

Good internal controls dictate that oversight over all aspects of the financial reporting process be implemented to ensure accuracy. Strong internal controls over financial reporting are vital in ensuring the financial reports of the sheriff's office accurately reflect the financial activity of the sheriff's office. These controls should include an individual independent of the accounting function reviewing the financial reports and comparing amounts reported to the amounts on the ledgers.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. The *County Budget Preparation and State Local Finance Officer Policy Manual* requires officials to submit quarterly reports to DLG by the 30th day following the close of each quarter. The manual provides the required format for the quarterly report including recommended categories for receipts and disbursements.

We recommend the sheriff's office implement stronger internal controls over the financial reporting process to ensure amounts reported on the quarterly reports are accurate. Internal

controls such as a thorough review of quarterly reports by someone independent of the accounting function can help detect misstatements and errors that have occurred. This review should include tracing transactions posted to the receipts and disbursements ledgers to actual bank statement transactions. It should also include agreeing book balances between the quarterly reports and bank reconciliations, agreeing bank balances per the bank statements to the quarterly reports and bank reconciliations, checking for mathematical accuracy, and verification of bank reconciliation amounts. Ledgers should also be reviewed to verify transactions have been recorded to the correct account codes. Once the ledgers and reconciliations are deemed accurate, the reviewer should document that fact and submit the review to the sheriff for approval. By implementing these procedures, the sheriff can strengthen the internal control system and help ensure accurate financial reporting.

Sheriff's Response: Mistakes are made. Has been corrected.

The Green County Sheriff's Office does not have adequate segregation of duties over all accounting functions: This is a repeat finding and was included in the prior year audit report as Finding 2020-002. The Green County Sheriff's Office does not have adequate segregation of duties over receipts, disbursements, payroll, financial reporting, and the reconciliation process. The sheriff's bookkeepers collect receipts, prepare deposits, prepare daily checkout sheets, prepare and sign checks, and prepare payroll. In addition, they post to the receipts and disbursements ledgers, prepare quarterly reports and monthly reports, and reconcile the monthly bank statements. The sheriff has implemented some compensating controls, such as reviewing and initialing the daily checkout sheets and monthly bank reconciliations and reviewing and approving deputies' timesheets. However, no reviews of the quarterly reports, receipts ledger, and disbursements ledger were documented by the other bookkeeper or the sheriff. In addition, reviews of invoices and leave balance reports of full-time employees are not regularly documented by the other bookkeeper or the sheriff.

The lack of segregation of duties occurred because the sheriff failed to segregate incompatible duties. The sheriff stated he cannot hire additional employees to allow segregation of duties due to budget limitations. A lack of oversight could result in undetected misappropriation of assets or inaccurate financial reporting to external agencies such as the Department for Local Government (DLG).

The segregation of duties over various accounting functions such as opening mail, preparing deposits, recording receipts and disbursements, preparing monthly bank reconciliations, preparing monthly and quarterly reports, and approving timesheets 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 can implement oversight when duties cannot be segregated.

We recommend the sheriff separate the duties involved in receiving cash, preparing deposits, writing disbursement checks, posting to ledgers, and preparing monthly bank reconciliations. If segregation of duties is not feasible due to lack of staff, then compensating controls should be implemented which includes an employee not currently performing any of those functions providing oversight in those areas. Any oversight should be documented.

Sheriff's Response: Cannot hire more help. No money.

The Green County Sheriff's Office did not properly account for payments to transporting officers: The Green County Sheriff's office is not properly accounting for payments to officers for transporting prisoners and patients. The sheriff contracts with a community mental health center for transportation/transfer of mentally ill patients or patients with an intellectual disability between facilities. The sheriff pays officers to transport patients and the community mental health center reimburses the sheriff's office for these payments according to the contract terms. The sheriff also pays officers to transport prisoners according to court orders. The following deficiencies were noted when testing payments to transporting officers:

- The sheriff is maintaining insufficient supporting documentation for disbursements for transporting mental health patients. The sheriff only maintains the billing document that is submitted to the community mental health center requesting reimbursement for transport after disbursements to officers have already been made. No other log of hours worked or documentation of the expenses incurred are maintained.
- Two of the seven disbursements tested to transporting officers were court ordered prisoner transports. The sheriff did not maintain any supporting documentation for these disbursements.
- The disbursement amounts paid to transporting officers do not agree to the supporting documentation maintained by the sheriff for two of the seven disbursements tested.
- The sheriff requested reimbursement for payment to three transporting officers on one mental health transport when the maximum allowable reimbursement per transport is for two officers.

The sheriff stated he was not aware that a log or other documentation for transport payments needs to be maintained. The sheriff did not know the requirements or best practice for accounting for payments to transporting officers.

These deficiencies could result in inaccurate reporting and misappropriation of assets. By not maintaining a log of hours worked by transporting officers, workers can be over or under compensated and the sheriff assumes the risk of workers disputing the amount paid. Further, the sheriff is not in compliance with contractual obligations.

Good internal controls dictate the sheriff should monitor disbursements to ensure adequate supporting documentation exists and to ensure compliance with state laws and contract agreements. The contract with the community mental health center states, "Green County Sheriff's Department agrees to provide a law enforcement officer (two, when necessary) to accompany, provide support, and transport, if necessary, persons charged with violating KRS 202 A/B in conjunction with diverting these individuals from Green County Jail."

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 strengthen controls over disbursements to transporting officers to ensure payments are properly supported and to ensure compliance with state laws and contract agreements. Further, we recommend the sheriff maintain a log of transport officers' hours worked to support disbursements to officers.

Sheriff's Response: Will keep more paper work.

The Green County Sheriff's controls over payroll did not operate effectively: The Green County Sheriff's controls over payroll did not operate effectively. Employees' timesheets do not always document their actual hours worked. The sheriff is not maintaining accurate leave balance reports for employees. Also, the sheriff pays transporting officers as contract workers; however, it appears the sheriff should treat these officers as employees. The following exceptions were noted during payroll testing:

- One monthly timesheet out of 12 tested documents the employee worked seven hours overtime during two pay periods; however, the employee did not receive overtime pay.
- One monthly timesheet out of 12 tested documents start and end times for one employee that reflect 40 hours worked in one week; however, the employee's leave balance report shows 40 hours vacation leave was taken by the employee that week.
- Leave balance reports for all four full-time employees document vacation and/or sick leave taken during the year that is not recorded on the employees' timesheets.
- One employee's timesheets document 40 hours of vacation leave taken during the year that was not recorded on his leave balance report.
- One employee's leave balance report and timesheets reflect he received pay for 64 hours of vacation leave taken; however, the employee was only eligible for 40 hours of vacation leave based on his hire date.
- Leave balance reports maintained by the sheriff do not document employee's accrued sick leave balances.
- Leave balance reports are maintained in Excel and there is no evidence that the sheriff reviews these reports when he reviews and initials timesheets.
- The sheriff paid one state withholding payment late to the Department of Revenue.
- The sheriff does not have a written agreement and Form W-9, Request for Taxpayer Identification Number and Certification, on file for any of the transporting officers he pays as independent contractors.
- The sheriff failed to issue a Form-1099 to one transporting officer who earned more than \$600 in the calendar year and underreported compensation on one transporting officer's Form-1099 by \$100.
- The sheriff paid an existing employee of the sheriff's office contract labor payments for transporting patients and prisoners instead of the hours worked being part of the employee's regular pay.

According to the sheriff, employees are salaried employees; therefore, they do not receive overtime pay. In addition, the sheriff stated he was not aware a written agreement and signed Form W-9 is required to be on file for all independent contractors. Per the sheriff's bookkeeper, the employee's timesheet referenced in the first bullet point above was incorrect; the employee had written down an extra day of call time each pay period that he did not work. Also, the sheriff's office stated that this

is a small office and employees take time off as needed. The employees don't always remember to document leave time taken on their timesheets.

By not ensuring that timekeeping records and leave balance reports are properly maintained, employees can be over or under compensated. The sheriff assumes the risk of employees disputing the number of hours worked and the amount of paid leave time they have available. Further, the sheriff is not in compliance with IRS regulations regarding employee and contract labor payments. Due to the late payment of a payroll tax liability, the sheriff paid \$10 in late penalties and interest to the state.

Strong internal controls over payroll and timekeeping are vital in ensuring that payroll amounts are calculated and accounted for properly. Strong internal controls are also important in safeguarding the sheriff's assets and those given the responsibility of accounting for them, as well as helping make certain the sheriff is in compliance with state statutes and IRS regulations. Further, good internal controls dictate the sheriff should maintain a written agreement with any independent contractors of the sheriff's office.

Timesheets should reflect actual hours worked by employees. KRS 337.320(1) states, in part "[e]very employer shall keep a record of: ... (b) The hours worked each day and each week by each employee[.]"

KRS 337.285 requires employers to pay employees for hours worked in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. *The Green County Personnel Policy* states, "[t]he standard work week for county employees shall be 32 or 40 hours per week[.]" 29 C.F.R. § 541.3(b) provides that police officers, deputy sheriffs, and other first responders are not exempt from overtime provisions and regulations set forth in the Fair Labor Standards Act (FLSA).

The Green County Personnel Policy states, "[a]ll regular full-time employees working a forty (40) hour week shall be entitled to five (5) days paid vacation after completion of one (1) year of service from the date of hire. He or she shall be entitled to ten (10) days of paid vacation upon the completion of (2) years of service from the date of hire." Regarding sick leave, the policy states, "[s]ick leave may be accumulated to a maximum of five (5) working days during 1st year of service, ten (10) days after 2nd year of service... Sick leave days may be accrued up to a maximum of 180 days."

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.

IRS Publication 15 (Circular E) states, "Generally a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done." According to IRS guidance, Form 1099-NEC should be filed to report payments of \$600 or more in one calendar year for services performed by someone who is not your employee. In addition, a Form W-9, Request for Taxpayer Identification Number and Certification, should be completed by the contractor and kept on file for four years.

We recommend the sheriff strengthen internal controls over the payroll process to ensure payroll amounts are calculated and accounted for properly and that employees working overtime are adequately compensated. We recommend the sheriff track and maintain accurate leave balance reports for all employees in accordance with the sheriff's personnel policy. Further, we recommend the sheriff consult with the county attorney to evaluate whether transporting officers should be treated as employees of the sheriff's office instead of independent contractors. Lastly, we recommend the sheriff deposit personal funds of \$10 to reimburse the 2021 fee account for the disallowed penalties and interest charged on the late payment. This finding will be referred to the Kentucky Labor Cabinet.

Sheriff's Response: Lack of help.

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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