

**REPORT OF THE AUDIT OF THE
MAGOFFIN COUNTY
SHERIFF**

**For The Year Ended
December 31, 2020**



**MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS
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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Matthew Wireman, Magoffin County Judge/Executive
The Honorable Carson Montgomery, Magoffin County Sheriff
Members of the Magoffin County Fiscal Court

The enclosed report prepared by Tichenor & Associates, LLP, Certified Public Accountants, presents the Statement of Receipts, Disbursements, and Excess - Regulatory Basis of the Sheriff of Magoffin County, Kentucky, for the year ended December 31, 2020.

We engaged Tichenor & Associates, LLP, to perform the audit of this financial statement. We worked closely with the firm during our report review process; Tichenor & Associates, LLP, evaluated the Magoffin County Sheriff's internal controls and compliance with applicable laws and regulations.

Respectfully submitted,

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Mike Harmon
Auditor of Public Accounts
Enclosure



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The Honorable Matthew C. Wireman, Magoffin County Judge/Executive
The Honorable Carson Montgomery, Magoffin County Sheriff
Members of the Magoffin County Fiscal Court

Independent Auditors' Report

Report on the Financial Statement

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Sheriff of Magoffin County, Kentucky, for the year ended December 31, 2020, 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 this 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.

Auditors' 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.

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 Magoffin 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 Honorable Matthew C. Wireman, Magoffin County Judge/Executive
 The Honorable Carson Montgomery, Magoffin County Sheriff
 Members of the Magoffin County Fiscal Court

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

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 the Magoffin County Sheriff, as of December 31, 2020, 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 Magoffin County Sheriff for the year ended December 31, 2020, 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 May 18, 2022, on our consideration of the Magoffin County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, 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 Magoffin 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 comments:

- 2020-001 Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years Continue To Accumulate And Need To Be Settled With The IRS
- 2020-002 The Sheriff Did Not Settle Prior Years' Fee Accounts
- 2020-003 The Sheriff's Office Lacks Adequate Segregation Of Duties
- 2020-004 The Sheriff's Fourth Quarter Report Is Materially Misstated

Respectfully submitted,

Tichenor & Associates, LLP

Tichenor & Associates, LLP
 Louisville, Kentucky

May 18, 2022

MAGOFFIN COUNTY
CARSON MONTGOMERY, SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2020

Receipts

State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)	\$	14,054
State Fees For Services:		
Finance and Administration Cabinet	\$ 96,946	
Sheriff Security Service	<u>35,996</u>	132,942
Circuit Court Clerk:		
Fines and Fees Collected		17,008
Fiscal Court		117,958
County Clerk - Delinquent Taxes		21,708
Commission On Taxes Collected		189,163
Private Grants		21,060
Fees Collected For Services:		
Auto Inspections	2,005	
Accident and Police Reports	1,844	
Carry Concealed Deadly Weapon Permits	3,140	
Telecommunication Tax	1,089	
Transports	1,401	
Arrest Fees	440	
Accident Photos	350	
Fingerprints	<u>100</u>	10,369
Other:		
Add-on Fees	18,371	
Miscellaneous	<u>1,090</u>	19,461
Interest Earned		81
Borrowed Money:		
State Advancement		<u>45,000</u>
Total Receipts		588,804

MAGOFFINCOUNTY
 CARSON MONTGOMERY, SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2020
 (Continued)

Disbursements

Operating Disbursements and Capital Outlay:

Personnel Services-		
Deputies' Salaries	\$ 94,249	
Clerk Salary	44,164	
Court Security Salaries	83,424	
Overtime	4,782	
Employee Benefits-		
Employer's Share Social Security	24,264	
Employer Paid Health Insurance	31,973	
Contracted Services-		
Advertising	219	
Vehicle Maintenance and Repairs	18,330	
Phones	6,818	
Materials and Supplies-		
Office Materials and Supplies	7,281	
Uniforms	8,435	
Auto Expense-		
Gasoline	23,652	
Radar/Radio	1,496	
Insurance Reimbursement	801	
Other Charges-		
Dues	529	
Postage	94	
Bond	1,883	
Training Expense	2,668	
Miscellaneous	779	
Capital Outlay-		
Office Equipment	3,390	
Vehicles	20,786	\$ 380,017

Debt Service:

State Advancement	45,000
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Total Disbursements		<u>425,017</u>
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MAGOFFIN COUNTY
CARSON MONTGOMERY, SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2020
(Continued)

Net Receipts	\$ 163,787
Less: Statutory Maximum	<u>90,562</u>
Excess Fees Due County for 2020	73,225
Payment to Fiscal Court - March 16, 2021	<u>48,765</u>
Balance Due Fiscal Court at Completion of Audit	<u><u>\$ 24,460</u></u>

MAGOFFIN COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2020

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 is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. This basis 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 2020 services
- Reimbursements for 2020 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2020

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).

MAGOFFIN COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2020
 (Continued)

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

The sheriff's office has elected to participate, pursuant to KRS 78.530, in the County Employees Retirement System (CERS), which is 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

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 be allocated as follows: five percent will go to the member's account and one percent will go to the KRS insurance fund.

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. Nonhazardous covered employees contribute five percent of their annual creditable compensation. Nonhazardous members also contribute 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 KRS Board of Directors 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 employer pay credit. The employer pay credit represents a portion of the employer contribution.

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.

The county's contribution rate for nonhazardous employees was 24.06 percent for the year.

Other Post-Employment Benefits (OPEB)

A. Health Insurance Coverage - Tier 1

CERS provides post-retirement health care coverage as follows:

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

MAGOFFIN COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2020
 (Continued)

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

Other Post-Employment Benefits (OPEB) (Continued)

A. Health Insurance Coverage - Tier 1 (Continued)

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.

Benefits are covered under KRS 161.714 with exception of COLA and retiree health benefits after July 2003.

B. Health Insurance Coverage - Tier 2 and Tier 3 - Nonhazardous

Once members reach a minimum vesting period of 15 years, 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 by 1.5 percent. This was established for Tier 2 members during the 2008 Special Legislative Session by House Bill 1. During the 2013 Legislative Session, Senate Bill 2 was enacted, creating Tier 3 benefits for members.

The monthly insurance benefit has been increased annually as a 1.5 percent cost of living adjustment (COLA) since July 2003 when the law changed. The annual increase is cumulative and continues to accrue after the member's retirement.

Tier 2 member benefits are covered by KRS 161.714 with exception of COLA and retiree health benefits after July 2003. Tier 3 members are not covered by the same provisions.

C. Cost of Living Adjustments - Tier 1

The 1996 General Assembly enacted an automatic cost of living adjustment (COLA) provision for all recipients of KRS benefits. During the 2008 Special Session, the General Assembly determined that each July beginning in 2009, retirees who have been receiving a retirement allowance for at least 12 months will receive an automatic COLA of 1.5 percent. The COLA is not a guaranteed benefit. If a retiree has been receiving a benefit for less than 12 months, and a COLA is provided, it will be prorated based on the number of months the recipient has been receiving a benefit.

MAGOFFIN COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2020
 (Continued)

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

Other Post-Employment Benefits (OPEB) (Continued)

D. Cost of Living Adjustments - Tier 2 and Tier 3

No COLA is given unless authorized by the legislature with specific criteria. To this point, no COLA has been authorized by the legislature for Tier 2 or Tier 3 members.

E. Death Benefit

If a retired member is receiving a monthly benefit based on at least 48 months of service credit, KRS will pay a \$5,000 death benefit payment to the beneficiary designated by the member specifically for this benefit. Members with multiple accounts are entitled to only one death benefit.

KRS Annual Financial Report and Proportionate Share Audit Report

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.

KRS also issues proportionate share audit reports for both total pension liability and other post-employment benefits for CERS determined by actuarial valuation as well as each participating county's proportionate share. Both the Schedules of Employer Allocations and Pension Amounts by Employer and the Schedules of Employer Allocations and OPEB Amounts by Employer reports and the related actuarial tables are available online at <https://kyret.ky.gov>. The complete actuarial valuation report, including all actuarial assumptions and methods, is also available on the website or can be obtained as described in the paragraph above.

Note 3. Deposits

The Magoffin 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 Magoffin 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, 2020, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

MAGOFFIN COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2020
(Continued)

Note 4. Asset Forfeiture Account

A. Federal Forfeiture Account

The Magoffin County Sheriff's office maintains two official bank accounts (federal and state) for monies obtained from seizures and sales of assets forfeited as a result of successful drug-related court convictions. The funds are used to purchase equipment for the sheriff's office. The beginning balances for the federal asset forfeiture account as of January 1, 2020, was \$32,348. The sheriff did not receive or expend any funds during the current year. However, the federal account earned \$16 in interest leaving an ending balance as of December 31, 2020, of \$32,364.

B. State Forfeiture Account

The beginning balance for the state forfeiture account as of January 1, 2020, was \$11,182. The sheriff did not receive or expend any funds during the current year. However, the state account earned interest in the amount of \$6, leaving a balance of \$11,188 as of December 31, 2020.

Note 5. K-9 Account

The sheriff maintains a K-9 account for expenditures related to maintaining a K-9 unit. The beginning balance as of January 1, 2020, was \$7. No deposits, disbursements, or interest earned were recorded, leaving a balance of \$7 as of December 31, 2020.

Note 6. Mountain Comprehensive Care Center Grant

The Magoffin County Sheriff's office maintains an annually renewed grant agreement with Mountain Comprehensive Care Center as a collaborative and coordinated effort to ensure that sexual assault, domestic violence, dating violence, and stalking are treated seriously. The funds allotted by the Mountain Comprehensive Care Center maintains the sheriff's department as a primary partner on the project, a member of the Project Management Team, and an active participant with Mountain Comprehensive Care Center and its partners in the Office of Violence to Women training, planning and implementing the Magoffin Advocacy Support Program by providing office space to an advocate of Mountain Comprehensive Care Center, as needed, providing referrals to the program, as appropriate, and utilizing a 0.50 full-time-employed deputy to enforce and serve protection orders and provide other law enforcement support in tandem with the project Advocates. As per the agreement, the Mountain Comprehensive Care Center allocates \$1,755 monthly to secure the aforementioned services of the Magoffin County Sheriff's Department. The total funds received for the year ending December 31, 2020, was \$21,060.

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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The Honorable Matthew C. Wireman, Magoffin County Judge/Executive
The Honorable Carson Montgomery, Magoffin County Sheriff
Members of the Magoffin 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 Auditors' 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 Magoffin County Sheriff for the year ended December 31, 2020, and the related notes to the financial statement and have issued our report thereon dated May 18, 2022. The Magoffin 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 Magoffin 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 Magoffin County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Magoffin County Sheriff's internal control.

Our consideration of internal control 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 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 Schedule of Findings and Responses as items 2020-003 and 2020-004 to be material weaknesses.

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

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Magoffin 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 test disclosed instances of noncompliance or other matters that are required to be reported under *Government Audit Standards* and which are described in the accompanying schedule of Findings and Responses as items 2020-001 and 2020-002.

Views of Responsible Official and Planned Corrective Action

The Magoffin County Sheriff's views and planned corrective action for the findings identified in our audit are described in the accompanying Schedule of Findings and Responses. The Magoffin 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,

Tichenor & Associates, LLP

Tichenor & Associates, LLP
Louisville, Kentucky

May 18, 2022

SCHEDULE OF FINDINGS AND RESPONSES

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MAGOFFIN COUNTY
CARSON MONTGOMERY, SHERIFF
SCHEDULE OF FINDINGS AND RESPONSES

For The Year Ended December 31, 2020

STATE LAWS AND REGULATIONS:

2020-001 Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years Continue To Accumulate And Need To Be Settled With The IRS

This is a repeat finding and was included in the prior year audit report as finding 2019-001. The current amount of IRS penalties is \$62,935. The office manager stated that these penalties and interest have not been paid because they would be classified as unallowable expenditures and the sheriff has no other means to pay these penalties and interest. In addition, she has not received any invoices or letters from the IRS since March 2020 and the figures reported in the 2018-004 and 2019-001 findings are the most current to date. The penalties date back from December 2011, two quarters for 2013, all four quarters of 2014 and 2015, and the first quarter of 2016 for a total amount due is \$62,935. See the table below for the breakdown of the 12 invoices that the Sheriff's Office received from the IRS.

Summary of IRS Penalties and Interest

Tax Period	Tax Form	Amount Due	Notice Date
December 31, 2011	CVL PEN	\$ 1,506.46	March 16, 2020
September 30, 2013	941	3,236.34	March 16, 2020
December 31, 2013	941	13,369.70	March 16, 2020
March 31, 2014	941	10,062.96	March 16, 2020
June 30, 2014	941	10,469.12	March 16, 2020
September 30, 2014	941	8,719.05	March 16, 2020
December 30, 2014	941	7,228.43	March 16, 2020
March 31, 2015	941	1,563.15	March 16, 2020
June 30, 2015	941	1,670.44	March 16, 2020
September 30, 2015	941	1,335.18	March 16, 2020
December 31, 2015	941	1,977.63	March 16, 2020
March 31, 2016	941	1,796.80	March 16, 2020
Total		<u>\$ 62,935.26</u>	

The sheriff's office lacked proper internal controls related to paying the taxes due on the 941 tax forms timely from the last calendar quarter in 2011 through the first calendar quarter in 2016. The employee/employer payroll taxes have been paid, but not timely. Since these payroll taxes were not paid timely the IRS assessed penalties and taxes on the late payment of these payroll taxes. The sheriff's office, who stated that if these penalties and interest were paid, they would be deemed unallowable expenses from the fee account; therefore, the sheriff has no way to pay them.

By not paying the penalties and interest, they will continue to increase every year causing a larger cash flow burden on Magoffin County taxpayers.

IRS Publication 15, Section 11. Depositing Taxes states:

- "Generally, you must deposit federal income tax withheld and both the employer and employee social security and Medicare taxes."

MAGOFFIN COUNTY
 CARSON MONTGOMERY, SHERIFF
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2020
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2020-001 Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years Continue To Accumulate And Need To Be Settled With The IRS (Continued)

- “There are two deposit schedules—monthly and semiweekly—for determining when you deposit social security, Medicare, and withheld federal income taxes. These schedules tell you when a deposit is due after a tax liability arises. Your tax liability is based on the dates payments were made or wages were paid.”
- “Penalties may apply if you don't make required deposits on time or if you make deposits for less than the required amount.”
- For amounts not properly or timely deposited, the penalty rates are as follows.

Penalty	Charged For....
2%	Deposits made 1 to 5 days late
5%	Deposits made 6 to 15 days late.
10%	Deposits made 16 or more days late, but before 10 days from the date of the first notice the IRS sent asking for the tax due.
10%	Amounts that should have been deposited, but instead were paid directly to the IRS, or paid with your tax return. But see Payment with return, earlier in this section, for exceptions.
15%	Amounts still unpaid more than 10 days after the date of the first notice the IRS sent asking for the tax due or the day on which you received notice and demand for immediate payment, whichever is earlier.

Late deposit penalty amounts are determined using calendar days, starting from the due date of the liability.

IRS Publication 15, Section 12. Filing Form 941 or Form 944 states:

- Penalties. For each whole or part month a return isn't filed when required, there is a failure-to-file (FTF) penalty of 5% of the unpaid tax due with that return. The maximum penalty is generally 25% of the tax due. Also, for each whole or part month the tax is paid late, there is a failure-to-pay (FTP) penalty of 0.5% per month of the amount of tax. For individual filers only, the FTP penalty is reduced from 0.5% per month to 0.25% per month if an installment agreement is in effect. You must have filed your return on or before the due date of the return to qualify for the reduced penalty. The maximum amount of the FTP penalty is also 25% of the tax due. If both penalties apply in any month, the FTF penalty is reduced by the amount of the FTP penalty. The penalties won't be charged if you have a reasonable cause for failing to file or pay. If you receive a penalty notice, you can provide an explanation of why you believe reasonable cause exists.
- Note. In addition to any penalties, interest accrues from the due date of the tax on any unpaid balance.

We recommend the fiscal court, sheriff, and the county attorney meet and work out a plan to settle these amounts with the IRS.

Sheriff's Response: We have exhausted every avenue trying to resolve this matter. We have been unsuccessful. These are penalties only. No actual tax is owed.

MAGOFFIN COUNTY
 CARSON MONTGOMERY, SHERIFF
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2020
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2020-002 The Sheriff Did Not Settle Prior Years' Fee Accounts

This is a repeat finding and was included in the prior year audit report as finding 2019-002. The sheriff's office closed several past accounts before completely satisfying amounts due to and from various accounts associated with the sheriff's operations and collections. As such, prior years' fee accounts have the following receivables and liabilities that should have been satisfied with related excess fees submitted to the fiscal court:

2011 Fee Account

Receivables:

Commissions Due From 2010 Tax Account	\$ 1,169
Due From 2010 Tax For Refunds Paid	498
Commissions Due From 2010 Unmined Coal Tax Account	6,026
Interest Due From 2010 Unmined Coal Tax Account	37
Add-on Fees Due From 2010 Unmined Coal Tax Account	2,059
Due From Payroll Account	<u>2,385</u>

Total Due Fiscal Court As Of December 31, 2020	<u>\$ 12,174</u>
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2012 Fee Account

Receivables:

Due From Payroll Account For Balance As Of 12/31/2012	\$ 6,061
Due From 2013 Fee Account For January 2013 Payroll Paid From 2012 Fee	4,674
Due From Deposit Of 2012 Excess Fees Into 2017 Fee Account	<u>58,543</u>

Total Due Fiscal Court As Of December 31, 2020	69,278
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Less Amount Submitted To The Fiscal Court On 10/19/21	<u>2,575</u>
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Total Due Fiscal Court As Of March 16, 2022	<u>\$ 66,703</u>
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2013 Fee Account

Receivables:

Sheriff Add-on Fees Due From 2012 Tax Account	\$ 5,688
Interest Due From 2012 Tax Account	162
Commission Due From 2012 Tax Account	497
Interest Due From 2012 Unmined Coal Tax Account	4
Payroll Due From 2014 Payroll Account For January 2014 Payroll	10,954
Delinquent Tax Commissions Due From 2014 Fee Account	603
Payroll Ending Cash Balance As Of December 31, 2013	1,211
Due From Payroll Account For Transfer	3,110
Due From Calendar Year 2016 Fee Account	<u>10,571</u>

Total Assets	32,800
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MAGOFFIN COUNTY
 CARSON MONTGOMERY, SHERIFF
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2020
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2020-002 The Sheriff Did Not Settle Prior Years' Fee Accounts (Continued)

Liabilities:

Due 2012 Fee Account For January 2013 Payroll	(4,674)
Due 2013 Fee Account For January Payroll	(896)
Due 2013 Fee Account For Delinquent Tax Payments	(2,637)
Due Payroll Account For 2014	(40)
Due To Sheriff For Unpaid Salary	(358)
Occupational Tax Due The City Of Salyersville	(640)
Retirement Withholdings Due Magoffin County Fiscal Court	<u>(16,373)</u>

Total Liabilities (25,618)

Total Due Fiscal Court As Of December 31, 2020 \$ 7,182

2014 Fee Account

Receivables:

Due From 2015 Fee Account For January Payroll	\$ 11,928
Due From 2015 Fee Account For Prisoner Transport	<u>630</u>

Total Assets 12,558

Liabilities:

Due 2013 Fee Account For January 2014 Payroll	(7,844)
Due 2013 Fee Account For Delinquent Tax Commissions	(602)
Due 2013 Fee Account For Delinquent Tax Payments	(252)
Due Payroll Revolving Account For Payroll Liabilities	<u>(30,246)</u>

Total Liabilities (38,944)

Total Deficit Due From Sheriff As Of December 31, 2020 \$ (31,862)

The sheriff did not reconcile all accounts properly and submit excess fees after the prior years' periods of performance were completed. Also, proper internal controls were not in place to ensure that annual settlements were presented to the fiscal court and excess fees submitted timely.

Amounts due to and from various fee, tax, and payroll accounts were not properly settled before the sheriff's office closed prior years' accounts, thereby leaving unsettled receivables and liabilities involving several accounts.

Good internal controls dictate a documented review of the financial activity, which includes the settlement of fee accounts as well as closing no longer utilized accounts.

We recommend the sheriff meet with the fiscal court to determine an actionable settlement beneficial to all parties involved.

Sheriff's response: As far as we and the fiscal court are concerned, these accounts have been settled.

MAGOFFIN COUNTY
CARSON MONTGOMERY, SHERIFF
SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2020
(Continued)

INTERNAL CONTROL - MATERIAL WEAKNESSES:

2020-003 The Sheriff's Office Lacks Adequate Segregation Of Duties

This is a repeat finding and was included in the prior year audit report as finding 2019-003. The sheriff's office lacks adequate segregation of duties and internal controls. The bookkeeper and/or office manager was responsible for collecting money, preparing deposits, writing checks, posting to ledgers, performing and maintaining monthly bank reconciliations, and maintaining bank statements and financial reports.

The sheriff did not implement an adequate internal control system to allow for the proper segregation of duties. By not segregating these duties, there is an increased risk of misappropriation of assets either by undetected error or fraud. Internal controls and proper segregation of duties protect employees and the sheriff in the normal course of performing their daily responsibilities and protects the county taxpayer funds.

Good internal controls dictate the same employee should not receive payments, prepare deposits, and post to the receipt ledger. The same employee should not prepare monthly reports, sign checks and post to the disbursement ledger. Also, same employee should not deposit funds, sign checks, post to ledgers, prepare bank reconciliations, and monthly reports.

We recommend the sheriff's office implement an adequate internal control system and segregate duties. 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. The sheriff should take on the responsibility of preparing or reviewing the daily deposits, receipt and disbursement 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 adequately provide internal control.

Sheriff's Response: This is a common comment for most small offices. We will try to segregate duties as best we can.

2020-004 The Sheriff's Fourth Quarter Report Is Materially Misstated

This is a repeat finding and was included in the prior year audit report as finding 2019-004. The sheriff's fourth quarter report is materially misstated and does not sufficiently reflect the financial position of his office. The sheriff's fourth quarter report does not include receivables and liabilities that occurred after the end of the calendar year. Therefore, several transactions that were disregarded resulted in material adjustments to be made. By disregarding receivables and liabilities after the end of the calendar year, the sheriff's fourth quarter report does not sufficiently reflect his office's financial position and creates a situation that could misrepresent the amount of funds due the fiscal court when settling the account.

Proper internal controls require the sheriff's fourth quarter report appropriately reflects the financial position of his office and the amount of funds that are due to the fiscal court to enable sound financial operations within the government entity as a whole.

We recommend the sheriff account for receivables and liabilities that occur after the calendar year ends to sufficiently represent the financial position of his office.

Sheriff's Response: 4th Quarter Report was matched perfectly with my receipts log and bank statements as of 12/31/20. Activity in the account after 12/31/20 (receivables & payables) caused changes in the balances, so they no longer matched the 4th Quarter Report.