



**EXAMINATION OF DONATIONS RECEIVED AND DISBURSED
BY THE BOYD COUNTY SHERIFF'S OFFICE
MAY 12, 1994 THROUGH AUGUST 31, 2000**

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Edward B. Hatchett, Jr.
Auditor of Public Accounts

May 8, 2001

Hon. Bill F. Scott
County Judge/Executive
Boyd County Fiscal Court
Boyd County Courthouse
Catlettsburg, Kentucky 41129

Hon. Phillip Sturgill, Sheriff
Boyd County Courthouse
Catlettsburg, Kentucky 41129

RE: Report on Examination of Sheriff's Office Donations

Dear Judge Scott and Sheriff Sturgill:

We have examined donations received and expended by the Boyd County Sheriff's Office (Sheriff's Office) from May 12, 1994, through August 31, 2000 (Examination Period). This examination was initiated at the request of the Boyd County Fiscal Court. Our objectives were to:

- Ascertain the value of donations received and disbursed during the Examination Period;
- Identify and classify donations disbursed; and,
- Determine whether donations disbursed were for a public purpose benefiting the Boyd County Sheriff's Office.

We interviewed personnel in the Sheriff's Office, confirmed significant donations with individual donors, and examined accounting records, bank records, and detailed transaction documentation in the Sheriff's Office.

We identified \$160,868 in donation receipts during the Examination Period (see Exhibits A and B). Of these donated funds, \$143,244 was disbursed, leaving \$17,624 on deposit as of August 31, 2000. The following issues came to light during our examination:

- The Sheriff's Office solicited and accepted donations from private sources. This practice is not authorized by law according to an Opinion of the Attorney General. (OAG) 82-433 opining that the only authorized sources of funding for a sheriff's office are sheriff's fees and the county treasury; and,
- Expenditures totaling \$24,836 were not adequately supported by documentation to allow classification or a determination of whether such expenditures were for a public purpose benefiting the Sheriff's Office.

We have made comments and recommendations designed to strengthen certain administrative and accounting practices.

We report our findings in the attached detailed report. We appreciate the cooperation of Sheriff Sturgill and his employees during the course of our work.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ed Hatchett". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

EBHJr:kct

Findings and Recommendations

The Sheriff's Office solicited and accepted donations exceeding \$160,000 from private sources, which is not authorized by law according to an opinion of the Attorney General.

On May 12, 1994, the Sheriff's Office established the Special Account for the deposit and disbursement of donations accepted for the purchase of equipment and supplies that were not budgeted in the Sheriff's Office Fee Account. On April 15, 1999, the Sheriff's Office established the Memorial Bulletproof Vest Account for the deposit and disbursement of donations accepted for the purchase of bulletproof vests. These vests were not budgeted in the Sheriff's Office Fee Account.

The Special and Memorial Bulletproof Vest Accounts are jointly referred to as the Donations Accounts in this report. Donations received during the Examination Period totaled \$160,868, of which \$143,244 was disbursed (see Exhibits A and B) leaving \$17,624 on deposit as of August 31, 2000.

Fund-raising activities by the Sheriff's Office were contrary to OAG 82-433.

After the Donations Accounts were established, the Sheriff's Office solicited and accepted donations from numerous private donors. OAG 82-433 states:

There is no legal basis whereby a sheriff may directly receive donations from private persons or corporations for the purpose of funding the sheriff's office. First there is no statute permitting him to accept gifts for that office. Secondly, KRS 61.310 prohibits him, as a peace officer, from accepting gifts for the performance of any public duty.

Conversely, the Fiscal Court has authority to accept certain types of donations. OAG Opinion 82-433 further states:

[T]he fiscal court may accept donations from any private or corporate sector for the purpose of such funds being used to assist, where necessary, in the funding of the sheriff's office, provided that the gift agreement makes it clear that the fiscal court will retain its usual statutory discretion in

the detailed disbursement of such funds for the sheriff's office, and with the express understanding that the gift is not for any particular or specific performance of any public duty by the sheriff, his deputies or matrons.

Accepting \$90,000 from a single donor could create the appearance that the donor is buying specific services from the Sheriff's Office, which would violate KRS 61.310.

Kings' Daughters Medical Center (KDMC) donated \$90,000, or over fifty-five percent of the total donations received. Donations from KDMC were received as follows:

<u>Year</u>	<u>Amount</u>
1996	\$24,000
1997	25,000
1998	16,000
1999	<u>25,000</u>
TOTAL	<u>\$90,000</u>

OAG 82-433 states:

Moreover, KRS 61.310(2) prohibits gifts paid to sheriffs or their deputies for the performance of any service. A violation of this provision authorizes the sheriff's removal from office and a fine of not less than \$500 nor more than \$5,000, or confinement in jail for not more than one (1) year, or both. In addition, subsection (7) of KRS 61.310 provides that the donor of any gift to any peace officer or to any governmental unit or officer thereof, where the gift is for the performance of any public duty, is subject to a fine of not less than \$500 nor more than \$5,000.

No direct connections between KDMC's donations and the particular or specific performance of any public duty by the Sheriff's Office were noted during our examination. Therefore, we are not aware of any violation of KRS 61.310. However, the magnitude of the donations and the fact that they were solicited and accepted by the Sheriff's Office could create the appearance that such a connection exists. Such an appearance could degrade public trust in the Sheriff's Office to serve the people of Boyd County equally and indiscriminately, and therefore should be expressly avoided.

As OAG 82-433 puts the matter: “economic power must not be used to create servants for its wishes. The sheriff’s office works for the public, the people of the county. It cannot work for donors. There must be no such strings attached.” Despite the best of intentions, the Sheriff’s Office has arguably fostered the appearance of impropriety.

Recommendations

We recommend that the Sheriff’s Office:

- Refrain from soliciting or accepting donations from private sources in the future; and
 - Remit the remaining \$17,624 of donations received to Boyd County Fiscal Court.
-

Approximately \$25,000 of disbursements were not appropriately supported by documentation.

On January 7, 1997, the Sheriff’s Office established the Local Block Grant Account for the deposit and disbursement of federal grant monies relating to the Local Law Enforcement Block Grant. We tested disbursements from Donations Accounts and the Local Block Grant Account for appropriate supporting documentation. We included the Local Block Grant Account in our examination because \$75,100 of donations accepted were deposited into and disbursed out of the Local Block Grant Account.

We determined that all the disbursements that were appropriately supported by documentation were for a public purpose benefiting the Sheriff’s Office. However, we identified \$24,836 in disbursements, mainly to credit card companies, that were not supported by adequate documentation. These disbursements were for purchases supported by a credit card or other statement, or in other cases not supported at all. The absence of detailed supporting documentation precluded us from classifying these disbursements (see Exhibits A and B) and from determining whether these disbursements were for a public purpose benefiting the Sheriff’s Office.

Judge Scott
Sheriff Sturgill
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Timely audits could have prevented inadequate documentation issues.

We attempted to recreate documentation that was unavailable. We were unsuccessful because of the age of the transactions. The Sheriff's Office contends that the private CPA firm that performed the Fee Account audit also reviewed the Donations Accounts. However, the CPA firm indicated that their procedures were limited to the Fee Account each year.

Had the Donations Accounts been fully included in annual Fee Account audits, inadequacies in supporting documentation would have been identified, allowing them to be resolved.

Recommendations

We recommend that the Sheriff's Office:

- Maintain appropriately detailed supporting documentation, including invoices and receipts, for all disbursements; and
- Ensure that all accounts are audited on an annual basis.

EXHIBITS

Exhibit A
Donations Accounts
Statement of Receipts and Disbursements
May 12, 1994 Through August 30, 2000

Receipts

General Donations	\$ 91,538 ¹	
Bulletproof Vest Donations	19,330 ¹	
Reimbursements ²	11,020	
Bulletproof Vest Grant Receipts	6,656	
Miscellaneous	4,190	
Interest	<u>562</u>	
 Total Receipts		 \$ 133,296

Disbursements

Transfers to Local Block Grant Account	\$ 25,100	
Unidentified Disbursements ³	19,188	
Firearms	14,380	
Other Law Enforcement Equipment	13,671	
Bulletproof Vests	13,313	
Office Equipment	10,491	
Postage	4,000	
Radio Equipment	3,839	
Drug Dog Supplies and Training	3,122	
Miscellaneous	2,243	
Training	2,046	
Camera and Film	1,894	
Uniforms	1,436	
Supplies and Materials	799	
Auto Expenses	<u>150</u>	
 Total Disbursements		 <u>115,672</u>
 Cash Balance as of August 31, 2000		 <u>\$ 17,624</u>

¹ This amount represents a portion of the \$160,868 identified in this report as total donations received.

² The Sheriff's Office allowed employees to purchase items for work, such as firearms, using donated funds initially, followed by a reimbursement paid by the employee. No shortfall in reimbursements received was noted.

³ This amount represents a portion of the \$24,836 identified in this report as total disbursements not appropriately supported.

Exhibit B
Local Block Grant Account
Statement of Receipts and Disbursements
January 7, 1997 through December 17, 1999

Receipts

General Donations	\$ 50,000 ¹	
Transfers from Donation Accounts	25,100	
Local Law Enforcement Block Grant	17,642	
Miscellaneous	5,968	
Interest	<u>1,451</u>	
 Total Receipts		 \$ 100,161

Disbursements

Other Law Enforcement Equipment	\$ 38,245	
Radio Equipment	33,841	
Office Equipment	22,171	
Unidentified Disbursements ³	5,648	
Badges	236	
Bank Fees	<u>20</u>	
 Total Disbursements		 <u>100,161</u>
 Cash Balance as of December 17, 1999 ⁴		 \$ <u> -</u>

¹ This amount represents a portion of the \$160,868 identified in this report as total donations received.

³ This amount represents a portion of the \$24,836 identified in this report as total disbursements not appropriately supported.

⁴ This represents the date the account was closed at the bank.

BOYD COUNTY SHERIFF RESPONSE

- 1) Once made aware of OAG 82-433, no further grants have been accepted. It is painfully clear that, in an atmosphere of continuously shrinking budget dollars, private foundations provide far greater resources than do the federal or state governments. We agree for the purposes outlined that further grants will be avoided.

We will accept the recommendation that remaining funds be given to the fiscal court. We believe that the court, though not obligated, should place those funds into a line item within the county budget to continue the fund's intention to purchase protective body armor for Boyd County deputy sheriffs and police officers.

- 2) The grants from King's Daughters Medical Center were received over a period of several years and there has been no indication that special status or consideration has ever been given to them as a result of such grants. We, too, believe that such appearances should be avoided and, again, will refrain from such.
- 3) Records have been kept over a period of seven or so years of these accounts. The accounts were previously reviewed/audited and no deficiencies were reported; and, some records were not kept as a result. Other records might have been lost or misplaced over this period of time and it was not possible to salvage or reproduce these records to your standards. There have been no reported deficiencies in the fee accounts over the years and every attempt has been made to maintain accurate records. It is possible that one bookkeeper may be insufficient to handle such a task and will be avoided in the future.
- 4) We concur completely and re-affirm that no such activity occurred.
- 5) It should be noted that the funds in these donations accounts were not public funds generated through taxes or fees, and therefore not subject to the same standards. By the use of such funds excess fees totaling over \$300,000 were returned to the county for public use. In good faith I believed all accounts were being scrutinized. In the future we will ensure that all accounts are subject to regular audit.
- 6) We would like to commend the audit staff for their professional demeanor during this time. It is regretful that for the lack of cooperation from the fiscal court this audit became necessary. We should like to believe that intentions as well as actions are at the root of good government and that "right" thinking should be rewarded and not rebuffed. Though technical procedures might be improved, this should strengthen the position that the Sheriff should be allowed leeway to pursue that course which is best for his county and his deputies and not be dictated to by the will of a contrary politician.

Sheriff Philip G. Sturgill

