REPORT OF THE AUDIT OF THE FORMER MAGOFFIN COUNTY SHERIFF

For The Year Ended
December 31, 2022

MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS
auditor.ky.gov

209 ST. CLAIR STREET
FRANKFORT, KY 40601-1817
TELEPHONE (502) 564-5841
FACSIMILE (502) 564-2912

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

Independent Auditor's Report

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The Honorable Carson Montgomery, Former Magoffin County Sheriff
The Honorable William Meade, Magoffin County Sheriff
Members of the Magoffin County Fiscal Court

Report on the Audit of the Financial Statement

Opinions

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the former Sheriff of Magoffin County, Kentucky, for the year ended December 31, 2022, 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 receipts, disbursements, and excess fees of the former Magoffin County Sheriff for the year ended December 31, 2022, 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 financial position of the former Magoffin County Sheriff, as of December 31, 2022, or changes in financial position or cash flows thereof for the year then ended.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States, and the *Audit Program for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. 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 Magoffin County Sheriff and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

209 ST. CLAIR STREET
FRANKFORT, KY 40601-1817
TELEPHONE 502.564.5841
FACSIMILE 502.564.2912
AUDITOR.KY.GOV

The Honorable Matthew Wiremen, Magoffin County Judge/Executive
The Honorable Carson Montgomery, Former Magoffin County Sheriff
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Members of the Magoffin 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 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 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 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.

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 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 judgment 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 Magoffin 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 Magoffin County Sheriff's ability to continue as a going concern for a reasonable period of time.

The Honorable Matthew Wireman, Magoffin County Judge/Executive
The Honorable Carson Montgomery, Former Magoffin County Sheriff
The Honorable William Meade, Magoffin County Sheriff
Members of the Magoffin 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 audit findings, and certain internal control-related matters that we have identified during the audit.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated June 22, 2023, on our consideration of the former 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 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 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 findings:

2022-001 The Former Sheriff Did Not Properly Handle State And Federal Asset Forfeiture Funds
2022-002 The Former Sheriff Had Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years That Continue To Accumulate And Need To Be Settled With The IRS
2022-003 The Former Sheriff Failed To Properly Settle Multiple Prior Accounts And Comingled Funds From Several Accounts
2022-004 The Former Sheriff's Fourth Quarter Report Was Materially Misstated
2022-005 The Former Sheriff's Office Did Not Have Adequate Segregation Of Duties

Respectfully submitted,

Mike Harmon
Auditor of Public Accounts
Frankfort, KY

June 22, 2023

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

For The Year Ended December 31, 2022

Receipts		
Grant		$ 21,480
State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)		17,428
State Fees For Services:		
Finance and Administration Cabinet	$ 84,880	
Sheriff Security Service	50,658	135,538
Fiscal Court		88,178
County Clerk - Delinquent Taxes		31,269
Commission On Taxes Collected		148,861
Fees Collected For Services:		
Auto Inspections	2,210	
Accident and Police Reports	1,093	
Carry Concealed Deadly Weapon Permits	2,320	
Arrest Fees	1,300	
Civil Process	21,023	
Accident Photos	100	
Fingerprints	106	28,152
Other:		
Add-On Fees	13,110	
Miscellaneous	48,480	
Telecommunications Tax	999	62,589
Interest Earned		76
Borrowed Money:		
State Advancement		45,000
Total Receipts		578,571

MAGOFFIN COUNTY
CARSON MONTGOMERY, FORMER SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2022
(Continued)

Disbursements			
Operating Disbursements:			
Personnel Services-			
Deputies' Salaries	$ 116,247		
Part-Time Salaries	63,394		
Other Salaries	75,961		
Overtime	5,283		
KLEFPF	3,898		
Employee Benefits-			
Employer's Share Social Security	28,088		
Employer Paid Health Insurance	46,038		
Contracted Services-			
Advertising	144		
Vehicle Maintenance and Repairs	7,604		
Materials and Supplies-			
Office Materials and Supplies	4,030		
Uniforms	3,750		
Auto Expense-			
Gasoline	46,173		
Maintenance and Repairs	15		
Other Charges-			
Bond	1,425		
Miscellaneous	5,000		
Phones	7,565		
Training Expense	3,436	$ 418,051	
Debt Service:			
State Advancement		45,000	
Total Disbursements			$ 463,051

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

MAGOFFIN COUNTY
CARSON MONTGOMERY, FORMER SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2022
(Continued)

Net Receipts		$ 115,520
Less: Statutory Maximum		98,255
Excess Fees		17,265
Less: Training Incentive Benefit		4,679
Excess Fees Due County for 2022		12,586
Payments to Fiscal Court - January 13, 2023	$ 6,564	
February 20, 2023	6,022	12,586
Balance Due Fiscal Court at Completion of Audit		$ 0

MAGOFFIN COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2022

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 pay to the governing body of the county any fees, commissions, and other income of his or her office, including income from investments, which exceed the sum of his or her maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants by March 15 of each year. KRS 64.830 requires an outgoing sheriff to make a final settlement 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) as of December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2022 services
- Reimbursements for 2022 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2022

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, 2022
(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 Kentucky Public Pensions Authority (KPPA). This is a cost-sharing, multiple-employer, defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute five percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008, are required to contribute six percent of their salary to be allocated as follows: five percent will go to the member's account and one percent will go to the CERS 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 CERS 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 26.95 percent for the first six months and 26.79 percent for the last six months.

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:

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%

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

Other Post-Employment Benefits (OPEB) (Continued)

A. Health Insurance Coverage - Tier 1 (Continued)

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 78.5536.

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

Once members reach a minimum vesting period of 15 years, they 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 78.5536. 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 Kentucky Retirement Systems 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.

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.

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

Kentucky Retirement System Annual Financial Report and Proportionate Share Audit Report

Kentucky Retirement System 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.

Kentucky Retirement System 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 former Magoffin 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.

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

Note 4. Grant

The former 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 on Violence Against 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 $1,790 monthly to secure the aforementioned services of the Magoffin County Sheriff's Department. The total funds received for the year ending December 31, 2022, was $21,480.

Note 5. Short-term Debt

A. Direct Borrowings

1. State Advancement

The former Magoffin County Sheriff's office received state advancement of funds in the amount of $45,000 to defray the expenses of the office for 2022. The loan was repaid on December 9, 2022.

B. Changes in Short-term Debt

	Beginning Balance	Additions	Reductions	Ending Balance
Direct Borrowings	$	$ 45,000	$ 45,000	$
Total Short-term Debt	$ 0	$ 45,000	$ 45,000	$ 0

Note 6. Asset Forfeiture Account

A. Federal Forfeiture Account

The former 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 former sheriff's office. The beginning balance for the federal asset forfeiture account as of January 1, 2022, was $32,380. The former sheriff did not receive any funds during the current year. The former sheriff expended $32,391 to the fee account. The federal account earned $11 in interest leaving an ending balance as of December 31, 2022, of $0.

B. State Forfeiture Account

The beginning balance for the state forfeiture account as of January 1, 2022, was $6,193. The former sheriff did not receive any funds during the current year. The former sheriff expended $6,195 to the fee account for payroll. The state account earned interest in the amount of $2, leaving a balance of $0 as of December 31, 2022.

Note 7. Escrow Account

The former Magoffin County Sheriff deposited outstanding checks into a non-interest bearing custodial account. When statutorily required, the sheriff will turn over the escrowed funds to the Kentucky State Treasurer as unclaimed property. The sheriff's office escrowed amounts were as follows:

2022 $2,471

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

We have audited, 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 Program for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky, the Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the former Magoffin County Sheriff for the year ended December 31, 2022, and the related notes to the financial statement and have issued our report thereon dated June 22, 2023. The former 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.

Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statement, we considered the former Magoffin 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 Magoffin County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the former Magoffin County Sheriff's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying 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 2022-001, 2022-002, 2022-003, 2022-004, and 2022-005 to be material weaknesses.

209 ST. CLAIR STREET
FRANKFORT, KY 40601-1817
TELEPHONE 502.564.5841
FACSIMILE 502.564.2912
AUDITOR.KY.GOV

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the former 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 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 instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying Schedule of Findings and Responses as items 2022-001, 2022-002, 2022-003, and 2022-004.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,

Mike Harmon
Auditor of Public Accounts
Frankfort, KY

June 22, 2023

SCHEDULE OF FINDINGS AND RESPONSES

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MAGOFFIN COUNTY
CARSON MONTGOMERY, FORMER SHERIFF
SCHEDULE OF FINDINGS AND RESPONSES

For The Year Ended December 31, 2022

FINANCIAL STATEMENT FINDINGS:

2022-001 The Former Sheriff Did Not Properly Handle State And Federal Asset Forfeiture Funds

During the calendar year, the former sheriff transferred federal forfeiture funds in the amount of $32,391 and $6,195 in state forfeiture funds to his fee account. By transferring the funds to the fee account and not keeping documentation of how the funds were spent, we were not able to determine if the funds were spent in accordance with the statute and regulations covering these funds. In addition, the former sheriff did not prepare an annual report for the federal forfeiture funds.

The former sheriff did not implement controls to ensure that state and federal asset forfeiture funds were properly handled. Without the implementation of these controls, the former sheriff did not follow the procedures outlined in the guidance set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*. The failure to follow this guidance could result in a non-compliance of federal forfeiture funds.

The U.S. Department of Justice's *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* requires "[a]ll participating state and local law enforcement agencies must implement standard accounting procedures and internal controls [e.g., tracking share requests and receipts, electronically depositing shares and internal controls into a separate revenue account or accounting code] that are consistent with the guidelines set forth below to track equitably shared funds and tangible property." Those procedures must be consistent with those set by the Department of Justice: "No other funds may be commingled in these accounts or with these accounting codes." In addition, the federal guide lists allowable and unallowable uses of these funds.

KRS 218A.420(4)(a) states, "Eighty-five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes[.]"

We recommend the sheriff's office improve controls over the federal and state forfeiture accounts and ensure compliance with all applicable guidelines. In addition, we recommend that the sheriff contact the Department of Justice to seek guidance on how to handle these forfeiture funds being commingled with fee account funds.

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

2022-002 The Former Sheriff Had Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years That 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 2021-001. The total amount of IRS penalties is $62,935. The former 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 had not received any invoices or letters from the IRS since March 2020 and the figures reported in the 2018-004, 2019-001, and 2020-001 audit findings are the most current to date. The penalties date back from December 2011 and include two quarters for 2013, all four quarters of 2014 and 2015, and the first quarter of 2016 for a total amount due of $62,935.

MAGOFFIN COUNTY
CARSON MONTGOMERY, FORMER SHERIFF
SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2022
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2022-002 The Former Sheriff Had Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years That Continue To Accumulate And Need To Be Settled With The IRS (Continued)

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	$ 1,507	March 16, 2020
September 30, 2013	941	3,236	March 16, 2020
December 31, 2013	941	13,370	March 16, 2020
March 31, 2014	941	10,063	March 16, 2020
June 30, 2014	941	10,469	March 16, 2020
September 30, 2014	941	8,719	March 16, 2020
December 30, 2014	941	7,228	March 16, 2020
March 31, 2015	941	1,563	March 16, 2020
June 30, 2015	941	1,670	March 16, 2020
September 30, 2015	941	1,335	March 16, 2020
December 31, 2015	941	1,978	March 16, 2020
March 31, 2016	941	1,797	March 16, 2020
Total		$ 62,935	

The former 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 had been paid, but not timely. Since these payroll taxes were not paid timely the IRS assessed penalties and taxes on the rate payment of these payroll taxes. The former sheriff's office stated that if these penalties and interest were paid, they would be deemed unallowable expenses from the fee account, and he had 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.
- 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.

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SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2022
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2022-002 The Former Sheriff Had Significant Internal Revenue Service (IRS) Penalties And Interest From Past Years That Continue To Accumulate And Need To Be Settled With The IRS (Continued)

Penality	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, the former sheriff, and the county attorney meet and work out a plan to settle these amounts with the IRS.

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

2022-003 The Former Sheriff Failed To Properly Settle Multiple Prior Accounts And Comingled Funds From Several Accounts

This is a repeat finding and was included in the prior year audit report as finding 2021-002. The former Magoffin County Sheriff has not properly settled the 2011, 2012, 2013, and 2014 fee accounts. The former sheriff closed the prior year accounts and deposited all the funds into the 2017 fee account. The former sheriff did not follow the procedures provided in detailed schedules per the prior audit reports to properly settle these accounts.

FINANCIAL STATEMENT FINDINGS: (Continued)

2022-003 The Former Sheriff Failed To Properly Settle Multiple Prior Accounts And Comingled Funds From Several Accounts (Continued)

Per the prior year audit report, the amounts due the fiscal court for 2011, 2012 and 2013, and the ending deficit for 2014 are as follows:

- 2011 - $12,174
- 2012 - $66,703
- 2013 - $7,182
- 2014 - ($31,862)

The sheriff's office instead deposited the remaining balances of these accounts into the 2017 fee account. When closing the 2017 account the former Magoffin County Sheriff wrote a check of $64,440 on October 19, 2021, to the fiscal court as excess fees for the prior accounts.

The former sheriff did not follow the guidelines to settle prior year accounts. Furthermore, he comingled funds within these accounts instead of following the recommendations of prior audit reports to properly settle each account. As a result, excess fees were not properly remitted to fiscal court and a deficit remains unresolved. Taxpayers cannot be assured the former sheriff's prior fee and tax accounts were properly settled.

KRS 134.192(11) states, "[i]n counties containing a population of less than seventy thousand (70,000), the sheriff shall provide to the fiscal court by March 15 of each year a complete statement for the preceding calendar year, which includes: (a) 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 (b) A complete statement of all expenditures of his or her office, including his or her salary, compensation of deputies and assistants, and reasonable expenses." KRS 134.192(12) states, "[a]t the time he or she files the statements required by subsection (11) of this section, the sheriff shall pay to the governing body of the county any fees, commissions, and other income of his or her office, including income from investments, which exceed the sum of his or her maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810. The provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830."

Additionally, KRS 64.820(1) 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 64.810 if the amount can be collected without suit." KRS 64.820(2) states, "[i]n 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 ninety (90) days from the date of receiving the Auditor's or certified public accountant's report."

We recommend the former sheriff consult with the county attorney and the fiscal court to come up with a solution to resolve the comingling of prior accounts, properly settle those accounts, and resolve any unpaid deficits.

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

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SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2022
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2022-004 The Former Sheriff's Fourth Quarter Report Was Materially Misstated

This is a repeat finding and was included in the prior year audit report as finding 2021-004. The former sheriff's fourth quarter report was materially misstated and did not sufficiently reflect the financial position of his office. The fourth quarter report had $34,908 of receipts and $23,237 of disbursements that were not posted to the report.

The former 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 having to be made. By disregarding receivables and liabilities after the end of the calendar year, the former sheriff's fourth quarter report did not sufficiently reflect his office's financial position and created a situation that could misrepresent the amount of funds due the fiscal court when settling the account.

Proper internal controls require that the former sheriff's fourth quarter report appropriately reflect 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.

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

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

2022-005 The Former Sheriff's Office Did Not Have Adequate Segregation Of Duties

This is a repeat finding and was included in the prior year audit report as finding 2021-003. The sheriff's office did not have adequate segregation of duties and internal controls. The former 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 former sheriff did not implement an adequate internal control system to allow for the proper segregation of duties. When you do not segregate 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 receipts ledger. The same employee should not prepare monthly reports, sign checks and post to the disbursements ledger. Also, the same employee should not deposit funds, sign checks, post to ledgers, prepare bank reconciliations, and prepare 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, receipts and disbursements ledgers, monthly reports, and bank reconciliations. These reviews must be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information does not adequately provide internal control.

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