

**EXAMINATION OF CERTAIN FINANCIAL OPERATIONS AND  
INTERNAL POLICIES AND CONTROLS OF  
SELECT KENTUCKY COUNTY ATTORNEY OFFICES**



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Mr. Jeff Traughber, Todd County Attorney  
Mr. John G. Wright, Gallatin County Attorney

Dear County Attorneys:

The Auditor of Public Accounts (APA) has completed its examination of Select County Attorney Offices across the Commonwealth. This report summarizes the procedures performed and communicates the results of those procedures.

The purpose of this examination was not to provide an opinion on the financial statements, but to review the financial processes and controls in place over a sample of nine county attorneys' offices. Detailed findings and recommendations based on our examination are presented in this report to assist management in implementing corrective action. Overall, these findings indicate the following among the nine county attorney offices examined:

- Lack of guidance and oversight to ensure accountability of county attorney finances and operations.
- Significant questionable spending practices in county attorney offices, including the use of public funds to award employee bonuses, make donations, as well as pay personal and private law practice expenses.
- Internal control weaknesses exist in county attorney offices, including no written procurement procedures and a lack of documentation to validate expenses and properly account for public funds.
- Increased risk of error or fraud due to a lack of segregation of duties in county attorney offices.

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We appreciate your assistance and the assistance of your staff throughout the examination. If you have any questions or wish to discuss this report further, please contact me or Jason Johnson, Executive Director, Office of Technology and Special Audits.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal flourish extending to the right.

Mike Harmon  
Auditor of Public Accounts

## **INTRODUCTION AND BACKGROUND**

### **Examination Scope**

While conducting an examination of the Cabinet for Health and Family Services' (CHFS) Child Support Enforcement (CSE) Program, the Auditor of Public Accounts (APA) identified various issues indicating the need for examination procedures to be performed of county attorney offices. In the fall of 2019, the Auditor of Public Accounts (APA) notified nine Kentucky county attorneys' offices of its intent to conduct special examination procedures. The nine county attorney offices selected included Boyd, Breathitt, Christian, Clark, Gallatin, Knox, Lawrence, Pike, and Todd Counties. The examination would evaluate certain financial activity of the selected county attorneys' offices. Unless otherwise specified, examination procedures focused primarily on activity between July 1, 2017 and June 30, 2019.

The purpose of this examination was not to provide an opinion on the financial statements but to determine whether legal restrictions placed on the use of county attorney public funds are appropriately followed. This includes child support enforcement funds, fees received by county attorney offices from asset forfeitures, cold check fees, delinquent real estate tax collections, and traffic diversion program fees. The examination also evaluated whether traffic diversion program court cost fees are paid to the Finance and Administration Cabinet monthly as required by KRS 186.574(6)(e), to evaluate whether excess cold check fees are turned over to the fiscal court before the end of the next fiscal year (FY) as required by KRS 514.040(5), and to evaluate whether receipt processes are sufficient to ensure accurate and timely recording of county attorney offices' receipts.

To address the objectives of this examination, the APA interviewed county attorney office personnel, and reviewed and analyzed several documents, including, but not limited to bank statements, vendor payments, third-party vendor reports, state laws impacting county attorney offices, and other information. The APA initially surveyed 16 county attorney offices across Kentucky to gain a better understanding of the internal operations of a county attorney office. Based on survey results, various concerns received by the APA, and issues identified by auditors during the CHFS CSE program examination, nine county attorney offices were selected for further examination. See additional information regarding the survey of county attorney offices at Appendix A.

### **Office of County Attorney**

Section 99 of the Kentucky Constitution requires each county to elect a county attorney every four years. To be an eligible candidate, in addition to being a citizen of Kentucky, one must reside in the Commonwealth for two years, be a resident of the county in which he/she is a candidate one year before election, be a licensed practicing attorney two years before election, and be at least 24 years of age.

The role of a county attorney is diverse as such they may provide numerous services at both the state and county level. In addition to serving as a prosecutor, county attorneys

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serve as legal advisor to local governments, and may provide additional services such as Child Support Enforcement under contract with CHFS.

Pursuant to KRS 15.700 et seq, the office of the county attorney as to its prosecutorial responsibilities is included within the unified and integrated prosecutorial system as established in 1976. This system was created to bring various components of the criminal justice system together “to maintain uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the Commonwealth.” It also established the Attorney General as the chief prosecutor of the Commonwealth. By virtue of the office, the county attorney is a special prosecutor of the Commonwealth under KRS 15.730 and is required to perform duties coextensive with the Commonwealth when directed by the Attorney General. Per KRS 15.730, these duties may include “prosecution of or participation in action outside of his judicial circuit or judicial district, when directed by the Attorney General and assisting the Attorney General in preparation and presentation of the Commonwealth’s position in criminal cases appealed to Circuit Court, Court of Appeals, and the Supreme Court.”

### **Duties of the County Attorney**

In addition to performing miscellaneous duties for the county and state, the county attorney performs prosecutorial functions and is the county government’s legal advisor as required by KRS 69.210, which states:

- (1) The county attorney shall attend the fiscal court or consolidated local government and conduct all business touching the rights or interests of the county or consolidated local government, and when so directed by the fiscal court or consolidated local government, he or she shall institute, defend, and conduct all civil actions in which the county or consolidated local government is interested before any of the courts of the Commonwealth.
- (2) The county attorney shall attend to the prosecution in the juvenile session of the District Court of all proceedings held pursuant to petitions filed under KRS Chapter 610 and over which the juvenile session of the District Court has jurisdiction pursuant to KRS Chapter 610.
- (3) The county attorney shall give legal advice to the fiscal court or consolidated local government and the several county or consolidated local government officers in all matters concerning any county or consolidated local government business within their jurisdiction. He or she shall oppose all unjust or illegally presented claims.
- (4) A county attorney serving in a county, consolidated local government, or urban county which is part of a judicial circuit described by KRS 69.010(2), in addition to the duties in subsections (1) and (2) of this section, shall have the following duties:

- (a) He or she shall attend all civil cases and proceedings in his or her county in which the Commonwealth is interested; and
- (b) He or she shall advise the collector of money due the Commonwealth in the county or consolidated local government in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions. In no case shall the county attorney take a fee or act as counsel in any case in opposition to the interest of the county or consolidated local government.

### **Prosecutors Advisory Council (PAC)**

The Prosecutors Advisory Council (PAC) was created by the General Assembly and codified in KRS 15.705 to administer the unified prosecutorial system (UPS). The Governor appoints the nine member council consisting of three commonwealth's attorneys, three county attorneys, two non-attorney citizen members, and the Attorney General who serves as chair. PAC administrative staff work within a division of the Kentucky Attorney General's Office. PAC oversees the financial administration of UPS, which includes directing administrative staff in the preparation of the budget and administering UPS operating budgets of the 177 local commonwealth's and county attorney offices. Additionally, responsibilities of PAC staff include, but are not limited to:

- Develop and coordinate training required by KRS 15.718 concerning elder abuse, child sexual abuse, human trafficking, and domestic violence.
- Provide personnel, payroll, and benefit services to employees of the UPS.
- Administer federal, state, and local grants in addition to asset forfeiture accounts for commonwealth's and county attorneys.
- Provide legal research and guidance regarding administrative issues.
- Monitor criminal justice legislation affecting the prosecutorial system.

Each county attorney is required by KRS 15.750(1) to submit to PAC a proposed office budget. The proposed budgets are to include only those funds received through PAC, and do not include funds received by county attorneys that may be budgeted at the local level by a county fiscal court. Additionally the proposed budgets do not include funds received through county attorney programs such as cold check collection fees, delinquent tax funds, and other programs revenues identified later in this report. The proposed budgets are included in the UPS total budget as well as the Office of the Attorney General budget, which is established through the Commonwealth of Kentucky's biennial budget process. County attorneys receive funds each year from the Commonwealth's General Fund, Restricted Funds, and Federal Fund with the majority derived from the General Fund. The total enacted budget for county attorneys in FY 2020 was \$54.7 million. Figure 1 summarizes county attorneys budgeted expenditures as reflected in the 2018-2020 Budget of the Commonwealth.

**Figure 1: County Attorneys Annual Budget for Fiscal Years 2018-2020**

<b>Expenditures By Class</b>	<b>Revised FY 2018</b>	<b>Enacted FY 2019</b>	<b>Enacted FY 2020</b>
Personnel Costs	\$ 43,163,300	\$ 52,503,400	\$ 53,165,300
Operating Expenses	792,000	1,539,400	1,539,700
<b>Total Expenditures</b>	<b>\$ 43,955,300</b>	<b>\$ 54,042,800</b>	<b>\$ 54,705,000</b>
<b>Expenditures by Fund Source</b>			
General Fund	\$ 42,647,000	\$ 52,266,800	\$ 53,058,600
Restricted Funds	804,600	782,200	642,700
Federal Fund	503,700	993,800	1,003,700
<b>Total Expenditures</b>	<b>\$ 43,955,300</b>	<b>\$ 54,042,800</b>	<b>\$ 54,705,000</b>

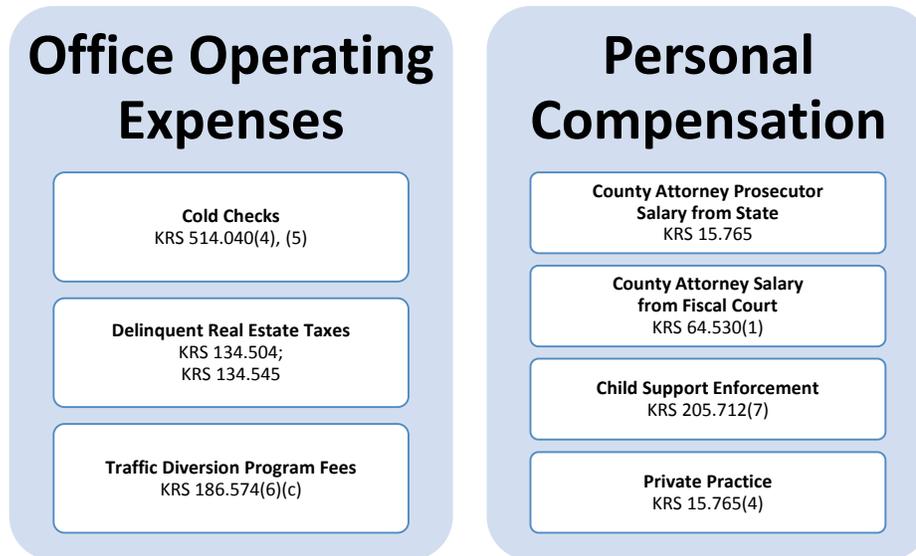
Source: APA, based on the 2018-2020 Budget of the Commonwealth.

KRS 15.765 requires each county attorney to receive a \$500 monthly expense allowance for office expenses associated with the duties as criminal prosecutor, which is paid from the State Treasury. In the 2018-2020 Budget of the Commonwealth, the monthly expense allowance was reduced to \$400 from \$500 monthly. Similarly, the fiscal court or urban-county council is responsible for paying those office expenses incurred as the county's legal adviser.

### **Revenue Sources and Restrictions**

In addition to funds received through the Commonwealth Budget process, KRS 64.530(1) allows county fiscal courts to provide a salary to the county attorney, county attorney assistants, and county attorney staff. County attorneys also administer various programs through which revenue is generated to assist in the operations of the offices. Funds generated are either restricted to office operating expenses, law enforcement purposes, or provide personal compensation to the county attorney. Figure 2, depicts the possible sources of funds generated in the county attorney offices and the statutes that restrict the funds' use.

**Figure 2: County Attorney Revenue Sources**



Source: APA, based on referenced Kentucky Revised Statutes.

The revenues generated from programs administered by each of the nine county attorney offices examined are summarized by county at Appendices B through J.

### Personal Compensation

Each county attorney receives an annual salary from the state for prosecutorial duties. County attorneys may receive an additional annual salary from the fiscal court at its discretion for providing legal advice to the county government. By the second Friday of February each year, the Department for Local Government (DLG) computes county attorneys' maximum allowable compensation for prosecutorial duties and the maximum total allowable annual compensation county attorneys may receive pursuant to KRS 15.765. DLG computed the maximum allowable compensation paid by the state for county attorneys' prosecutorial duties for 2018 and 2019 as \$74,468 and \$75,891, respectfully. The total salary county attorneys receive from the state and the fiscal court must not exceed the maximum total allowable annual compensation as calculated by DLG. For 2018 and 2019, DLG computed county attorneys' maximum total allowable annual compensation as \$124,114 and \$126,485, respectfully.

County attorneys may also receive compensation for administering the Child Support Enforcement (CSE) Program through a contract with the Cabinet for Health and Family Services (CHFS). The CSE contract states county attorneys will be compensated at an hourly rate not to exceed \$55 per hour for performing contractual child support services. Additionally, as permitted by KRS 15.765(4), the county attorney may engage in the private practice of law. Compensation earned from the private practice of law and child support services performed under contract with CHFS are not subject to the statutory maximums set by DLG.

### **Child Support Enforcement Contract with County Attorneys**

The CSE Program aids legal guardians and custodial parents of minors in locating a noncustodial parent, establishing paternity, establishment of financial and medical support, enforcement of child support obligations, court orders, and collections of spousal/ex-spousal support. CSE may enter into contracts with each local County Attorney to serve as CSE's designee. In addition to administering the child support program in their respective county and providing direct services on all child support cases, the county attorneys are responsible for managing the budget. CSE negotiates with each county attorney the contract budget amounts, with funding comprised of 66% federal funds and 34% state funds. County attorneys contracted with CSE each receive an installment payment at the beginning of the fiscal year equal to 1/12 of their annual budget amount for the first month's expenses. For each following month, the county attorneys submit monthly invoices to CSE documenting incurred expenses in order to receive reimbursement.

### **Cold Check Collections**

County attorney offices may operate a cold check program to aid merchants in the recovery of payments from individuals whose check is refused by the bank due to a lack of funds. This program may be administered by a third party vendor, such as Advent, or in house by the county attorney's office. All nine county attorney offices examined offered a cold check program with only three administering the program in house, as shown in Figure 3. When a merchant requests a county attorney issue notice to the maker of a "cold check," the county attorney may charge a fee up to \$50 to the maker. In addition to the fee charged by the county attorney, the maker is required to pay the face amount of the check and a fee not exceeding \$50 to the merchant to avoid prosecution. Money paid to the county attorney pursuant to KRS 514.040(5) is restricted by statute only to be used for county attorney office operating expenses. Additionally, KRS 514.040(5) states, "Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county." See Finding 7, for discussion of excess cold check fees.

**Figure 3: County Attorney’s Cold Check Fee Charged and Program Administration by County Attorney for Fiscal Years 2018 and 2019**

County	FY 2018 & FY 2019 County Attorney Fee*	Program Administered by
Boyd	\$50	In House
Breathitt	50	In House
Christian	50	Advent
Clark	35	Advent
Gallatin	50	Advent
Knox	50	Advent
Lawrence	25	In House
Pike	25	Advent
Todd	50	Advent

Source: APA, based on County Attorney records and Advent reports for FY 2018 and FY 2019.

\*County Attorney Fee includes Advent’s fees withheld before distributing a check to the county attorney.

### **Delinquent Real Estate Taxes**

Pursuant to KRS 134.504, the Kentucky Department of Revenue contracts with the county attorney in each county to perform collection services related to the collection of certificates of delinquency for tax claims on real property. The county attorney performs various duties in collecting delinquent taxes that include mailing a notice to the property owner informing them of the past due tax claim. To offset the cost of mailing, one dollar is added to the delinquency amount for each certificate of delinquency mailed, which the county attorney receives as a reimbursement once collected. A county attorney receives 20% of the amount due to the county as compensation for the collection duties performed. However, the county attorney will not charge a fee if the taxpayer pays the full amount of the certificate of delinquency within five days of the tax claim filing. If a county attorney files a court action or cross-claim, they will receive an additional 13% of the certificate of delinquency and be reimbursed for incidental costs incurred to enter the court action. KRS 134.545 requires the money paid to the county attorney for the collection of delinquent taxes pursuant to KRS 134.504 to be used only for operating expenses of the county attorney’s office.

### **Traffic Safety Program**

The County Attorney Traffic Safety (CATS) Program provides individuals cited with minor traffic offenses an opportunity to participate in a traffic education program in lieu of going to court. If a county attorney chooses to operate the CATS program, it may be administered in house by the county attorney’s office or by a third-party vendor, such as Advent or Drive Safe. KRS 186.574(6)(c) states that a county attorney who operates this program “may charge a reasonable fee” to participants of the program. State statute restricts the use of the fees collected from program participants to only be used for the

county attorney’s office operating expenses. As shown in Figure 4, seven of the nine county attorney offices examined operate traffic safety programs with the county attorney’s fee charged to participants ranging from \$45 to \$75.

**Figure 4: County Attorney’s Fee Charged for CATS Program and Program Administration by County Attorney for Fiscal Years 2018 and 2019**

County	FY 2018 County Attorney Fee Charged	FY 2019 County Attorney Fee Charged	Program Administered by
Boyd	\$	\$	No Program
Breathitt	55	55	Advent
Christian	75	75	In House
Clark	65	75	Advent
Gallatin	75	75	Advent
Knox	75	75	Advent
Lawrence			No Program
Pike	45	45	Drive Safe
Todd	74	74	Drive Safe

Source: APA, based on County Attorney records from FY 2018 and FY 2019.

In addition to the county attorney fees presented in Figure 4, CATS participants must pay additional costs associated with this program. For those county attorney offices who contract with Advent or Drive Safe to administer the CATS program, an additional \$40 administration fee is charged per participant and retained by the administrator. Program participants must also pay an additional \$30 fee to the county attorney for associated court costs, which is submitted to the Finance and Administration Cabinet on a monthly basis to be distributed into designated funds. Additionally, a fee of \$25 to the court clerk is required to be paid into a trust and agency account with the Administrative Office of the Courts. From these nine counties, total fees for traffic diversion may cost individuals between \$140 and \$170.

**Asset Forfeiture Funds**

When law enforcement arrests an individual for drug related crimes and human trafficking offenses, they may seize cash or personal property. The seized cash or proceeds from the sale of property forfeited are distributed upon conviction at 85% to the law enforcement agency and 15% to the Commonwealth’s or county attorney who participated in the proceeding. KRS 218A.420(4) requires the Commonwealth’s or county attorneys 15% of asset forfeiture proceeds to be paid to PAC. The prosecutor must then submit disbursement requests to PAC for approval prior to any purchases. County attorneys must submit office operating expense documentation to PAC in order for expenditures to be approved and the payment to be released. The use of asset forfeiture funds are strictly limited to legitimate law enforcement purposes pursuant to 40 KAR 4:010, and must be allowable in order to be approved by PAC. See Finding 9 for additional discussion regarding asset forfeiture funds.

## **FINDINGS AND RECOMMENDATIONS**

### **Finding 1: The Lawrence County Attorney Awarded \$134,500 in Bonuses from Delinquent Tax Funds to Staff, Including \$126,500 to His Spouse**

Between July 1, 2017 and June 30, 2019, the Lawrence County Attorney awarded \$134,500 in bonuses to his staff from delinquent tax fees. Of the bonuses, 94% were paid to the County Attorney's spouse who works as a legal secretary in the County Attorney's office. The award of bonuses from public funds generally violates the Kentucky Constitution, unless for documented work performed. Additionally, the magnitude of bonuses awarded to the County Attorney's spouse indicates substantial personal benefit to the county attorney, potentially violating the Lawrence County Code of Ethics. Due to the nature of this finding, it will be referred to the Federal Bureau of Investigation (FBI), the Internal Revenue Service (IRS), the Kentucky Office of the Attorney General, the Kentucky Department of Revenue, and the Lawrence County Ethics Commission.

Figure 5 summarizes the bonuses identified that were paid by the Lawrence County Attorney's Office to employees between July 1, 2017 and June 30, 2019. Legal Secretary 2 represents the County Attorney's spouse.

#### **Figure 5: Bonuses Awarded to Lawrence County Attorney Personnel by Fiscal Year**

<b>Title</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>Total</b>
Assistant County Attorney 1	\$ 2,150	\$	\$ 2,150
CSE Worker/Legal Secretary	50	1,000	1,050
Legal Secretary 1	850	500	1,350
Assistant County Attorney 2	150	500	650
Legal Secretary 2	61,400	65,100	126,500
Former Assistant County Attorney	2,150	500	2,650
CSE Supervisor	150		150
<b>Total</b>	<b>\$ 66,900</b>	<b>\$ 67,600</b>	<b>\$ 134,500</b>

Source: APA, based on Lawrence County Attorney financial records examined between July 1, 2017 and June 30, 2019.

The Lawrence County Attorney's Office provided IRS 1099 statements to document the reporting of employee bonuses paid in Calendar Years 2017 and 2018. The 1099 statements provided verify that the additional payments made to office staff were reported as "non-employee compensation" without state or federal taxes withheld.

#### **Legal Restrictions**

According to OAG 62-1, the granting of a bonus from public funds would violate Section 3 of the Kentucky Constitution as it would be using public funds to pay for services not actually performed. Section 3 of the Kentucky Constitution states:

All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services...

To comply with this section of the Kentucky Constitution, any payment to a public employee should be for consideration of public service, which has been interpreted to mean for salary and wages for work performed. No support was identified to substantiate these additional employee payments, and the Lawrence County Attorney indicated that he was not aware of any restriction on the use of delinquent tax funds for any purpose, including bonuses, donations, and advertisements identified in testing.

Per KRS 134.545, delinquent tax funds “shall be used only for payment of county attorney office operating expenses.” While there is no clear definition of the phrase “county attorney office operating expenses” in statute, in *Funk v. Milliken*, 317 S.W.2d 49 (Ky. 1958) Kentucky’s highest court determined public expenses should be “reasonable in amount, beneficial to the public, and not predominately personal to the officer.” Additionally, OAG 05-002 discusses the phrase “county attorney office operating expenses” and provides generally accepted standards of use for funds collected by county attorneys in their fee accounts, referred to as the Technical Audit Bulletin. This bulletin reflects similar language as found in *Funk v. Milliken*, stating:

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Public expenses should be “reasonable in amount, beneficial to the public, and not predominately personal.”

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[T]he collection of delinquent taxes may be spent for any official expense of the County Attorney’s office arising out the proper conduct of that office (including both criminal and civil duties). The term “proper conduct of office” includes all activities or services which are practical and necessary in conducting the business affairs of an office. The expenses must be reasonably calculated to offer some benefit to the public and not predominately personal to the County Attorney.

The Technical Audit Bulletin referred to in OAG 05-002 was adopted by the Kentucky County Attorney Association on August 12, 2004.

### **Code of Ethics**

The majority of bonuses awarded each year were paid to the Lawrence County Attorney’s spouse who served as a legal secretary in his office. As noted in Figure 5, \$61,400 to \$65,100 was paid to the County Attorney’s spouse each fiscal year, in addition to the nearly \$40,000 a year salary she received from PAC for her position in the County Attorney’s Office. The next highest annual bonus amount of \$2,150 was paid to two assistant county attorneys each in FY 2018. In each fiscal year, the spouse was paid more in bonuses than all other County Attorney office personnel combined. The bonuses awarded to the County

Attorney's spouse appear to be a substantial award of personal benefit to the County Attorney, potentially violating the Lawrence County Code of Ethics.

The Standards of Conduct in the Lawrence County Code of Ethics specifically state:

No county government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives acquires (sic) in the course of any by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediately (sic) family, or any business organization with which he is associated except under the "rule of necessity."

### **Recommendations**

We recommend the Lawrence County Attorney:

- Discontinue awarding bonuses to employees in violation of section 3 of the Kentucky Constitution.
- Spend public funds in a manner consistent with *Funk v. Milliken*, OAG 05-002, and the Technical Audit Bulletin adopted by the Kentucky County Attorney Association. Expenditures should be "reasonable in amount, beneficial to the public, and not predominately personal to the officer."

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**Finding 2: Potential Fraudulent Activity Identified in the Boyd County Child Support Office**

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Records examined at the Boyd County Attorney's Child Support Enforcement (CSE) office identified possible fraudulent activity resulting in over \$16,000 in excess payments to a former Boyd County CSE Office Supervisor in FY 2018. Questionable activities identified include falsified expense reimbursement requests, altered supporting documentation for expenditures, and excess income and unearned benefits awarded to the former Boyd CSE Office Supervisor. CSE funds are state and federal funds paid through the Cabinet for Health and Family Services (CHFS) to local county attorney offices on a reimbursement basis to cover expenses incurred in administering the CSE program. Based on the activity discovered, CHFS reimbursed the Boyd County CSE office for non-authorized expenses, as well as expenses not actually incurred. Due to the nature of this finding, it will be referred to the Federal Bureau of Investigation, the Kentucky Office of the Attorney General, and the Kentucky State Police.

During FY 2018, the Boyd County CSE office operated under the Boyd County Attorney who had a contract with CHFS to provide enforcement services. For FY 2019, the Boyd County Attorney declined the CHFS contract, and the contract for CSE services in Boyd County was awarded to the Carter County Attorney. Though there was a change in contracting official, the Office Supervisor and staff for the Boyd County CSE office remained the same. Based on records reviewed, the financial accounts of the CSE office were controlled by the former Boyd County CSE Office Supervisor. Because the Carter County Attorney Office was not part of this examination, additional funds could be missing from the Boyd County CSE office during our exam period of July 1, 2017 through June 30, 2019.

On September 26, 2019, APA auditors requested bank records for the Boyd CSE program for the year ending June 30, 2018. Following this request, the Boyd County Attorney advised that the former CSE Office Supervisor had returned the statements and acknowledged that she had taken money from the CSE office. In November 2019, the former CSE Office Supervisor was indicted on 77 charges, including one count of theft by unlawful taking, \$10,000 or more, and 76 counts of first-degree forgery.

Records maintained by the Boyd County Attorney's CSE office identified four bank accounts used by the CSE program in FY 2018. Figure 6 presents each CSE bank account identified, along with its primary function.

**Figure 6: Boyd County CSE Office Bank Accounts in FY 2018**

Account	Primary Account Function
1	Payroll
2	FY 2017 Expenses
3	Depository for Federal and State Funds
4	FY 2018 Expenses

Source: APA, based on bank records provided by the Boyd County Attorney.

CHFS made direct deposits of federal and state CSE funds totaling \$420,854 into Account 3 to reimburse the Boyd County CSE office for FY 2018 expenditures. These funds were based on submitted reimbursement requests. The former Boyd County CSE Office Supervisor then transferred funds from Account 3 to the other accounts identified in Figure 6 to cover expenses. Most checks from these accounts were either signed by the former CSE Office Supervisor or stamped with the name of the Boyd County Attorney. A few checks were processed without a signature applied. Without proper monitoring and controls in place, the practice of depositing funds into one account and then transferring funds to other accounts to pay expenditures incurred on other bank accounts resulted in \$150 in overdraft fees charged to CSE accounts during calendar year 2017.

As reported in the Auditor of Public Accounts (APA) Child Support Enforcement Exam report released on December 17, 2019, the Boyd County CSE program was monitored by CHFS each year between 2015 through 2019, with no findings reported. Monitoring records identify the former CSE Office Supervisor as the primary contact for information during site visits performed in 2017 and 2018. Records indicate the former CSE Office Supervisor identified only one account to CHFS during annual site visits. The account in which direct deposits of State and Federal funds were made and used to fund other accounts was not identified or examined by CHFS. The additional payments to the former Office Supervisor were made from each of the four CSE accounts. Without access to all CSE accounts, CHFS would not realize all the questionable activity.

Direct deposits of State and Federal Funds were not examined by CHFS during annual monitoring visits.

### Excess Income

Review of the Boyd County Attorney's CSE payroll and bank records identified an additional \$16,058 paid to the former Boyd County CSE Office Supervisor in FY 2018. The overpayments were received through additional payroll checks and extra "contract" payments for cleaning services, totaling \$7,873 and supplemental account contributions to her savings account totaling \$8,185. Additionally, testing identified a \$585 check to the former Office Supervisor's spouse in May 2018 for "working in file room." No documentation beyond the check was provided to support this payment. While the signature applied to the check was that of the Boyd County Attorney, he stated that he did not authorize the spouse to work at the office and was not aware of this payment. Without

evidence to support the work performed, the legitimacy of this expense is also considered questionable income to the former CSE Office Supervisor.

For FY 2018, payroll records maintained by a Certified Public Accountant (CPA) identify that the former Boyd County CSE Office Supervisor received over \$27,000 in net pay. Additionally, the former supervisor was paid as a contract laborer to periodically clean the office. For her additional contract labor in FY 2018, it was reported to CHFS that she received \$3,870. However, CSE bank records identify the former Boyd County CSE Office Supervisor received an additional \$7,873 in excess of her reported payroll and contract labor payments.

Payroll records also indicate that each pay period \$200 was deducted from the former Boyd County CSE Office Supervisor's pay check for deposit into a savings account. An additional \$105 was deducted from other CSE personnel pay checks, for a total of \$305 in authorized withholdings to be paid to a single credit union each pay period. With 26 pay periods in a year, payments to accounts held at the credit union should total \$7,930. However, FY 2018 bank records indicate that 80 checks, totaling over \$20,180, were written from all four Boyd County CSE office bank accounts to two different credit unions. Figure 7 lists the excess payments made to accounts held at credit unions each month by the Boyd County CSE office.

**Figure 7: Schedule of Excess Payments to Accounts Held at Credit Unions in Fiscal Year 2018**

<b>Month - Calendar Year</b>	<b>Deductions from Payroll</b>	<b>Payments to Accounts Held at Credit Unions</b>	<b>Payments in Excess of Deductions</b>
July 2017	\$ 610	\$ 1,010	\$ 400
August 2017	610	1,515	905
September 2017	610	1,315	705
October 2017	610	1,715	1,105
November 2017	610	2,420	1,810
December 2017	915	2,125	1,210
January 2018	610	1,410	800
February 2018	610	2,165	1,555
March 2018	610	1,810	1,200
April 2018	610	1,515	905
May 2018	610	1,665	1,055
June 2018	915	1,515	600
<b>Total:</b>	<b>\$ 7,930</b>	<b>\$ 20,180</b>	<b>\$ 12,250</b>

Source: APA, based on Boyd County CSE office Bank Statements and Payroll Journal for FY 2018.

Of the 80 checks, 37 were either endorsed by the former Boyd County CSE Office Supervisor, included the same account reference used when depositing her payroll checks,

or both. These 37 checks totaled \$8,185. Documentation associated with an additional 17 credit union payments, totaling over \$4,100, was not sufficient to validate the ultimate disposition of the funds.

### **Falsified Reimbursement Requests**

In FY 2018, the Boyd County Attorney's CSE office received over \$420,000 in reimbursements from CHFS to cover operating costs such as employee wages and benefits, utilities, rent, and other operating expenses. Reimbursement requests submitted in FY 2018 to CHFS by the Boyd County CSE office overstated actual program expenditures incurred by the program. Overbilling was accomplished by submitting checks and other supporting documentation for expenses that had not actually been paid by the program. A comparison of Boyd County CSE bank statements and CHFS expense reimbursement requests submitted for FY 2018 identified 18 checks reported as expenditures to CHFS that were not processed by the bank. Of these 18 checks, 10 were reported payments to the Boyd County Fiscal Court for rent and employee benefits.

Documentation obtained from the Boyd County Treasurer confirms that all funds owed to the Fiscal Court were not received. For example, Fiscal Court records indicate the Boyd County Attorney's CSE office paid \$10,800 towards rent for the months of July 2017 through June 2018. However, CHFS reimbursed the Boyd County CSE office for annual rent totaling \$14,400. By submitting false claims, the Boyd County CSE office received \$3,600 more from federal and state funds than was actually paid for rent in FY 2018.

As reported previously in the APA's Child Support Enforcement examination report released on December 17, 2019, additional review of CHFS and Boyd County Attorney's CSE records identified three prepayments of annual rent paid by CHFS to the Boyd County CSE office between June 2018 and July 2019. Inquiry to the Boyd County Fiscal Court confirmed that the Fiscal Court received only a portion of the total amount of prepaid rent claimed. Figure 8 depicts the amounts claimed by the Boyd County CSE office for prepaid rent and the amounts received by the Boyd County Fiscal Court.

**Figure 8: Comparison of Prepaid Rent Claims to Actual Prepaid Rent**

<b>Month Claimed</b>	<b>Amount Paid by CHFS to the Boyd County CSE Office</b>	<b>Purpose</b>	<b>Payments Received by the Boyd County Fiscal Court</b>	<b>Overpayment to the Boyd County CSE Office</b>
June 2018	\$ 14,400	Rent for FY 2019	\$ 13,400	\$ 1,000
June 2019	13,400	Rent for FY 2020	13,400	0
July 2019	13,400	Rent for FY 2021	0	13,400
<b>Totals:</b>	<b>\$ 41,200</b>		<b>\$ 26,800</b>	<b>\$ 14,400</b>

Source: APA, based on Boyd County CSE Office bank statements, CHFS CSE Reimbursement Requests, and Boyd County Fiscal Court Records.

As identified in Figure 8, the Boyd County CSE office claimed to have paid \$41,200 in prepaid rent between June 2018 and July 2019, which included annual rent for FY 2021 reportedly paid two years in advance. On January 13, 2020, the Boyd County Treasurer

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confirmed that the Fiscal Court had only received \$26,800 of that amount, with no payments received toward rent for FY 2021.

In addition to overstated rent payments, a comparison of amounts received and paid in FY 2018 for health insurance and other employee benefits found the Boyd County CSE program received \$5,754 more than the amount paid to, and received by, the Fiscal Court for that same time period. Documentation submitted as support for these expenses was altered from its original form. See Appendices K and L for an example of a billing statement submitted to CHFS for the month of April 2018 versus the original Fiscal Court billing statements for the same month.

Finally, a review of Boyd County CSE reimbursement requests to CHFS and Boyd County CSE payroll records identified overbilling of employee salaries. Reimbursement requests for FY 2018, reported salary expense of the Boyd County CSE office was over \$250,000. Payroll records maintained by a CPA identify actual total salary costs was approximately \$17,000 less than the amount reported to CHFS.

## **Recommendations**

We recommend:

- The contracting official responsible for oversight of the Boyd County Child Support Enforcement office ensure proper segregation of duties are implemented to provide greater oversight and accountability of fiscal operations. Duties that should be segregated amongst different employees include the ability to write a check, record the transaction in the accounting ledger or system, and reconciling accounts to bank records. Also, consider additional controls over the disbursement process such as implementing a requirement for two signatures to be applied where both signers review the actual supporting documentation before signing.

Recommendations were previously made to CHFS in a separate report released on December 17, 2019. The recommendations made in that report relate to improving the Cabinet's CSE expense reimbursement and contract monitoring processes. That report may be found on the APA's website at: <https://auditor.ky.gov>.

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**Finding 3: The Gallatin County Attorney Used Office Operating Funds for Personal and Private Law Practice Expenses**

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Over \$36,000 of the Gallatin County Attorney's office operating funds were used to cover personal and private law practice expenses. The majority of the funds used to cover these costs were from the County Attorney's Delinquent Tax account, which includes the county attorney's fee for the collection of delinquent taxes under KRS 135.504. The Gallatin County Attorney's Office bookkeeper, who is also the spouse of the County Attorney, is responsible for the Delinquent Tax account, including depositing funds, as well as paying office bills. Examination of records and interviews identified the use of county attorney office accounts to pay credit card bills, a family cell phone monthly bill, private law practice expenses, and to make loans to the private law practice, potentially violating KRS 64.850 and the Gallatin County Code of Ethics. Due to the nature of this finding it will be referred to the Federal Bureau of Investigation, the Kentucky Office of the Attorney General, and the Gallatin County Ethics Commission.

Per KRS 134.545, delinquent tax funds "shall be used only for payment of county attorney office operating expenses." While statutes do not define "county attorney office operating expenses," the court decision of *Funk v. Milliken*, 317 S.W.2d 499 (Ky. 1958) found expenses should be "reasonable in amount, beneficial to the public, and not predominately personal to the officer in the sense that by common understanding and practice they are considered to be personal expenses." As such, public funds should not be expended for personal purposes, but solely for the operations of the county attorney's office. Similar language exists in KRS 186.574 for fees paid to county attorneys for traffic diversion programs. See Finding 5 for additional discussion pertaining public fund use restrictions and guidance provided to county attorneys. Furthermore, KRS 64.850 makes it unlawful for any county official to "deposit public funds with individual or private funds in any bank or other depository or for any such official to withdraw public funds for any purpose other than that for which they were received and deposited."

**Public Funds Used for Credit Card Payments**

The Gallatin County Attorney's office used public funds for payments on an American Express Credit Card for personal and office expenses. The credit card was reportedly maintained and used by the Gallatin County Attorney with credit card activity reviewed only by the County Attorney and his spouse. Between June 2017 and September 2019, the average credit card balance was \$11,733. Payments on the credit card balance from the County Attorney's Delinquent Tax and County Attorney Traffic Safety (CATS) accounts varied from \$250 to \$500 each month, often just above the minimum required payment. Total payment toward the credit card from public funds was \$11,317 for the period reviewed.

Auditors were provided 28 credit card statements with closing dates between June 11, 2017 and September 11, 2019, which included a total of 127 charges. On each of the credit card statements provided, the Gallatin County Attorney's spouse labeled all charges including fees, interest, and new purchases as either "O" for office or "P" for personal. Ninety-two

of the 127 charges were new purchases which included, but were not limited to, a boat rental service, an oil change, lodging, subscription services, parking, as well as numerous transactions for gas station and restaurant purchases. Figure 9 provides a summary of the amounts labeled as office and personal. Two interest charges totaling \$614 were labeled as office expenses, while the remaining interest charges totaling \$6,099 were labeled as personal expenses. Of the amounts identified as office expenses, 19% were fees for the account's annual memberships and late payments fees.

**Figure 9: Credit Card Charges Labeled as Office and Personal**

Type of Charge	Labeled as "O"	Labeled as "P"	Grand Total
Fees	\$ 437	\$	\$ 437
Interest	614	6,099	6,713
New Purchase	1,286	3,089	4,375
<b>Total</b>	<b>\$ 2,337</b>	<b>\$ 9,189</b>	<b>\$ 11,525</b>

Source: APA, based on Gallatin County Attorney records examined between June 2017 and September 2019.

As presented in Figure 9, the vast majority of the credit card charges were labeled as personal expenses. In addition to the \$11,317 of taxpayer funds used for payment toward these credit charges, records identified two instances where it appeared personal funds were used to make payment. These payments included approximately \$129 in August 2017 and \$462 in October 2018.

Although credit card charges covered with Gallatin County Attorney's Office operating funds totaled \$11,317, the Gallatin County Attorney's spouse identified approximately \$9,189, or 80%, of charges as personal. For example, charges on the November 2017 credit card statement labeled as personal totaled \$204.88 and office expenses \$0, but a \$300 payment was made from the County Attorney's Delinquent Tax account.

### **Delinquent Tax Funds Expended for Family Cell Phone Bills**

Over \$12,500 in Gallatin County Attorney's office operating funds were used to pay the County Attorney's family cell phone bill with only 19% reimbursed. For the period of June 28, 2017 through December 30, 2019, debit payments to Sprint from the Gallatin County Attorney's Delinquent Tax account totaled \$12,562. According to the Gallatin County Attorney's spouse, the County Attorney's office paid a portion of the cell phone bill for her and the County Attorney, and she reimbursed the office the personal portion for their four children. However, records provided only document ten deposits, totaling \$2,379, were made into the Delinquent Tax account and labeled as a reimbursement during the period.

Figure 10 presents a comparison of actual Sprint payments made from Gallatin County Attorney office operating funds to the amounts reimbursed to the account by the Gallatin County Attorney and his spouse.

**Figure 10: Comparison of Sprint Cell Phone Payments to Reimbursed Amounts**

Payment Date	Payment Amount	Date of Reimbursement	Amount Reimbursed	Purpose of Reimbursement Per County Attorney
6/28/2017	\$ 390		\$	
7/28/2017	387	8/2/2017	218	Personal Sprint (May)
8/29/2017	368			
9/28/2017	417			
10/30/2017	372	10/18/2017	244	Personal Sprint reimburse payment for August
11/28/2017	371			
12/28/2017	353			
1/30/2018	396			
2/28/2018	347			
3/28/2018	360			
4/30/2018	397	4/19/2018	23	Payment on Sprint bill
5/30/2018	401	5/4/2018	208	Sprint payment
6/28/2018	401			
7/30/2018	403			
8/28/2018	403			
9/28/2018	393			
10/30/2018	474			
11/28/2018	437			
12/28/2018	437			
1/29/2019	437	1/15/2019	273	Sprint payment
3/1/2019	437	2/21/2019	273	Reimburse for home Sprint
3/28/2019	409	3/21/2019	267	Reimburse personal Sprint bill
4/30/2019	445	4/22/2019	267	Sprint payment
5/29/2019	413			
6/28/2019	438	6/27/2019	291	Sprint payment from personal account
7/30/2019	405			
8/28/2019	423			
9/30/2019	423			
10/29/2019	423			
11/29/2019	388			
12/30/2019	411	1/8/2020	316	Reimbursed personal Sprint bill payment
<b>Total</b>	<b>\$ 12,562</b>		<b>\$ 2,379</b>	

Source: APA, based on Gallatin County Attorney records examined between June 15, 2017 and January 14, 2020.

Although the County Attorney’s spouse indicated personal portions of the cell phone expense were reimbursed, as noted in Figure 10, reimbursements between June 2017 and January 2020 were sporadic and amounts paid ranged from \$23 to \$316.

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Upon further inquiry, the Gallatin County Attorney's spouse explained she was compiling a list for APA auditors of reimbursements made to the account but was finding the County Attorney's family is "sadly behind in reimbursing that account." Based on the list compiled by the spouse, 12 reimbursements totaling \$2,854 were made from August 2019 to January 2020; however, County Attorney bank statements and account ledgers identified only ten instances of reimbursements to the account for the personal portion. There is no evidence any additional reimbursements were made for the personal portions of the cell phone bill. While the Gallatin County Attorney's spouse stated that all unreimbursed amounts would be reimbursed soon and future reimbursements would be kept current, payment of public funds towards a family cell phone bill is an inappropriate use of taxpayer funds.

### **Insurance Payments for Private Law Practice Office**

County Attorney office operating funds were also used to pay the cost of building insurance for the Gallatin County Attorney's private law practice. The Gallatin County Attorney's public office and private law practice are housed in the same office building. The private law practice and the County Attorney's office cost of building insurance is not split between the two, but paid at 100% from the County Attorney's Delinquent Tax account. The 30 insurance premium payments made from this account between the period of July 7, 2017 and January 6, 2020 totaled \$2,987.

### **Loans to Private Law Practice from Delinquent Tax Account**

Review of records identified seven loans from the County Attorney's Delinquent Tax account to his private law practice account totaling \$9,150 made between November 22, 2017 and January 28, 2019. According to the spouse, if the law office account had a zero or negative balance, she transferred funds to cover negative balances because she could not see paying fees when there was money sitting in another account. Four of the seven loans identified were to cover negative balances in the private law practice account, and the remaining three loans were associated with the cost of work on the office roof. While records indicate loan amounts to the private law practice were repaid, this is not an appropriate use of public funds, and commingling of public and private funds is unlawful per KRS 64.850.

### **Code of Ethics**

As evidenced in this finding, the use of public funds to pay over \$36,000 in personal and private law practice expenses indicates a personal benefit to the county attorney, a potential violation of the Gallatin County Code of Ethics. Subsection F of the Standards of Conduct in the Gallatin County Code of Ethics states:

No county government officer or employee shall use, or allow to be used, his public office or employment, or any information not generally available to the members of the public, or to the particular person or entity with whom the county government officer deals, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of

securing financial gain from himself, any member of his immediate family, or any business organization with which he is associated.

### **Recommendations**

We recommend the Gallatin County Attorney:

- Stop spending public funds for personal use and loaning money to his private law practice.
- Reimburse all public funds used to pay personal and private law practice expenses from the delinquent tax and County Attorney Traffic Safety accounts, including the amount of interest paid on the credit card.
- Review all expenses for appropriateness, reasonableness, public benefit provided, and necessity before using public funds to pay for such expenses.
- Allocate the cost of building insurance equitably between the private law practice and the county attorney's office.

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**Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices**

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Examination of nine county attorney offices for the period July 1, 2017 through June 30, 2019 identified poor accounting and record keeping practices. The need for proper segregation of duties or secondary review of spending was identified in six county attorney offices. In six county attorney offices, 36% or more of all expenditures tested lacked an invoice to support the expense. Finally, various questionable spending practices were identified in the nine county attorney offices examined, including, but not limited to: employee bonuses, donations, holiday and other employee meals or parties, and overdraft fees. The funds used to pay these expenses were primarily county attorney office operating funds consisting of delinquent tax fees and cold check fees earned by each county attorney office.

**Lack of Segregation of Duties**

Proper segregation of duties requires that more than one person be involved in a process to reduce the risk of fraud or error. While examining the nine county attorney offices, expenditure and receipt processes were reviewed to determine whether adequate controls existed. The need for additional internal controls due to a lack of segregation of duties was identified in six county attorney offices examined: Boyd, Breathitt, Gallatin, Knox, Lawrence, and Todd counties.

In the Boyd County Attorney's Office, the County Attorney's Office Manager receives invoices and has the ability to write and sign checks from all Boyd County Attorney accounts, except for CSE funds. Boyd County CSE funds are separate and were maintained by the Boyd County CSE Office Supervisor as discussed in Finding 2. The Boyd County Attorney Office Manager performs the reconciliation of the account with no second level review and an accounting ledger recording all financial activity is not maintained. Additionally, the Office Manager maintains the office credit card and serves as the only reviewer of credit card statements. In this situation, the Boyd County Attorney has granted complete authority to one individual who can control the expenditure process from beginning to end, increasing the risk of error or fraud.

Of the county attorney offices examined, six indicated the use of either an office credit card or debit card. Two county attorney offices, Knox and Todd, identified that no supporting documentation is required to be submitted to support credit or debit card charges and no review of charges is performed by anyone other than the county attorney who maintains the card. The former Breathitt County Attorney, along with the Boyd County and Christian County Attorneys' offices each indicated that supporting documentation is required to be submitted to support expenses; however, only the Christian County Attorney's Office indicated charges incurred on the card were reviewed by someone other than the cardholder.

In the Gallatin County Attorney's Office, the County Attorney's spouse was the only employee interviewed who was aware of a credit card used by the office. The card is

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reportedly maintained by the County Attorney and receipts are held by the County Attorney. The Gallatin County Attorney's spouse, noted that she and her husband review the credit card purchases. While a second person is involved, this review process does not appear independent given the relationship between the reviewer and the card holder. Furthermore, testing identified several instances of personal expenses being paid with public funds through the use of the Gallatin County Attorney's credit card. See Finding 3 for discussion regarding the Gallatin County Attorney's personal use of public funds.

In three of the nine county attorney offices reviewed, the spouse of the county attorney handled one or more accounts on behalf of the office. While local policies may allow a spouse to work in a county attorney's office, proper segregation of duties are still necessary. In Gallatin County, the County Attorney's spouse maintained the delinquent tax account, and on occasion, processed payments to herself from that account such as payroll payments, reimbursements, and a holiday bonus. In Lawrence County, the County Attorney's spouse maintained the delinquent tax fee account and also had access to a stamp of the County Attorney's signature. This stamp was used on some of the bonus checks paid to the County Attorney's spouse. See Finding 1 for further discussion of over \$100,000 in bonuses awarded to Lawrence County Attorney Office personnel. Additionally, the former Todd County Attorney's spouse handled all of the office accounts; however, checks written to the spouse contained the actual signature of the former County Attorney.

### **Lack of Supporting Documentation**

A lack of supporting documentation was identified in each county attorney office examined. Supporting documentation is necessary to substantiate the legitimacy or need for a payment. For Boyd, Breathitt, Gallatin, Lawrence, Pike and Todd counties, the percentage of expenditures tested that had no supporting documentation exceeded 36%. This percentage varied by the county and the official in office at the time of the expense. For two current county attorneys, Christian County and Clark County, the lack of documentation identified in testing of their offices related to expenditures incurred by their predecessors.

The amount of supporting documentation maintained varied based on the source of the funds used for the expenditure. For example, testing of expenditures from the CSE accounts were more often supported than expenditures from other accounts such as delinquent tax fee accounts. This may be due to the fact that the office's contract with CHFS requires proper supporting documentation for reimbursed CSE expenditures. Outside of CSE contract guidelines, no written procurement procedures were identified in the nine county attorney offices examined.

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## **Questionable Spending Practices**

Review of expenditures from each of the nine county attorney offices identified several questionable spending practices. The specific issues identified in each county attorney office have been summarized by county and presented in Appendices B through J of this report. Examples of questionable spending activity identified in the various county attorney offices include holiday and other employee meals, donations, bonuses, payments of penalties and interest, and overdraft fees. However, the most common practices identified among county attorneys were donations and employee bonuses or one-time payments made to employees with no supporting evidence to indicate work performed or the basis for the payments.

### Donations

Donations to various local organizations were identified in Gallatin, Knox, Pike, Lawrence, Boyd, and Clark counties. In some instances, the donations were identified or recorded as advertisement or promotional expenses. For example, the Pike County Attorney's Office paid \$1,900 to local groups and organizations, including local high school sports teams, and reported the purpose of the expenses to be "bad check advertisements." No documentation was maintained to evidence the purpose of those purchases or the nature of the advertisement that was reportedly posted. The Lawrence County Attorney paid \$525 for field signs to be posted at local sporting venues. Minimal documentation was available to support these expenses; however, in one instance documentation identified the advertisement to be for the purpose of the county attorney's private law practice although public funds were used to pay the expense.

### Bonuses and One-time Payments

Between July 1, 2017 and July 2, 2019, seven of the nine county attorney offices examined awarded a bonus or one-time payment to office personnel, with no supporting evidence to indicate work performed or the basis of the payments. Figure 11 summarizes the award of one-time payments and bonuses identified in testing for each fiscal year by county.

**Figure 11: County Attorney Employee Bonuses and One-time Payments Awarded in FY 2018 and FY 2019**

County	FY 2018	FY 2019 *	Detail
Breathitt	\$ 1,000	\$	Two employees received a \$500 bonus check in July 2017.
Christian	1,250		Two employees received a one-time payment in December 2017. One employee received \$500 while the other received \$750. No support for these payments, but staff reported it as a cost a living raise. These were the only two employees receiving such an additional payment.
Clark		8,775	Nine employees received a \$975 payment presented as a clothing allowance.
Gallatin	2,000	1,250	One bonus paid by check and three paid with cash in FY 2018. Three bonuses paid by check in FY 2019. Bonuses included awards to the County Attorney's spouse.
Knox	1,500	1,700	In each fiscal year, a \$100 Walmart gift card was purchased for each employee.
Lawrence	66,900	67,600	Bonuses to staff that included bonuses of \$61,400 and \$65,100 each year to the County Attorney's spouse. See Finding 1 for additional details relating to bonuses paid to Lawrence County personnel.
Todd		150	Two employees received payments in December 2018. One employee received \$100 while the other received \$50. No documentation to support the payments but the former bookkeeper described the payments as severance pay.
<b>Totals:</b>	<b>\$ 72,650</b>	<b>\$ 79,475</b>	

Source: APA, based on testing of various county attorney expenditures between July 1, 2017 and July 2, 2019.

\*Clark County payments were made on July 2, 2019, but are presented under FY 2019 awards for the purposes of this chart.

As discussed in Finding 1 of this report, bonuses from public funds are generally prohibited by Section 3 of the Kentucky Constitution which states in part, “no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services.” In each of these instances, the funds, used were public funds, and no documentation existed to associate these payments with work performance.

While public officials may establish their own operations, some level of accountability is expected to ensure public funds are properly accounted for and expended in the best interest of the Kentucky taxpayers. As noted in Finding 5, Kentucky statutes require budgeted county fiscal court funds and accounts held by other county fee officials to be audited annually. No such requirement exists for public funds collected and maintained by county attorney offices. As the issues identified in this finding were not isolated to one or two county attorney offices in the nine county sample, it is likely that similar issues may exist in other county attorney offices across the Commonwealth of Kentucky.

## Recommendations

We recommend Kentucky county attorneys:

- Establish written procurement procedures defining the roles and responsibilities of office personnel in the procurement process. The procedures should establish documentation requirements for all purchasing regardless of the source of funds used in the procurement process. At a minimum, offices should require detailed invoices and receipts to support expenses.
- Review existing financial processes in place to ensure an adequate segregation of duties. Revise processes if necessary to implement sufficient internal controls. If office resources are limited, the county attorney should ensure compensating controls exist and are routinely performed to provide some level of independent review, accountability and oversight.
- Avoid the use of an office debit card. Debit cards are directly linked to the office's bank accounts and provide less consumer protection, exposing the office to greater risk of theft.
- Refrain from making donations unrelated to a public purpose using public funds.
- Abide by Section 3 of the Kentucky Constitution and not award bonuses to office personnel from public funds.

For additional recommendations to establish greater oversight and accountability standards for county attorney offices see recommendations to the General Assembly in Finding 5.

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**Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices**

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Kentucky statutes dictate that certain county attorney revenue sources, such as delinquent tax funds and cold check fees are to be used “only for payment of county attorney office operating expenses.” However, statutes do not define the phrase “county attorney office operating expenses.” Additionally, no annual audit requirements exist for county attorney offices except for federal requirements if the office expends in excess of \$750,000 in federal funds over a single fiscal year. As evidenced by the questionable spending identified in findings of this report, a greater level of guidance and oversight of county attorney finances and operations is needed to ensure financial accountability and prevent personal financial gain.

**Use Restrictions and Guidance**

Per KRS 134.545, monies paid to county attorneys for delinquent tax collections are to be used only for payment of “county attorney office operating expenses.” Similar language is identified in KRS 514.040 and KRS 186.574 for fees paid to county attorneys for cold check collections and traffic diversion programs. Though the phrase is used frequently, state statutes provide no definition or clarification to explain what constitutes “county attorney office operating expenses.”

In absence of a statutory definition, some guidance has been established over time by the Kentucky County Attorney Association and the Kentucky Attorney General’s Office. The limited guidance established by these groups served as the criteria used in testing of various expenditures from the sample of nine county attorney offices.

In 2004, the Kentucky County Attorney Association recommended and adopted the Technical Audit Bulletin. This bulletin outlines “Generally Accepted Standards” to help define operating expenses of a county attorney office and provides examples of expenses which would be considered unauthorized use of public funds. Examples of county attorney operating expenses given include office supplies, office equipment, janitorial services, salaries of county attorney office employees, reasonable work related travel and meals, postage, and continued education and training expenses related to the official duties. The Technical Audit Bulletin does not represent a complete list of allowable or unallowable expenses, but rather is a tool to help guide county attorneys. See the Technical Audit Bulletin at Appendix M.

In OAG 05-002, the Kentucky Attorney General addressed how delinquent tax collections may be used by county attorneys. The opinion acknowledges the lack of clarity in state regulations and law, but identifies similar issues addressed by *Funk v. Milliken*, 317 S.W.2d 499 (Ky. 1958). In the *Funk v. Milliken* case, Kentucky’s highest court reaffirmed in a ruling expressly including county attorneys, the rule that expenditures of public funds will be allowable only if they are necessary, adequately documented, “reasonable in amount, beneficial to the public, and not predominantly personal to the officer.” The Technical Audit Bulletin was recognized by the Kentucky Attorney General in OAG 05-002, noting that until regulations are established to further define the use of these funds, “we believe

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that county attorneys may rely upon the attached guidelines as generally accepted standards of use for moneys collected in their fee accounts.” See OAG 05-002 at Appendix N.

### **Audits**

While KRS 43.070 authorizes the Auditor of Public Accounts to audit “the books, accounts, and papers” of county attorneys there is no requirement for financial accounts to be audited each year as required for other county offices in KRS 43.070(1)(a), which specifically requires the APA to annually audit budgeted county funds, county clerks, and sheriffs. County attorney funds are maintained by the county attorney and are not included in budgeted county funds.

Title 2 of the Code of Federal Regulations (CFR) 200.501 requires all non-federal agencies spending \$750,000 or more in federal funds during the fiscal year to have either a program specific audit or a single audit performed. In a single audit, the audit encompasses both financial and compliance components. In FY 2018, no county attorney offices in the sample of nine reported spending the amount of federal funding from child support that would require a single audit, and no additional federally funded programs were identified in those offices.

Though not required to receive an audit, two county attorneys in our initial survey indicated that they had received an audit at some point between July 1, 2017 and June 30, 2019. One of those offices, the Clark County Attorney’s Office, advised that the former Clark County Attorney had obtained an audit of his accounts for the FY 2016 and FY 2017. Additionally, the Kenton County Attorney stated that, though an audit is not required, this is a good practice she inherited from her predecessor given the size of the office.

### **Recommendations**

We recommend the Kentucky General Assembly:

- Consider additional statutory language clarifying the appropriate use of funds received by county attorneys for the purpose of office operating expenses.
- Require an annual audit of public funds held by county attorney offices, permitting the Auditor of Public Accounts a right of first refusal to audit county attorneys each year similar to requirements established for funds held by fiscal courts, county clerks, and sheriffs. Regardless of whether the General Assembly enacts such a requirement, we recommend county attorneys obtain an annual external audit. To provide further transparency, the results of any audits should be published and available to the public.
- Consider establishing fiscal regulatory authority by expanding and clarifying the role of the Department for Local Government’s State Local Finance Officer to include fiscal oversight of county attorney offices similar to the regulatory authority over budgets and handling of public funds by other county officials.

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**Finding 6: Kentucky Law Does Not Provide Clear Guidance to Outgoing County Attorneys When Transitioning Office, Resulting In Inconsistent Practices**

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Inconsistent practices were used in the handling of public records, assets, and funds by the outgoing county attorneys in our review. From the sample of nine county attorney offices examined, four experienced at least one transition in leadership between July 1, 2017 and June 30, 2019. KRS 64.830 requires outgoing county officials to immediately vacate office and deliver “all books, papers, records and other property held by virtue of his office” to their successor and make a final settlement with the fiscal court after their term in office has ended. While a county attorney is elected under Section 99 of the Kentucky Constitution as a county officer, the KRS 64.830 does not define the term “county official” and county attorney office operating funds are not entirely derived from the county budget. Furthermore, Kentucky law does not explain what is required by a settlement and how a settlement may impact the custody of funds held by a county attorney office.

**Kentucky Law**

The former Christian County Attorney, along with two former Todd County Attorneys, have interpreted KRS 64.830 as only applicable to county fee offices and officials. According to the former Christian County Attorney, who left office in August 2018, county attorneys had once been considered a fee official but they no longer operate from county fees collected.

Kentucky law does not define “fee official” or “fee officer” but the stance that a county attorney was once considered a fee official, and operated wholly or in partially under a fee system, is expressly recognized by *Funk v. Milliken*, which states in part:

This action was brought by the county attorney, county judge, county treasurer, and magistrates of Warren County, in their official capacities, against the persons who, in 1954, held the offices of county attorney, county judge, county court clerk, circuit court clerk and master commissioner, magistrates, jailer, sheriff, and constables. All of the offices occupied by the defendants were operated wholly or in part under the fee system.

As described in the Introduction and Background of this report, while the prosecutorial functions of the office now receive support from the Commonwealth’s General Fund, other funds generated by county attorneys may be used to support the civil operations of the office and are restricted for office operating expenses, law enforcement purposes, or to provide personal compensation to the county attorney. Primary office operating expenses often come from cold check collections, delinquent real estate taxes, and traffic safety programs. As noted in Finding 5, these funds are by statute to be used only for payment of “county attorney office operating expenses.” The only exception is that KRS 514.040 requires “excess cold check fees” to be turned over to the county treasurer for use by the fiscal court before the end of the next fiscal year.

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For outgoing county clerks and sheriffs, Kentucky law is clear as to what is required by a final settlement as additional language is provided through KRS 64.152 and KRS 134.192 for clerks and sheriffs, respectively. For each of those offices, Kentucky law requires, upon settlement, certain funds of the official's office to be paid over to the fiscal court.

Kentucky law does not clearly define how outgoing county attorneys are to settle their accounts. Of the four county attorney offices in the sample that transitioned between July 1, 2017 and June 30, 2019, one paid all funds as excess to the fiscal court, one transferred some but not all funds to his successor, and two had fiscal court resolutions allowing the county attorney's office to retain all funds. See Finding 7, for further discussion of the fiscal court resolutions passed by the Christian and Todd County Fiscal Courts.

### **Breathitt County**

The Breathitt County Attorney transitioned weeks after the general election in November 2018. At the end of his term in office, the former Breathitt County Attorney transferred only a portion of the funds in his custody to his successor. While funds from the delinquent taxes escrow account and the law library account were transferred to the incoming county attorney, over \$15,000 in funds from the delinquent tax fund/collections account and child support enforcement account were retained by the former County Attorney, along with various invoices and bank records.

The former Breathitt County Attorney advised that monies from these accounts were not immediately transferred due to an outstanding balance owed to him by the CHFS for CSE services. During his term in office, the former County Attorney had transferred over \$37,000 from the delinquent tax fund/collections account and over \$39,000 in personal funds to the CSE account to cover costs while his reimbursement claims were under review by the CHFS. While in office, the former County Attorney had reimbursed himself \$5,000 of the \$39,000 he personally loaned to the CSE account.

The current Breathitt County Attorney advised that he was aware of some of the financial issues faced by the outgoing County Attorney so he met with the former County Attorney before taking office and specifically asked that certain records not be transferred to him. When asked why delinquent tax funds were not turned over, the current Breathitt County Attorney stated he was not aware such funds existed.

The former Breathitt County Attorney stated that once he receives reimbursement from CHFS he intends to reimburse the fiscal court and then himself for the amounts used to supplement the CSE program. When asked why these funds would be submitted to the fiscal court, the former County Attorney stated that he believed that it was required by state statute, noting that he received no funds from his predecessor when first taking office in 2015. The current Breathitt County Attorney, who also served as the county attorney between 2002 and 2014, confirmed that county attorney office funds were paid to the Breathitt County Fiscal Court upon its request and not transferred to the incoming county attorney in 2015.

Finally, a review of bank records indicated the former Breathitt County Attorney expended approximately \$9,600 from the delinquent tax account from January 1, 2019 through July

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31, 2019. Of the \$9,600, approximately \$3,100 was paid to a third-party vendor for an overdue bill from late 2018 and over \$920 was paid for late phone bills. While it appears that some of the expenses were associated with services provided while in office, the former Breathitt County Attorney acknowledged that payments to two vendors were for subscriptions he had not cancelled. The former Breathitt County Attorney also stated that he understands it would be his responsibility to repay those funds. The former Breathitt County Attorney believed the subscriptions were cancelled around October 2019 but he did not provide evidence to confirm the cancellation. As of July 31, 2019, the delinquent tax fee bank account held by the former Breathitt County Attorney had a balance of \$8,260.

### **Christian and Todd Counties**

As discussed in Finding 7, the fiscal courts of Christian and Todd Counties each passed a resolution authorizing their county attorney offices to retain all fees or sums generated by their office. While the outgoing Christian County Attorney transferred all records and funds to his successor, the former Interim Todd County Attorney did not transfer all county attorney office operating funds to the current Todd County Attorney or the fiscal court upon vacating office in January 2019. Additionally, the former Todd County Attorney did not close the account holding the funds until inquiry by the APA in November 2019.

The current Todd County Attorney indicated files and bank records for diversion programs were turned over by the outgoing Todd County Attorney, shortly after taking office. However, the prior administration did not turn over county attorney office operating funds and bank records to the current Todd County Attorney. After the APA inquired as to why the funds were not transferred and the account remained open, a check was written to the current Todd County Attorney on November 21, 2019 for \$426 and the account was closed. The former Todd County Attorney's spouse, who served as the office bookkeeper, indicated the delay in turning over funds was to ensure expenses incurred had cleared the account. The last financial activity in the account occurred in February 2019.

Additionally, the former interim Todd County Attorney used a debit card associated with the county attorney's office operating funds to purchase an Apple MacBook laptop and external hard drive for \$1,559 on November 13, 2018. The former interim Todd County Attorney did not turn over the equipment to the current Todd County Attorney when leaving office, but instead kept possession of the equipment in his position as an Assistant County Attorney in the Christian County Attorney's Office. Given that the Todd County Attorney's Office operating funds were used to procure this equipment, this property should be retained by the office and not considered property of the former interim Todd County Attorney.

### **Clark County**

Between December 12, 2018 and January 7, 2019, the former Clark County Attorney transferred over \$198,000 in funds to the Clark County Fiscal Court closing out his various accounts. The largest single transfer to the fiscal court was \$150,000 transferred from the delinquent tax account to the fiscal court on December 12, 2018. The documentation described the transferred funds as "excess funds." Because KRS 134.545 requires

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delinquent tax funds to be used only for the operation of the county attorney's office, no excess funds would exist. However, as stated previously, there is question of whether KRS 64.830 applies to county attorneys and how funds held by a county attorney office are to be handled when an outgoing official leaves office. As such, it is unclear whether the operating funds should remain with the successor as a record of the office or should be submitted to the fiscal court as part of the final settlement. Additional transfers of County Attorney operating funds were made between August 2017 and August 2018, totaling over \$93,000. See Finding 8 addressing the transfer of Clark County Attorney's Office operating funds to the fiscal court.

Of the funds transferred over to the fiscal court, \$8,422 were excess cold check fees. The Clark County Attorney's Office is the only office in the sample of nine that transferred excess cold checks to the fiscal court as required by KRS 514.040. See Finding 7 relating to excess cold check fees.

### **Recommendations**

We recommend:

- The Kentucky General Assembly consider additional statutory language to establish bright line, easy to follow rules clarifying the settlement process for outgoing county attorneys and what is to become of the monies held by the county attorney's office.
- The former Breathitt County Attorney repay funds owed to the delinquent tax fund/collections account that were used for purposes other than those of the county attorney office and seek an opinion from the Kentucky Attorney General to determine to whom the funds should be returned.
- The former interim Todd County Attorney return the Apple MacBook laptop and external hard drive to the Todd County Attorney's Office, as these items were purchased with operating funds of that office.
- The Clark County Fiscal Court seek an opinion from the Kentucky Attorney General to determine how funds paid to it by the former Clark County Attorney should be handled. See additional recommendations for Clark County at Finding 8.

**Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040**

Though required by KRS 514.040, eight of the nine county attorney offices examined did not turn over excess cold check fees to the fiscal court. Personnel in six county attorney offices indicated that excess cold check fees did not exist. Though records indicate some offices did not receive or retain a significant amount in cold check fees, spending practices identified by this exam call into question whether funds received by those offices were expended for official county attorney operations as required. Additionally, two county attorney offices presented fiscal court resolutions that allow the county attorney office to retain all collected funds, including cold check fees, despite the statutory requirement to turn over the funds to the county treasurer.

Related to county attorney charges for cold check collections, KRS 514.040(5) states:

Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.

The phrase “excess fees” is not clearly defined in statute. However, it is reasonable to assume the excess would be the amount of funds collected minus the amount used to pay operating expenses as of June 30 of a given year.

**Cold Check Fees Collected**

Figure 12 illustrates the amount of cold check funds collected by each of the nine county attorney offices examined. For these nine offices, cold check revenue ranged between \$350 and \$19,716 between July 1, 2017 and June 30, 2019.

**Figure 12: Total Fees Received for Cold Checks by County Attorney for Fiscal Years 2018 and 2019**

County	FY 2018 Cold Check Revenue	FY 2019 Cold Check Revenue	Total Cold Check Revenue
Boyd	\$ 12,054	\$ 7,662	\$ 19,716
Breathitt	100	250	350
Christian	3,146	2,436	5,582
Clark	11,710	7,612	19,322
Gallatin	151	2,377	2,528
Knox	4,865	6,036	10,901
Lawrence	175	200	375
Pike	519	247	766
Todd	3,139	2,653	5,792

Source: APA, based on County Attorney bank records from FY 2018 and FY2019.

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Of the county attorney offices reviewed, only the Clark County Attorney's Office routinely submitted excess cold check fees to its fiscal court. Between July 1, 2017 and June 30, 2019, the Clark County Attorney's Office submitted \$11,903 in excess cold check fees to the Clark County Fiscal Court. See Finding 8 regarding additional funds paid by the former Clark County Attorney to the Clark County Fiscal Court.

### **Spending Practices**

Six county attorney offices indicated that no excess cold check funds existed. Often the funds received for cold check collections were deposited into the same account as other operating funds, making it difficult to determine if excess cold check fees existed. As noted in Finding 4 a number of spending issues were identified in each county attorney office examined. However, the Boyd County Attorney's Office maintained a separate account for cold check fees, allowing for better analysis.

Between July 1, 2017 and June 30, 2019, the Boyd County Attorney's Office deposited \$19,716 into its restitution account for cold check fees. In the same time period, the office expended \$3,091 from this account. Expenditures reviewed from this account identified approximately \$360 spent on food for holiday parties and office meetings in December of each year. As noted in Finding 4 of this report, such spending is deemed personal in nature and not a necessary office operating expense. The ending balance of the Boyd County Attorney's cold check account on June 30, 2018 and June 30, 2019 equaled \$13,829 and \$18,518 respectively. The financial activity of this account indicates excess cold check fees existed and should have been turned over to the fiscal court after the end of each fiscal year.

### **Fiscal Court Resolutions**

On July 22, 2016, the Todd County Fiscal Court passed resolution 16-11 authorizing the Todd County Attorney's Office to "retain all sums generated by the county attorney through his check recovery, traffic safety and delinquent tax collection programs." The resolution indicates the purpose was to "sustain the office and limit the necessary contribution from the Fiscal Court for the operation of the County Attorney's office."

On August 14, 2018, the Christian County Fiscal Court passed a similar resolution, 2018-10, allowing the Christian County Attorney to retain all fees associated with its cold check collections, delinquent tax collections, and no-insurance diversion funds "for the payment of operating expenses incurred by the County Attorney's office."

While the fiscal court may determine there is no need to collect excess cold check fees for the purpose of its own operations, a local resolution cannot override state law. KRS 514.040(5) clearly states these funds "shall be" turned over to the county treasurer and used by the fiscal court. If the fiscal court determines the excess fees are not needed for its own operations, there is nothing in state statute preventing the fiscal court from returning those funds to the county attorney's office.

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The Christian County resolution appears to have been a formalization of the actual practice already in place as the County Attorney's Office had not turned over excess cold checks to the fiscal court several years prior to the resolution's adoption in August 2018. Examination of the accounts held by the Christian County Attorney's Office identified over \$156,000 in a money market account as of June 30, 2019. Per the Christian County Attorney, the money market account contains excess delinquent tax funds. While such an investment is allowable, the magnitude of the money market account balance indicates no need for that office to retain cold check fees for office operating purposes.

In addition, OAG opinion 83-409 indicates that short term investments are allowable per KRS Chapter 386 but states "earned interest would, however, have to be turned over to the county, since no statute deals specifically with interest on such moneys." While KRS 66.480 provides local government officials such as clerks and sheriffs with uniform guidance in the types of investments that may be made with public funds and how those investments should be handled, county attorneys are not included within the scope of that statute. During the period January 1, 2017 through June 30, 2019, the money market account earned total interest of \$389. Records reveal no withdrawals from this account, which indicates interest was not paid from this account to the fiscal court.

## **Recommendations**

We recommend:

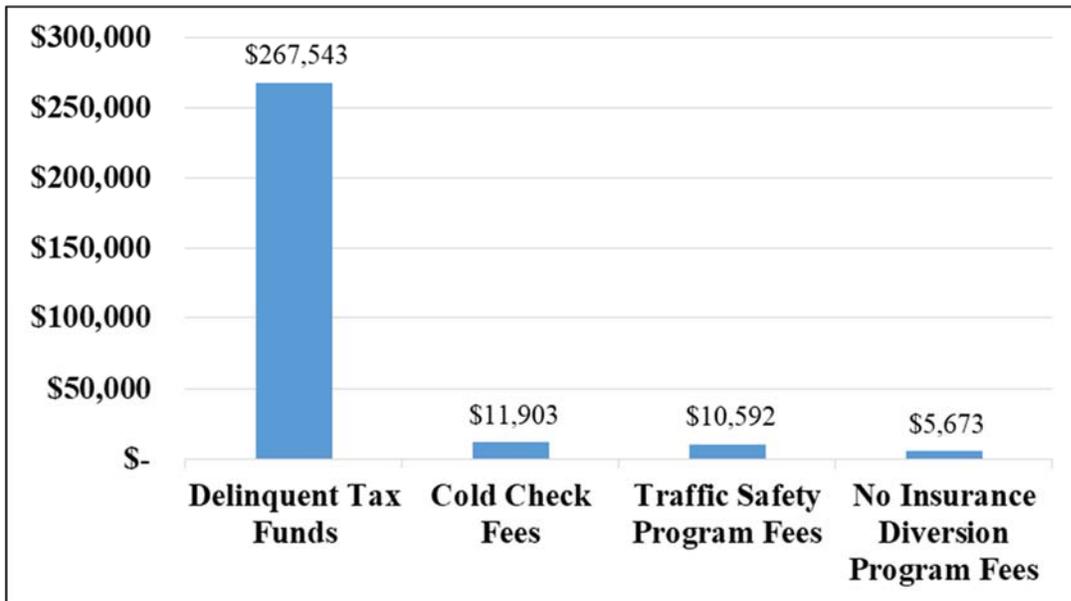
- County attorneys submit excess cold check fees to their fiscal court as required by KRS 514.040.
- The Christian County Attorney submit to the Christian County Fiscal Court any unpaid interest earned from the money market account consistent with OAG opinion 83-409.
- The General Assembly consider revising KRS 66.480 to include county attorneys to establish the same guidance for county attorneys as given to other local officials pertaining to the investment of public funds.
- The General Assembly consider revising KRS 514.040 to allow the fiscal court discretion on whether the transfer of excess cold check fees to the county treasurer is necessary. To make this determination, the statute should require the county attorney to make a full reporting to the fiscal court of monies held by the county attorney in all funds and investments at the end of the fiscal year.

**Finding 8: Operating Funds Restricted for Use by the Clark County Attorney’s Office Were Transferred to the Clark County Fiscal Court**

Funds restricted for use toward the operations of the Clark County Attorney’s office pursuant to state statute were transferred to the Clark County Fiscal Court as excess and to supplement Fiscal Court spending. KRS 134.545 and KRS 186.574(6)(c)(1) require delinquent tax funds and fees from the county attorney traffic safety program to be used only for operating expenses of the county attorney’s office. However, from August 14, 2017 to January 7, 2019, the former Clark County Attorney transferred office operating funds totaling \$292,229 to the Clark County Fiscal Court through 13 transactions. As detailed in Finding 6, 68%, or \$198,729 of those transfers occurred just before the former Clark County Attorney left office and it is not clear in statute how county attorney funds are to be handled when leaving office.

Figure 13 provides a summary of amounts paid by the Clark County Attorney’s Office to the Clark County Fiscal Court by each funding source between July 1, 2017 and June 30, 2019.

**Figure 13: Amounts Paid by the Clark County Attorney’s Office to the Clark County Fiscal Court by Funding Source in FY 2018 and FY 2019**



Source: APA, based on Clark County Attorney financial records examined between July 1, 2017 and June 30, 2019.

During FY 2018 and FY 2019, 96%, or \$283,808 of the funds turned over to the fiscal court by the former Clark County Attorney were not “excess” from cold checks which are the only county attorney funds clearly required by statute to be turned over to the fiscal court. Only \$8,422 of the total \$292,229 transferred to the Fiscal Court by the former Clark County Attorney were in fact cold check fees. Additionally, the current Clark County Attorney at the end of FY 2019 turned over all check fees of \$3,481 to the fiscal court

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collected from January 2019 to June 2019. See Finding 7 for discussion regarding excess cold check fees.

- The former Clark County Attorney made seven transfers to the Clark County Fiscal Court from his county attorney office accounts totaling \$93,500, between August 14, 2017 and August 16, 2018. Review of records determined the source of all seven transfers to be delinquent tax funds. Additionally, documentation for five of the seven transfers indicated the funds were “excess” with each payment ranging from \$5,000 to \$27,000. Records associated with the remaining two transfers described the purpose of the transfer as relating to expenses of the fiscal court. For example, one \$15,000 payment from the former Clark County Attorney’s Delinquent Tax account to the Clark County Fiscal Court in August 2017 was for work to be performed on the heating and cooling system at the Clark County Detention Center. In March 2018, a second \$15,000 payment to the Clark County Fiscal Court from the Clark County Attorney’s Delinquent Tax account was described as payment for the Clark County Fire Department Skid. KRS 134.545 requires funds received from the collection of delinquent taxes to be used only for operating expenses of the county attorney’s office. The transfer of delinquent tax funds to the fiscal court for the detention center and fire department purchases are not considered operating expenses of the county attorney’s office.

### **Recommendation**

We recommend:

- The Clark County Fiscal Court return to the Clark County Attorney’s Office delinquent tax funds totaling \$93,500, which were transferred to cover county expenses.

See Finding 6 for an additional recommendation to the Clark County Fiscal Court relating to the transfer of funds from the former County Attorney during his transition out of office.

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**Finding 9: Asset Forfeiture Funds were Improperly Deposited by Two County Attorney Offices, in Violation of Kentucky Revised Statute 218A.420**

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KRS 218A.420(4)(b) requires controlled substance related asset forfeiture funds be “[p]aid to the Prosecutors Advisory Council (PAC) for deposit on behalf of the Commonwealth’s attorney or county attorney who has participated in the forfeiture proceeding.” KRS 529.150 has a similar process as to human trafficking related forfeitures. However, the Christian County Attorney’s Office and the Pike County Attorney’s Office did not deposit all asset forfeiture funds to PAC as required by KRS 218A.420(4)(b). This noncompliance resulted in \$896 of asset forfeiture funds deposited in the Christian County Attorney’s Cold Check Collections Account during FY 2018 and 2019, and \$803 of asset forfeiture funds deposited in the Pike County Attorney’s Criminal Division Account in FY 2018.

Pursuant to Kentucky Administrative Regulation, 40 KAR 4:010, PAC is the administrator of this type of asset forfeiture funds for Commonwealth’s and county attorneys. Asset forfeiture moneys are defined by 40 KAR 4:010 Section 1(1) as “[t]he portion of the proceeds from the sale of property forfeited under KRS Chapter 218A which is paid to the Prosecutor’s Advisory Council and deposited on behalf of the Commonwealth’s attorney or county attorney whose office participated in the forfeiture as provided under KRS 218A.420 (4)(b).” Of the proceeds from the sale of property forfeited, 85% is distributed to law enforcement while the prosecutor involved is entitled to the remaining 15%. PAC maintains separate accounts for each Commonwealth’s and county attorney office that receives asset forfeiture funds. Section 2 of 40 KAR 4:010 states asset forfeiture funds are to be submitted to PAC as follows:

- (1) Asset forfeiture moneys paid to a Commonwealth’s or county attorney shall be forwarded by the Commonwealth’s or county attorney to the Prosecutors Advisory Council, Office of the Attorney General...
- (2) Any asset forfeiture check forwarded to the Prosecutor’s Advisory Council shall be accompanied by the following:
  - (a) A copy of the final order of forfeiture; and
  - (b) A completed "Submission of Asset Forfeiture Moneys," form.
- (3) Any asset forfeiture moneys submitted to the Prosecutors Advisory Council without the foregoing shall be returned to the Commonwealth’s or county attorney within two (2) weeks.

**Christian County**

Staff of the Christian County Attorney’s Office indicated there are six different sources of revenue received and deposited in the Cold Check Collections Account. One of the six sources of revenue includes court ordered forfeitures from the City of Hopkinsville. According to county attorney office staff, the office receives checks from the City of Hopkinsville on behalf of the Hopkinsville Police Department for amounts ordered by the court in the forfeiture of seized property. Bank account records identified 14 deposits confirmed by county attorney office staff as asset forfeiture funds totaling \$896.

When asked why asset forfeiture funds were not submitted to PAC, the Christian County Attorney's office stated, "the sums were for very small amounts and since the checks received were directly made out to this office, they were simply deposited into an office account." Adding that, "the applicable regulation, 40 KAR 4:010§2(1), does require Commonwealth or County Attorneys to forward the sums to PAC, which would return them to whichever office was entitled to the money." However, asset forfeiture funds are not paid to PAC and simply returned to the Commonwealth's or county attorney office. The procedures established by 40 KAR 4:010 allow for Commonwealth's or county attorneys having asset forfeiture money on deposit with PAC to apply for use of the funds. Through this process, PAC is able to monitor the use of the funds to ensure compliance with use restrictions.

### **Pike County**

Deposits made to the Pike County Attorney's Criminal Division Account primarily consist of cold check collections and traffic diversion fees. On September 26, 2017, Pike County Attorney's records show \$803 in funds from the City of Pikeville were deposited into the Criminal Division Account. After discussing the deposit with the Pike County Attorney, the Attorney's bookkeeper identified these receipts as "seized money disbursements," otherwise known as asset forfeiture funds. The bookkeeper was not aware that asset forfeiture funds were required to be turned over to PAC and was not aware of use restrictions placed on the funds.

While 40 KAR 4:010 outlines the process to submit asset forfeiture funds to PAC, as well as how funds may be expended, there is no established reporting requirement in place to notify PAC when forfeiture funds are distributed to a Commonwealth's or county attorney. PAC is not aware of the actual asset forfeitures disbursed to an attorney until the funds are sent to PAC for deposit in accounts segregated by offices. By not submitting the funds to PAC, a Commonwealth's or county attorney may take liberty to spend the funds as they please rather than spending funds for the required purposes.

### **Recommendations**

We recommend:

- The Christian County Attorney's Office and Pike County Attorney's Office comply with KRS 218A.420 and 40 KAR 4:010 by depositing asset forfeiture funds with PAC and then following the prescribed method for accessing those funds.
- The Christian County Attorney and Pike County Attorney submit to PAC the asset forfeiture funds deposited in their office accounts.
- The Attorney General, after consultation with PAC, consider amending 40 KAR 4:010 to establish a reporting process notifying PAC of Commonwealth's or county attorneys involved in a forfeiture along with the amount of asset forfeiture funds to be disbursed and to provide for penalties when a Commonwealth's or county attorney does not properly submit asset forfeiture funds to PAC.

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## **Appendices**



## **Appendix A: Survey Summary**

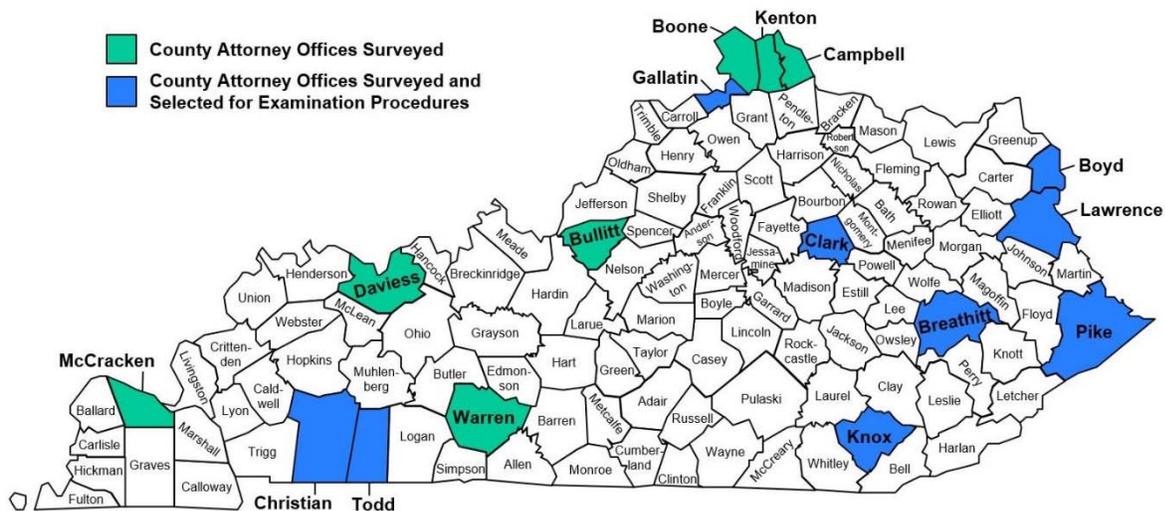
### **Survey Sample**

During the survey phase, a sample of county attorney offices were selected to participate. The purpose of this survey was to obtain a greater understanding of the county attorney office internal operations. The survey focused on what specific programs or services were administered in each office and their overall operations. The county attorneys were also asked if office staff performed work across multiple programs or, if applicable, in the county attorney’s private law practice.

A total of 16 county attorney offices were selected for the survey. No distinction was made between the participants, as all county attorney offices contacted received the same survey questions. Although 16 county attorney offices were surveyed, the sample size was reduced based on survey results, various concerns received by the APA, and issues identified by auditors during the CHFS CSE program examination, and nine were selected to perform examination procedures. Those nine county attorney offices include:

- Boyd County
- Breathitt County
- Christian County
- Clark County
- Gallatin County
- Knox County
- Lawrence County
- Pike County
- Todd County

**Figure 14: County Attorney Offices Surveyed and Selected for Examination Procedures**



Source: Auditor of Public Accounts

## Survey Results of Nine County Attorney Offices Selected for Examination Procedures

In order to gain a comprehensive understanding of the internal operations performed in the nine county attorney offices, the survey asked what programs and services each office administers. Figure 15 provides the responses received regarding the programs and services administered in each of the nine county attorney offices.

**Figure 15: Survey Results - Programs or Services Provided by Each County Attorney**

Survey Question 1: Do Programs or Services Operate In Multiple Offices? Survey Question 1a: What Programs or Services Does Each Office House?		
County	Survey Responses to Question 1	Survey Responses to Question 1a
<b>Boyd</b>	Yes*	Multiple offices within courthouse
<b>Breathitt</b>	No	One office houses all County Attorney functions
<b>Christian</b>	Yes	Separate offices for Child Support, Cold Check, and all other County Attorney functions
<b>Clark</b>	Yes	Separate offices for Child Support, PAC and Guardianship, Fiscal Court duties, and all other County Attorney functions
<b>Gallatin</b>	No	One office houses all County Attorney functions
<b>Knox</b>	Yes	Separate offices for Child Support, Delinquent Tax, and all other County Attorney functions
<b>Lawrence</b>	Yes	Office for Child Support separate from office housing all other County Attorney functions
<b>Pike</b>	Yes	Office for Child Support and Accounting/Bookkeeping separate from office housing all other County Attorney functions
<b>Todd</b>	No*	One office houses all County Attorney functions

Source: APA, based on survey responses of a sample of County Attorney offices.

\*Boyd County and Todd County Attorneys did not have a contract with CHFS to provide child support services at the time of the survey.

According to the survey responses, six of the nine county attorneys report that all services and programs administered operate from multiple offices. The three offices that house all programs and services from one location include, Breathitt, Gallatin, and Todd County. When the survey was conducted, all nine county attorney's offices, except the Todd and Boyd County Attorneys, were under contract with CHFS to perform child support duties. Five of the nine offices surveyed, operate at least one other program in the same office as child support services.

In order to determine the program organizational structure in the nine county attorney offices surveyed, participants were asked if office staff performed tasks for the county attorney's private law practice. Figure 16 provides the responses received regarding office staff and their association with the county attorney's private law practice.

**Figure 16: Office Staff Employed in the County Attorney’s Private Law Practice**

<b>Survey Question 3: Do staff perform work for your private law office?</b>	
<b>County</b>	<b>Survey Responses</b>
<b>Boyd</b>	N/A, no private practice
<b>Breathitt</b>	No
<b>Christian</b>	Yes
<b>Clark</b>	No
<b>Gallatin</b>	Yes
<b>Knox</b>	Yes
<b>Lawrence</b>	Yes
<b>Pike</b>	No
<b>Todd</b>	Yes

Source: APA, based on survey responses of a sample of County Attorney offices.

According to the survey responses in Figure 16, five offices surveyed have staff that perform work for the county attorney’s private law practice in addition to their job duties associated with the county attorney’s office; these offices include Christian, Gallatin, Knox, Lawrence, and Todd County. The only county attorney who indicated not having a private practice was Boyd County.

The additional survey questions posed to the select county attorney offices included:

Question 2: Are support staff designated to work in a specific program or service? Or do staff functions overlap?

Question 4: How many staff are full time? How many are part time?

Question 5: How is time for staff tracked, both full time and part time staff?

Question 6: How many bank accounts do you have and what are they?

In addition to the above survey questions, each county attorney office was asked to submit for review a copy of the most recent bank statement, including check images, for all identified office bank accounts.

Survey responses, such as the number of office personnel and programs and services offered by each county attorney office examined, are included as background information in Appendices B through J of this report. Survey responses presented are unaudited and are as reported to the APA. Appendices B through J also summarize for each county attorney office examined, office revenues received, funds budgeted to support the operations of the county attorney office by the office’s respective fiscal court in FY 2018 and FY 2019, report findings related to the county attorney’s office, and additional concerns identified in the county attorney’s office during the examination process which are not previously included in a report finding.

**Appendix B: Boyd County Attorney Summary**

**Office Background**

Current County Attorney: C. Phillip Hedrick, 1994 – Sept. 2018  
Jan. 1, 2019 - current

Interim County Attorney: Dan King, Oct. 2018 – Dec. 2018

Office Personnel: 6 full-time, 6 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 479,500	\$ -
Cold Check Collections	12,054	7,662
Delinquent Tax Collections	259,177	198,551

Source: APA, based on Boyd County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 370,520

County Fiscal Court Support in FY 2019: \$ 12,696

**Related Report Findings**

Finding 2: Potential Fraudulent Activity Identified in the Boyd County Child Support Office

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

**Additional Concerns Identified In Testing**

- \$200 Donation to Shop With A Cop from delinquent tax funds.
- Expended \$228 in delinquent tax funds towards an office holiday party on December 21, 2018. Total cost of the party included approximately \$57 in alcohol beverages.
- A \$50 program advertisement paid to a local high school athletics group. No evidence of the published advertisement maintained to support the expense.
- \$150 in overdraft fees incurred in three of the four bank accounts held by the Boyd County CSE office in calendar year 2017.

**Programs and Services Include:**

- Child Support in FY 2018
- Cold Check Collections
- Delinquent Tax Collections
- Juvenile Prosecution
- Fiscal Court Counsel
- Criminal Prosecution

**Appendix C: Breathitt County Attorney Summary**

**Office Background**

Current County Attorney: Brendon Miller, 2002 – 2014  
Jan. 7, 2019 - current

Former County Attorney: Gary Salyers, 2015 – 2018

Office Personnel: 4 full-time, 3 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 213,200	\$ 213,200
Cold Check Collections	100	250
Delinquent Tax Collections	58,572	62,412
Traffic Safety	440	385

Source: APA, based on Breathitt County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 68,234

County Fiscal Court Support in FY 2019: \$ 62,129

**Programs and Services Include:**

- Child Support
- Cold Check Collections
- Delinquent Tax Collections
- Fiscal Court Counsel
- Prosecution
- Traffic Safety – Discontinued by Current County Attorney

**Related Report Findings**

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 6: Kentucky Law Does Not Provide Clear Guidance to Outgoing County Attorneys When Transitioning Office, Resulting In Inconsistent Practices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

**Additional Concerns Identified In Testing**

- Nearly \$8,000 in penalties and interest were paid by the former County Attorney through the CSE Account on November 6, 2017. The penalties and interest paid related to unpaid payroll taxes for the tax period ending September 30, 2016 and December 31, 2016.

**Appendix D: Christian County Attorney Summary**

**Office Background**

Current County Attorney: John Soyars, since 2018.

Former County Attorney: Michael Foster, 1982 to 2018.

Office Personnel: 13 full-time, 6 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 865,200	\$ 865,200
Cold Check Collections	3,146	2,436
Delinquent Tax Collections	68,976	64,614
Traffic Safety	51,315	71,820

Source: APA, based on Christian County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 221,551

County Fiscal Court Support in FY 2019: \$ 229,778

**Related Report Findings**

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 6: Kentucky Law Does Not Provide Clear Guidance to Outgoing County Attorneys When Transitioning Office, Resulting In Inconsistent Practices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

Finding 9: Asset Forfeiture Funds were Improperly Deposited by Two County Attorney Offices, in Violation of Kentucky Revised Statute 218A.420

**Additional Concerns Identified In Testing**

- On June 30, 2017, nine employees of the Christian County Attorney's Child Support Division were each paid for 45 unused vacation days in violation of the Christian County Attorney's Child Support Division Employee Policy Manual. The payments to each of the employees totaled \$6,109.
- Charges incurred on the Christian County Attorney's Office credit card for staff dinners during the August 2017 Prosecutors Conference at Tony's of Lexington and Dudley's totaling \$925 and \$575, respectfully.
- Staff party on December 5, 2017 at Hopkinsville Golf and Country Club totaling \$585.

**Programs and Services Include:**

- Child Support
- Cold Check Collections
- Delinquent Tax Collections
- Guardianship
- Traffic Safety
- Prosecution

**Appendix E: Clark County Attorney Summary**

**Office Background**

Current County Attorney: William Elkins, since 2019.

Former County Attorney: Brian Thomas, 2007 to 2018.

Office Personnel: 8 full-time, 6 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 307,900	\$ 393,505
Cold Check Collections	11,710	7,612
Delinquent Tax Collections	53,394	91,377
Traffic Safety	14,170	17,390

Source: APA, based on Clark County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 150,868

County Fiscal Court Support in FY 2019: \$ 187,034

**Related Report Findings**

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 6: Kentucky Law Does Not Provide Clear Guidance to Outgoing County Attorneys When Transitioning Office, Resulting In Inconsistent Practices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

Finding 8: Operating Funds Restricted for Use by the Clark County Attorney’s Office Were Transferred to the Clark County Fiscal Court

**Additional Concerns Identified In Testing**

- Donation of \$5,000 to the Clark County Fiscal Court for the Spay & Neuter Program in FY 2018 at the request of the former Clark County Attorney.
- An expense or check request sheet attached to a check was the only documentation to support 27% of expenditures tested.
- The former Clark County Attorney repaid private grant funds to the grantor and closed the county attorney maintained bank account without ensuring all checks recently written had cleared the account resulting in a \$300 bad check.

<b>Programs and Services Include:</b>
<ul style="list-style-type: none"> <li>• Child Support</li> <li>• Cold Check Collections</li> <li>• Delinquent Tax Collections</li> <li>• Guardianship</li> <li>• Insurance Diversion</li> <li>• Traffic Safety</li> <li>• Prosecution</li> <li>• Restitution</li> </ul>

**Appendix F: Gallatin County Attorney Summary**

**Office Background**

Current County Attorney: John G. Wright, since 2003.

Office Personnel: 2 full-time, 1 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 106,200	\$ 100,890
Cold Check Collections	151	2,377
Delinquent Tax Collections	16,320	18,188
Traffic Safety	10,875	31,125

Source: APA, based on Gallatin County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 23,723

County Fiscal Court Support in FY 2019: \$ 23,723

**Related Report Findings**

Finding 3: The Gallatin County Attorney Used Office Operating Funds for Personal and Private Law Practice Expenses

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

**Additional Concerns Identified In Testing**

- Donations to Dance Blue and Gallatin County Schools totaling \$150 in FY 2018 and FY 2019.
- Overdraft and negative account balance fees totaling \$637 in three bank accounts maintained by the Gallatin County Attorney’s Office from July 1, 2017 to June 30, 2019.
- The Gallatin County Attorney’s son received payments totaling \$610 for work performed in the office during FY 2018 and FY 2019 with no timesheet or other documentation to support the payments.
- No documentation providing a clear distinction between the job duties of county attorney employees’ job duties and the additional job duties in which additional payments of salary received in FY 2018 and FY 2019 totaled \$9,871 and treatment of the payments were inconsistent on W2s.

<b>Programs and Services Include:</b>
<ul style="list-style-type: none"> <li>• Child Support</li> <li>• Cold Check Collections</li> <li>• Delinquent Tax Collections</li> <li>• Traffic Safety</li> <li>• Prosecution</li> </ul>

**Appendix G: Knox County Attorney Summary**

**Office Background**

Current County Attorney: Gilbert Holland, since 2013.

Office Personnel: 7 full-time, 6 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 403,400	\$ 403,400
Cold Check Collections	4,865	6,036
Delinquent Tax Collections	74,688	89,880
Traffic Safety	15,225	15,875

Source: APA, based on Knox County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 58,166

County Fiscal Court Support in FY 2019: \$ 57,161

**Related Report Findings**

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

**Additional Concerns Identified In Testing**

- Expended \$450 in delinquent tax funds in December 2017 for a holiday dinner.
- Over \$2,300 paid toward advertisements and donations to several local organizations and school sports teams with little to no documentation to support the expense. One donation for \$300 was paid to a local high school athletics group on March 5, 2019 for the purpose of sending “underprivileged children to Rupp Arena. For Bus driver + gas for Children donation.”
- Approximately 64% of all delinquent tax and miscellaneous account transactions tested lacked detailed supporting documentation to support the expense. This includes over \$700 paid to the County Attorney without any supporting documentation.
- Over \$180 of delinquent tax funds used to purchase supplies for an employee’s retirement party. Total purchase included a small amount for tax though the County Attorney office is tax exempt.

<b>Programs and Services Include:</b>
<ul style="list-style-type: none"> <li>• Child Support</li> <li>• Cold Check Collections</li> <li>• Delinquent Tax Collections</li> <li>• Guardianship</li> <li>• Traffic Safety</li> <li>• Prosecution</li> </ul>

**Appendix H: Lawrence County Attorney Summary**

**Office Background**

Current County Attorney: Michael Hogan, since 2002

Office Personnel: 3 full-time, 4 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 177,900	\$ 169,005
Cold Check Collections	175	200
Delinquent Tax Collections	65,229	73,406

Source: APA, based on Lawrence County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 161,266

County Fiscal Court Support in FY 2019: \$ 161,300

**Related Report Findings**

Finding 1: The Lawrence County Attorney Awarded \$134,500 in Bonuses from Delinquent Tax Funds to Staff, Including \$126,500 to His Spouse

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

**Additional Concerns Identified In Testing**

- Over \$3,600 in donations and sponsorships expended from delinquent tax funds.
- No documentation to support use of cash box. Cash on hand as of October 14, 2019 equaled \$660.
- Amounts received for cold checks could not be confirmed based on records maintained by the County Attorney’s office. In one instance, a fee was waived but no documentation of the waiver was maintained.

**Programs and Services Include:**

- Child Support
- Cold Check Collections
- Delinquent Tax Collections
- Prosecution

**Appendix I: Pike County Attorney Summary**

**Office Background**

Current County Attorney: Howard Keith Hall, for over 20 years.

Office Personnel: 15 full-time, 6 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 682,400	\$ 682,400
Cold Check Collections	519	247
Delinquent Tax Collections	325,594	398,823
Traffic Safety	7,110	9,045

Source: APA, based on Pike County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 125,043

County Fiscal Court Support in FY 2019: \$ 103,424

**Related Report Findings**

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

Finding 9: Asset Forfeiture Funds were Improperly Deposited by Two County Attorney Offices, in Violation of Kentucky Revised Statute 218A.420

**Additional Concerns Identified In Testing**

- Over \$2,300 paid to various local clubs and high school sports teams with no detailed supporting documentation.
- \$350 paid to Pike County Tourism for a table at the 4<sup>th</sup> of July Event in 2018.
- \$315 paid in dues to a local service club.
- Over \$1,200 used for food for office meetings and holiday parties. Total includes \$125 paid to a local high school cheerleading team for cream horns and \$140 paid to a local high school dance team for pulled pork sandwiches.
- For FY 2018 and FY 2019, a total of over \$930 in interest was paid on a Line of Credit.
- Erroneous deposit of delinquent tax funds in 2018 results in \$25,000 in funds owed by the County Sheriff to the County Attorney. Amounts owed to the two offices were switched. This issue has not been resolved as of January 2020.
- Approximately \$306 due to the Pike County Clerk for cold checks and plaintiff fees was deposited into the Pike County Attorney’s Criminal Division Account in FY 2018 and FY 2019. In February 2018, \$119 of this total amount was remitted to the Pike County Clerk. As of February 26, 2020, the balance of \$187 remains outstanding.

**Programs and Services Include:**

- Child Support
- Cold Check Collections
- Delinquent Tax Collections
- Traffic Safety
- Prosecution

## **Appendix J: Todd County Attorney Summary**

### **Office Background**

Current County Attorney: Jeff Traugher, since 2019.

Interim County Attorney: Mark Collins, 2018 to 2019.

Former County Attorney: Harold Mac Johns, 1990 to 2018.

Office Personnel: 5 full-time, 2 part-time

Office Revenues by Type and Fiscal Year:

<b>Programs:</b>	<b>FY 2018</b>	<b>FY 2019</b>
Child Support	\$ 135,400	\$ 135,400
Cold Check Collections	3,139	2,653
Delinquent Tax Collections	24,219	24,424
Traffic Safety	6,586	8,288

Source: APA, based on Todd County Attorney Financial Records.

County Fiscal Court Support in FY 2018: \$ 31,840

County Fiscal Court Support in FY 2019: \$ 32,484

### **Related Report Findings**

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

Finding 6: Kentucky Law Does Not Provide Clear Guidance to Outgoing County Attorneys When Transitioning Office, Resulting In Inconsistent Practices

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statute 514.040

### **Additional Concerns Identified In Testing**

- In March 2018, the former Todd County Attorney's Office debit card incurred a \$310 payment to a debt collector for an unpaid AT&T bill.
- Expenses totaling \$650 for staff meals throughout FY 2018 and 2019 with no supporting documentation including a reimbursement to the former Todd County Attorney in December 2018 for a holiday meal at a mexican restaurant in Guthrie, KY.
- From June 1, 2017 to December 30, 2018, an employee of the former County Attorney received a total of \$685 as incentive payments for processing traffic citations during each month.

### **Programs and Services Include:**

- Cold Check Collections
- Delinquent Tax Collections
- Guardianship
- Traffic Safety
- Prosecution
- Other Diversion Programs

- Two accounts held by the former Todd County Attorney incurred a total of \$464 in overdraft and insufficient fund charges during FY 2018 and 2019.
- The former Todd County Attorney has not repaid \$2,161 of the \$8,658 county attorney office operating funds used to supplement the Todd County Child Support Account as required by CSE Contract.

**Appendix K: April 2018 Support Submitted to CHFS by the Boyd County CSE Office**

CHILD SUPPORT INSURANCE BILLED April - 2018

	A	B	C	D	E	F	G	H	I	J	K
1	Name		SSN		UNITED HEALTHCARE	1/12 HRA FUND	UNC Vision	ANTHEM Dental	Anthem Life	Anthem Suppl. Life	PAID CSE
2	BARKER, AMY				\$ 1,136.14	\$ 333.34	\$ 10.64	\$ 77.41	\$ 6.65	\$ 26.70	
3					\$	\$	\$	\$	\$	\$	
4	PICKETT, MARY				\$ 631.58	\$ 186.67	\$ 10.84	\$ 77.41	\$ 4.66	\$ 60.25	
5	SLONE, JAMIE				\$	\$	\$ 16.72	\$	\$	\$	
6											
7	TOTALS				\$ 2,903.86	\$ 833.36	\$ 49.24	\$ 232.23	\$ 17.96	\$ 133.90	\$ 4,170.53
8											

1767.72 500.01 38.40 154.82 11.30 86.95

-16 11.33 CPH part of prem.

2559.20

BOYD COUNTY ATTORNEY  
 PH: 606-339-9200  
 P.O. BOX 245  
 CATLETTSBURG, KY 41129-0245

1214

DATE 4/30/18 73-157/421

PAY TO THE ORDER OF Boyd Social Court

Two thousand five hundred fifty nine and 20/100

\$ 2559.20

DOLLARS

KFB Kentucky Farmers Bank  
 CATLETTSBURG, KY 41129

FOR [Signature]

**Appendix L: Actual April 2018 Boyd County Fiscal Court Billing Statement and Payment**

CHILD SUPPORT INSURANCE BILLED  
APRIL 2018

Trisha 4/20/18 RECEIVED  
APR 20 2018  
BCFC

	A	B	C	D	E	F	G	H	I	J	K
1	Name		SSN		MEDOVA HEALTHCARE	1/12 HRA FUND	VSP Vision	ANTHEM Dental	Anthem Life	Anthem Suppl. Life	PAID CK#
2	BARKER, AMY				\$ 816.46	\$ 333.34	\$ 11.80	\$ 77.41	\$ 6.65	\$ 35.70	
3	PICKETT, MARY				\$ 803.39	\$ 166.67	\$ 22.98	\$ 77.41	\$ 4.65	\$ 60.25	
4	SLONE, JAMIE				\$ -		\$ 22.98	\$ -	\$ -	\$ -	
5											
6	TOTALS				\$ 1,419.85	\$ 500.01	\$ 57.76	\$ 154.82	\$ 11.30	\$ 95.95	\$ 2,239.69
7											0
8	MEDOVA BILL (APR)				\$ 1,477.61					AMT. DUE	\$ 2,239.69
9											
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BOYD COUNTY ATTORNEY  
P O BOX 245  
CATLETTSBURG, KY 41129

DATE 4/30/18 1503

PAY TO THE ORDER OF Boyd Social Court IS 2229.69  
Two thousand two hundred thirty nine and 69/100 DOLLARS

**KFB** Kentucky  
Farmers Bank  
Ashland, Kentucky

MEMO \_\_\_\_\_

C. H. Cole

April 2018

RECEIVED  
JUN 14 2018  
BCFC

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**Appendix M: Technical Audit Bulletin**

**Technical Audit Bulletin  
Commonwealth of Kentucky  
Office of the Attorney General  
Prosecutors Advisory Council**

**Generally Accepted Standards of Use  
for Fee Accounts by County Attorneys**

**Introduction**

Any fees or money paid to the office of the County Attorney pursuant to the provisions of KRS 134.545 et al and KRS 514.040 (5) shall be used only for the payment of the “operating expenses” of the County Attorney’s Office.

**General Definitions of County Attorney Office Operating Expenses**

1. The County Attorney Office “operating expenses” refers to actual and necessary expenses incident to the proper conduct of the total duties of the Office of the County Attorney (OAG 73-349).
2. The County Attorney’s “operating expenses” are not intended to be restrictively and narrowly integrated only with the expenses inherent in tax collection work of the County Attorney (OAG 78-349).
3. The money paid to the County Attorney pursuant to the theft by deception (cold check) fees shall be used for the payment of County Attorney office “operating expenses” (KRS 514.040(5)).
4. Fees paid to the County Attorney office for the collection of delinquent taxes may be spent for any official expense of the County Attorney’s office arising out the proper conduct of that office (including both criminal and civil duties). The term “proper conduct of office” includes all activities or services which are practical and necessary in conducting the business affairs of an office. The expenses must be reasonably calculated to offer some benefit to the public and not predominantly personal to the County Attorney (OAG 85-17).

5. Fees may be used for any purpose reasonably designed to carry out the statutory duties of the County Attorney office and/or reasonably calculated to improve the efficiency of the office (OAG 80-257).

6. When a County Attorney receives commissions for the collection of delinquent taxes after he left the office of the County Attorney, such commissions shall be delivered to the incumbent County Attorney for expenditures in the manner and for the purposes set out herein (OAG 85-17).

**Generally Accepted Standards for Defining Operating Expenses  
Associated with the Office of the County Attorney**

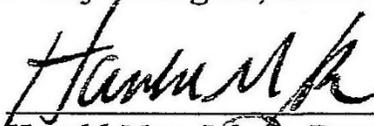
1. Office supplies
2. Office equipment
3. Rent (For privately owned property, the County Attorney shall pay a percentage of the fair rental value of the subject property to the owner of the property from the fee accounts. If the attorney uses said property for private practice, the private practice shall pay the remaining percentage of such value based on the percentage of time the property is used for private practice.) OAG 77.756
4. Janitorial Services
5. Salaries of employees employed by the County Attorney's Office
6. Maintenance of office
7. Professional liability insurance covering only those acts associated solely with the duties of the Office of the County Attorney. KRS 15.750
8. Expenses and fees associated with subpoenaing witnesses, transporting witnesses to trial, depositions, and other expenses reasonably calculated to assist the County Attorney in presenting a case for trial or for pursuing other duties, both civil and criminal, imposed upon the County Attorney by statute or regulation.
9. Reasonable lodging, travel and meal reimbursement associated with the duties of the office
10. Continuing legal education and training related to the duties of the office of the County Attorney
11. Postage, Telephones, Fax Machines, Copy Machines, Computers, printers, and office supplies.

12. Short term investments earning interest so long as said funds are segregated and used solely for the payment of offices expenses set out herein.
13. Law library expense. OAG 83-409
14. Other ordinary and customary office expenses incident to conducting and carrying out the duties of the office of the County Attorney.
15. All fees accounts shall be deposited in separate bank accounts which are segregated from private accounts.
16. Dues payable to organizations which provide support services to County Attorneys. Examples include the Kentucky Association of Counties, Kentucky County Attorney Association Inc., National District Attorneys Association, Kentucky Bar Association, Fraternal Order of Police, and similar organizations.

**Unauthorized Expenditure of fees**

1. Civic memberships or charitable contributions unrelated to a public purpose
2. Personal political advertising
3. Airfare for any class other than coach
4. Personal loans
5. Parking tickets
6. Alcoholic beverages
7. Interest incurred when personal credit card is used by staff member employee for official expenses when asking for reimbursement
8. Salary supplementation in excess of statutory limit

Recommended and adopted by the Kentucky County Attorney Association Inc., on this the 12<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
Harold Mac Johns, President

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**Appendix N: OAG Opinion 05-002**

**OAG 05-002**

January 7, 2005

*Subject:* County Attorney Office Operating Expenses

*Requested by:* Hon. Harold "Mac" Johns, Todd County Attorney and President, Kentucky County Attorneys' Association

*Written by:* Janet M. Graham, Assistant Deputy Attorney General

*Syllabus:* A county attorney may use proceeds from the county attorney's delinquent real estate tax collection account to pay for travel to board meetings and other events sponsored by the Kentucky County Attorneys' Association because these constitute county attorney office operating expenses pursuant to KRS 134.545.

*Statutes construed:* KRS 134.545.

***Opinion of the Attorney General***

On October 18, 2004, Hon. Harold "Mac" Johns, President of the Kentucky County Attorneys' Association ("KCAA"), submitted an opinion request to the Attorney General as to whether he could be reimbursed for "travel to board meetings and other events on behalf of the KCAA." The answer to this question is "yes" as further outlined below.

County attorneys receive compensation for various duties that are delineated in Kentucky statutes. One of these duties is assisting the Revenue Cabinet in collecting delinquent property taxes. When the county attorney renders this assistance, he or she is entitled to compensation based upon the specific service performed. See KRS 132.250, 134.340, 134.400, 134.540 and 135.040.

KRS 134.545, enacted in 1978, provides that "Moneys paid to the county attorney under KRS 132.350, 134.340, 134.400, 134.500, 134.540 and 135.040 shall be used only for payment of county attorney office operating expenses." However, the phrase "county attorney office operating expenses" is not defined in the statute. Additionally, no cases appear to directly interpret this particular statute.

However, prior to the enactment of this statute, cases did examine similar issues with respect to the prior statutory framework. In *Funk v. Milliken*, 317 S.W.2d 499 (Ky. 1958), an appeal of a declaratory judgment action, Kentucky's highest court examined the issue of what constitutes a county attorney "personal expense" versus what constitutes a "necessary office expense." In this case, the Court adopted the view that a county attorney could be reimbursed for expenses of his office that are "reasonable in amount, beneficial to the public, and not predominantly personal to the officer in the sense that by common understanding and practice they are considered to be personal expenses." *Id.* at 506.

The Court in *Funk* specifically examined expenses related to attending a state school for county attorneys, attending the annual convention of county attorneys and dues paid to a national association of county attorneys. The Court held that the expenses were "official" and not "personal" and that the county attorney was entitled to credit for these expenses. *Id.* at 508. See also *Reeves v. Talbott*, 289 Ky. 581, 159 S.W.2d 51 (holding that Commissioner of Revenue's attendance at a national tax conference was a proper office expense); *Louisville and Jefferson County Bd. of Health v. Steinfeld*, 308 Ky. 824, 215 S.W.2d 1011 (holding that executive of municipal health board could properly be reimbursed for attendance at medical meeting).

Because of the lack of a definition of "county attorney office operating expenses," the Kentucky County Attorneys Association in conjunction with the Attorney General's Office and the Auditor of Public Accounts has promulgated a set of guidelines for county attorneys with respect to the proper use of the moneys collected pursuant to the above-referenced statutes and pursuant to KRS 514.040(5). A copy of these guidelines is attached. Based upon these guidelines, the Attorney General's Office is currently promulgating regulations which should further delineate the appropriate parameters for the use of this money. Until these regulations are finalized, we believe that county attorneys may rely upon the attached guidelines as generally accepted standards of use for moneys collected in their fee accounts.

GREGORY D. STUMBO  
ATTORNEY GENERAL

Janet M. Graham  
Asst. Deputy Attorney General

**Boyd County Attorney's Response**



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE BOYD COUNTY ATTORNEY

C. PHILLIP HEDRICK  
BOYD COUNTY ATTORNEY  
P.O. BOX 425  
CATLETTSBURG, KY 41129

May 15, 2020

PHONE: 606 739-4321  
606 739-4466  
FAX: 606 739-6620

Hon. Mike Harmon  
Kentucky Auditor of Public Accounts  
209 St. Clair Street  
Frankfort, KY 40601-1817

RE: Examination of Select County Attorney Offices

Dear Auditor Harmon,

Thank you for the opportunity to comment on the report of examination of nine (9) select Kentucky County Attorney Offices.

With regard to Boyd County specifics as set out on page 48:

- The contribution to Shop With a Cop was undertaken in collaboration with local law enforcement and was a reasonable contribution in furtherance of a charitable public purpose.
- The former County Attorney has paid the sum of \$228.00 to the office. The undersigned was not the Boyd County Attorney on December 21, 2018.
- The on-site auditors made no request to the Boyd County Attorney for evidence of publication of a \$50.00 athletics program ad. To the best of my recollection, knowledge and belief all documentation requested of the undersigned was provided to the on-site auditors.
- CSE related matters are reportedly being investigated.

I also offer the following additional comments:

- Second level review of invoices, issued checks and bank statements is being done.
- I generally agree with the recommendations to the General Assembly including revising KRS 514.040.
- There is no office debit card.

Sincerely,

A handwritten signature in blue ink that reads "C. Phillip Hedrick".

C. Phillip Hedrick  
Boyd County Attorney

CPH/bb

**Breathitt County Attorney's Response**



OFFICE OF THE BREATHITT COUNTY ATTORNEY

**BRENDON D. MILLER**

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May 15, 2020

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Hon. Mike Harmon  
Auditor of Public Accounts  
209 St. Clair Street  
Frankfort, Kentucky 40601

RE: Response to Draft of Audit of Kentucky County Attorney Offices

Dear Auditor Harmon:

Thank you for the time to respond to the draft document entitled Examination of Certain Financial Operations and Internal Policies and Controls of Select Kentucky County Attorney Offices, dated May 13, 2020. I would indicate that all negative issues referenced in the document are directed toward the former Breathitt County Attorney, and that there are no issues or recommendations noted in regard to the accounts which were maintained from January 7, 2019 through July 1, 2019. I have no response or comment on the issues noted for the former County Attorney. The recommendations which could have been an issue as to my administration are the submission of any unused Cold Check fees (of which we have very little) to the Fiscal Court by June 30<sup>th</sup> of each year, and future transfer of accounts when I leave this office, which I will insure are complied with going forward.

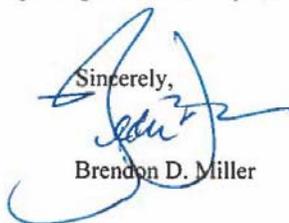
There are a few of corrections/added information that I would note:

1. Page 32 the 1<sup>st</sup> Paragraph under Breathitt County – The language seems to indicate that I took office or “transitioned” early to the office. There was not an early transition other than a meeting with the outgoing former County Attorney in which time frames for delivery of files, documents, and furniture were discussed along with issues regarding District Court as the former County Attorney would be the incoming District Judge. I did not take office until the first Monday in January, 2019, being January 7<sup>th</sup>, as mandated by the Kentucky Constitution.
2. Page 32 the 3<sup>rd</sup> Paragraph under Breathitt County – The language should read that the County Attorney and former County Attorney met and mutually agreed that the County Attorney would either seek new (or reactivate previously held) Employer Tax ID numbers (EIN’s) and associated government accounts as needed for operation of the office, and the former County Attorney would retain the records regarding his EIN(s). I did reactivate the previously held EIN(s) and old accounts with government agencies from my prior time as County Attorney or begin new ones with the exception of the

Division of Unemployment Insurance, which is still an issue. The County Attorney did not wish to accept, and the former County Attorney did not wish to pass on, any ongoing or outstanding obligations or issues with any account.

3. Appendix C – Page 49 – again date of service has beginning date of January 7, 2019.

Sincerely,



Brendon D. Miller

**Christian County Attorney's Response**



COMMONWEALTH OF KENTUCKY

Office of the County Attorney

**ASSISTANT COUNTY  
ATTORNEYS**  
Maureen Leamy, Chief Assistant  
Lincoln W. Foster  
Duncan Cavanah  
Katherine Foster  
Mark Collins

**JOHN T. SOYARS**  
**CHRISTIAN COUNTY ATTORNEY**

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**CHRISTIAN COUNTY CHILD  
SUPPORT DIVISION**  
Katherine Foster, Staff Prosecutor  
Maureen Leamy, Staff Prosecutor

**DOMESTIC VIOLENCE UNIT**  
Jill Atkins, Prosecutor  
Tina Newby, Victim Advocate  
Ray Davis, Investigator

May 15, 2020

Hon. Mike Harmon  
Auditor of Public Accounts  
209 St. Clair Street  
Frankfort, Kentucky 40601-1817

**Re: Examination of Certain Financial Operations and Internal Policies and  
Controls of Select Kentucky County Attorney Offices**

Dear Mr. Harmon:

As you know, you selected the Christian County Attorney's Office to be part of the above-described audit. We were one of nine county attorney offices throughout the Commonwealth so chosen. On May 13, 2020, your office provided me a draft of your report and gave me the opportunity to respond. Please accept the following as my response to your draft audit.

Before submitting the response, I want to take the opportunity to thank you and your staff for their courtesy and professionalism throughout this process. I trust that you found that my office reciprocated in like manner.

By way of explanation, this response will track what your report refers to as "Appendix D: Christian County Attorney Summary." I will respond to the sections entitled "Related Report Findings" and "Additional Concerns Identified in Testing".

**RELATED REPORT FINDINGS**

**Finding 4: Poor Accounting and Record Keeping Practices, Along with  
Questionable Spending Identified at County Attorney Offices**

**Response:** Your report found that the Christian County Attorney's Office did **not** need additional internal controls due to a lack of segregation of duties. I appreciate you recognizing that my office appropriately segregates the duties of its employees and has appropriate internal controls. As an example of appropriate internal controls, your report also noted that this office was the only one of those audited that had an extra layer of

review over someone who uses an office credit card. Please note that this office already utilizes a credit card only and not a debit card consistent with your recommendations.

In Figure 11, you pointed out that in December 2017 two employees of this office received a one-time payment which was described as a cost of living adjustment. Please note that these staff members are employees of the Unified Prosecutorial System and did not receive any cost of living adjustments as part of their state salaries. The sums expended were meant to compensate them for not receiving any cost of living adjustments. In essence, when a cost of living adjustment is not made, any employee who does not receive one in reality receives a pay cut. Therefore, these payments were not meant to be "bonuses". It is simply a cost of living adjustment. However, since taking office in September 2018, I have no plans to make such payments in the future.

The title of this finding describes "poor accounting and record keeping practices." I do not believe that this applies to the Christian County Attorney's Office. Our staff bookkeeper pays bills only upon presentation of an invoice. This invoice is kept and marked paid as payments are sent out. The cancelled checks are kept by the bookkeeper as well. Finally, our bookkeeper utilizes the QuickBooks program, which is a widely used and accepted computerized business accounting system.

Under this finding you made five recommendations. This office is in compliance with the recommendations. First, we follow the Christian County Administrative Code regarding written procurement procedures. We also, as described above, keep all invoices and cancelled checks regarding any purchases made by this office.

You had already noted that this office is not one of the offices that fails to adequately segregate the duties of its employees. Therefore, we are in compliance with this recommendation.

You suggested avoiding the use of an office debit card. This office as noted above does not have a debit card.

You state county attorney offices should refrain from making donations unrelated to a public purpose. This office makes no such donations.

You recommend we abide by Section 3 of the Kentucky Constitution and not award bonuses from public funds. As explained above, I believe that the 2017 payments mentioned were cost of living adjustments and not bonuses. However, it is my plan to not make such payments in the future.

**Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices**

**Response:** Your report maintains that the law provides minimal guidance and oversight to county attorney offices. However, you do note that in 2004 the Kentucky County Attorneys Association adopted a Technical Audit Bulletin (which was issued by the

Prosecutors Advisory Council following recommendations from the Kentucky Auditor of Public Accounts as noted below). This is attached as Appendix M to your draft audit. You then noted that in OAG 05-002 this audit bulletin was accepted by the Kentucky Attorney General. This is attached as your Appendix N. That opinion of the attorney general states these guidelines were promulgated by the Kentucky County Attorneys Association in conjunction with the Attorney General's Office and the Auditor of Public Accounts and can be relied upon by county attorneys. This office follows the guidance contained in that audit bulletin. In fact, I personally gave copies of both documents to the auditors with whom I met during the audit process in the fall of 2019.

Should the Kentucky Legislature wish to amend or enact laws regarding management and oversight of county attorney offices, I would be glad to offer my assistance as part of any such process.

**Finding 6: Kentucky Law Does Not Provide Clear Guidance to Outgoing County Attorneys When Transitioning Office, Resulting in Inconsistent Practices**

**Response:** In this section of your audit, you note that my predecessor J. Michael Foster appropriately transferred all records and funds of the Christian County Attorney's Office to me. Your draft audit then discusses inconsistent practices based on differing interpretations of KRS 64.830, which concerns the settlement of accounts by outgoing county officials with fiscal court. I would support clarification of this statute by the legislature to specifically include county attorneys.

**Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to the Fiscal Court as Required by Kentucky Revised Statutes 514.040**

**Response:** This finding reports that the Christian County Attorney's Office, along with seven other offices, is not submitting excess cold check fees to fiscal court as required by KRS 514.040(5). That statute states that such fees are to be turned over to the county treasurer. As you discovered upon auditing this office, the Christian County Attorney's Office was operating pursuant to Christian County Fiscal Court Resolution #2018-10, which allowed the Christian County Attorney to retain excess fees associated with cold check collections, delinquent tax collections and no insurance diversion funds "for the payment of operating expenses incurred by the County Attorney's Office". It is my belief that this office complied with the statute by operating under the resolution. First, the resolution shows this office was aware of its duty under the statute. The process actually used amounted to this office offering the excess funds to the fiscal court, which responded with the resolution allowing this office to keep them.

Under this finding, you also mentioned that this office had a money market account in the amount of \$156,000.00 as of June 30, 2019. You note that this account contains excess delinquent tax funds and is an allowable investment. Your draft audit also opines that the "magnitude" of the money market account indicates no need for this office to retain cold check fees for operating purposes. I would disagree. This account has always been treated by this office as a "rainy day fund". I believe it is the best practice of any

business, governmental agency, or home for that matter, to keep such a fund in case of an emergency. My predecessor was in office for just short of nine full terms from 1982 to 2018. This is almost 36 years. \$156,000 divided by 36 equals savings of \$4,333.33 per year. The sums contained in the money market/"rainy day fund" represent prudent and responsible long-term fiscal management. This office should not be punished for my predecessor's wise and diligent care and accumulation of these funds. I only hope that given the current situation facing our country with the COVID-19 pandemic/emergency my successor will be as fortunate as I was and that I will have a "rainy day fund" to transfer to him or her.

Your draft also states that this office should submit to the Christian County Fiscal Court any interest earned from the money market/"rainy day fund." You cite OAG opinion 83-409 in support of your position. That opinion does state that investments such as the money market/"rainy day fund" are permitted. The opinion then states, as you quoted, that "earned interest would, however, have to be turned over to the county, **since no statute deals specifically with interest on such moneys**" (emphasis added).

I find the opinion's reasoning curious and unpersuasive. Since no statute "deals specifically with interest" it is just as logical and reasonable to conclude that the interest stays with the account and therefore with the county attorney's office. I plan to consider this recommendation further and will let you know what I propose to do in the corrective action plan which I will submit in response to the final published audit.

**Finding 9: Asset Forfeiture Funds were Improperly Deposited by Two County Attorney Offices, in Violation of Kentucky Revised Statute 218A.420**

**Response:** As you noted, this office received 14 payments from the City of Hopkinsville on behalf of the Hopkinsville Police Department for a total of \$896.00 representing the forfeiture of property seized by that agency. As we acknowledged, this office did deposit those 14 checks into one of our accounts and did not send them directly to the Prosecutors Advisory Council ["PAC"]. By way of explanation, what occurred is that the City of Hopkinsville sent 14 checks made payable directly to this office which our bookkeeper deposited. The average deposit was **\$64.00** (\$896 divided by 14) so these small sums did not raise any "red flags."

Contrast this with how the Kentucky State Police ["KSP"] handles asset forfeiture. That agency sends a check directly to PAC, which then asks me to submit the requisite asset forfeiture form. This matter has now been rectified. Our bookkeeper knows such checks from any local law enforcement agency must first go to PAC along with the asset forfeiture form. We can then request the sums be sent back to us from PAC. Therefore, the net result is that these funds would ultimately come back to the office of the county attorney. The sums totaling \$896.00 should have first been routed to PAC. We will begin that process in the immediate future.

As an example of how this procedure has been implemented, last month this office received an asset forfeiture check from the City of Hopkinsville, on behalf of the

Hopkinsville Police Department, in the amount of **\$0.67**. This represented **not one, but two** asset forfeiture amounts from two separate cases, one for \$0.45 and the other for \$0.22. This office prepared the appropriate asset forfeiture forms and sent the endorsed check to PAC.

**ADDITIONAL CONCERNS IDENTIFIED IN TESTING**

Under this heading, you identified the following concerns:

**On June 30, 2017, nine employees of the Christian County Attorney's Child Support Division were each paid for 45 unused vacation days in violation of the Christian County Attorney's Child Support Division Employee Policy Manual. The payments to each of the employees totaled \$6,109.00**

**Response:** I have checked into this matter with my child support office manager. In short, the payments identified and made in 2017 were authorized by the Commonwealth of Kentucky's then Director of Child Support, Steve Veno (now Commissioner of Income Support, which oversees the Division of Child Support). I attach as Exhibit "A" to this response a copy of a letter dated June 20, 2017 which then Christian County Child Support Director, Harold M. Johns, sent to Mr. Veno. As you can see from the contents of the letter, the Commonwealth's Division of Child Support approved these payments. This letter indicated that such payments had been permitted prior to the fiscal year 2018 contract.

**Charges incurred on the Christian County Attorney's Office credit card for staff dinners during the August 2017 Prosecutors Conference at Tony's of Lexington and Dudley's totaling \$925 and \$575, respectfully.**

**Response:** These charges were for meals of **eleven** attendees at the August 2017 Kentucky Prosecutors Conference in Lexington. Such expenditures are authorized by the Technical Audit Bulletin attached as Appendix M to your draft report. Specifically, under "Generally Accepted Standards for Defining Operating Expenses Associated with the Office of the County Attorney" No. 9 allows for the payment of "[r]easonable lodging, travel and meal reimbursement associated with the duties of the office." Attendance at the conference is considered mandatory and the county attorney's office provides these meals. Also, please note that no office funds were expended for the purchase of any alcoholic beverages.

**Staff party on December 5, 2017 at Hopkinsville Golf and Country Club totaling \$585.**

**Response:** This represented payment for a meal for attorneys, staff and spouses to celebrate the Christmas holiday. Again, no office funds were expended for the purchase of any alcoholic beverages. By way of further explanation, this event unfolds as both a Christmas gathering and a time for the entire staff to reminisce and discuss, among other things, all that had happened in our office and the cases we had prosecuted during the

previous year. I have discussed this with then County Attorney, J. Michael Foster. He advised me that the question as to whether or not a staff Christmas party is a proper operating expense had been asked numerous times by county attorneys across the Commonwealth at various trainings, seminars and meetings that he attended during his many years of service. This question was always answered in the affirmative by representatives of various Kentucky Attorney General administrations. However, I do not have anything in writing to provide you in support of this. It does make sense to me that such an end of the year gathering should be considered a proper operating expense. However, in my corrective action plan, I reserve the right to decide whether I continue this practice.

**CONCLUSION**

Thank you for the hard work and thoughtful analysis your office has put into preparing this audit. I am happy to note that pursuant to your audit of the Christian County Attorney's Office **not a single penny** is unaccounted for. I trust you have seen how carefully and conscientiously this office has handled the funds under its care. I pledge to continue this practice of conservative and prudent use of public monies while I serve as the Christian County Attorney.

If you have any questions, please contact me.

Sincerely,

  
John T. Soyars  
Christian County Attorney

JTS:cs

## Clark County Attorney's Response



Office of the  
**CLARK COUNTY ATTORNEY**  
James Clark Judicial Center  
**WILLIAM D. ELKINS**

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Criminal/Traffic • Juvenile • Domestic Violence • Victim Advocate • Child Support

May 13, 2020

Mike Harmon  
Auditor of Public Accounts  
209 St. Claire  
Frankfort, KY 40601

RE: Clark County Attorney Office Audit – Released May 2020

Dear Mr. Harmon:

I want to thank you and your staff for the deliberate effort made in auditing this public office, the Office of County Attorney. I have observed your staff to be reasonable in most every regard, and if audited later, I will express my confidence in these auditors, and hope they are assigned to the task.

I think it is noteworthy that your office had not audited a county attorney program and I am informed that your predecessors last did so twenty plus years ago. I think the task here was twofold, first, determine on what financial model the offices operate, and second, apply accepted auditing standards to that model for compliance. Simply, put no previous experience or definitive guidelines pertaining to County Attorney Offices was used in the examination or rendering of an opinion with respect to my office. Yet I believe all good faith and genuine effort was applied.

Even so, I disagree with report as the expense was prolifically documented, obviously related to public service, I received no part of the funding relieving any concern that it was personal to me and clothing allowances were approved by the Supreme Court in Haskens. The report states in relevant part:

*"As discussed in Finding 1 of this report, bonuses from public funds are generally prohibited by Section 3 of the Kentucky Constitution which states in part, "no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services." In each of these instances, the funds, used were public funds, and no documentation existed to associate these payments with work performance." Finding 4, p. 27*

When your staff physically reviewed the records in my office in August, relating to the clothing allowance of \$1.87 cents per day for two years or \$975.00 which was provided to members of my staff, they examined the records attached here as Exhibit A.

Please recall that I did not receive any allowance or money. Then as you can see the

documentation included an "Expense Cover Sheet" which contained an identification of the affected bank account, the affected accounting ledger, a nine part itemization of the expense along with check numbers, amounts and names, a statement that it was prepared by one person and approved by signature of another, a letter dated earlier than the transaction explaining the request, requesting the payments be made and connecting it to the public purpose along with a copy of each check assembled with these records and in a regularly kept file. Additionally, your office began its audit of my records in March of 2019 and this transaction was documented and processed in the midst of the audit with deliberate transparency. Further, when questioned on August 29, 2019 by email, I responded then that because the employees of the County Attorney Office had received no raises in FY 2019 or FY 2020, while still needing "*to present themselves professionally to the public for the dignity and integrity of the community both in our offices and our courtrooms, even if no raises had been given for personal food or living expense budgets had been afforded.*" Email Re: APA Follow-UP, 08/29/2019 (Exhibit B) As I went on to explain, obtaining the personal clothing sizes and shopping for the staff was impractical and professional clothing is not free.

Considering the more than 50 pieces of documentation maintained in a regularly kept record, I would ask that you reconsider the finding, as it relates to this office that "*no documentation existed to associate these payments with work performance.*" The fact of the matter is that documentation existed on both points.

Should that not be enough, consider the law. In Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court examined the issue of what constitutes a county attorney "personal expense" versus what constitutes a "*necessary office expense.*" The Court adopted the view that expenses were proper where they were "*reasonable in amount, beneficial to the public, and not predominantly personal to the officer in the sense that by common understanding and practice they are considered to be personal expenses.*" *Id.* at 506.

I indicated in my explanation that the office staff had not received a raise in 2 years. Assuming a 1.5% raise for average salaries of \$33,000.00 (\$495) for two consecutive years ( $\$495 \times 2 = \$990.00$ ), the allowance of \$975.00 in place of the missing raises was reasonable. Further, the allowance meets the second prong in that it benefitted the public with staff retention and support for proper attire meeting with the dignities of the court. Last, the final prong is met with approval too where the allowance did not relate to the me personally as I did not get any allowance because I had received a raise from PAC and the Fiscal Court. There can be no question that the allowance was in exchange for public service even where it did not support the employees' retirement, health benefits or future compounding increases. Pursuant to Millikin the allowance was proper.

OAG 80-257 says that the fees earned by the office may used for "*any purpose reasonably designed*" to carry out the duties of the office or improve the efficiency of the office. The County Attorney's Technical Bulletin says that the fees may be used for "salaries of the employees" which must be calculated to include raises. Clearly this was

liken unto the replacement of missed compensation and fringe increases and so it was proper. Then the bulletin sets out eight (8) matters the funds cannot be used for and we must agree that a clothing allowance for staff's work attire is not a listed prohibition.

Alternatively, if a clothing allowance is not proper as compensation, then it has been found to be a proper reimbursable expense. Although, the following Supreme Court case was superseded for other reasons, the principles set out relating to "clothing allowances" have not been overturned. The Supreme Court said:

*" Moreover, even though included in total wages, the Clothing Allowance was not remuneration for purposes of calculating overtime pay because it was not compensation for services performed for the City by the firefighters. **The Clothing Allowance is a payment by which firefighters are reimbursed for having to purchase their own work-clothing. This is no different than if the City had purchased clothing and distributed it to the firefighters, which surely would not be considered compensation in exchange for services.** (emphasis added) Just as the disbursement of clothing would not be an element of remuneration, neither are payments which reimburse the firefighters for purchasing clothing on their own.*

*This finding is supported by 803 KAR 1:060, Section 8, entitled " Payments Excluded from Computing Hourly Rate," which states in pertinent part that " **reasonable payments** (emphasis added) for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interest and [which are] properly reimbursable by the employer" are excluded from compensation in the calculation of the hourly rate from which the overtime rate is derived. The Clothing Allowance is reimbursement for " other expenses incurred by the employee in furtherance of the employer's interest," namely the expense of purchasing suitable work-clothing. Therefore, because it was not clearly erroneous, we affirm the circuit court's ruling which upholds the Hearing Officer's and Secretary's independent determinations that the Clothing Allowance should be excluded from the firefighters' additional elements of pay for purposes of calculating overtime pay. See Commonwealth ex rel. Labor Cabinet v. Hasken, 265 S.W.3d 215, (2007)*

On this issue I will leave off with this further consideration. As a Winchester Police Officer I received a clothing allowance each year. The local county agencies provide for clothing for employees through Logan's Uniform Rentals, Cintas and others. See Exhibit C (no longer active) which is one agreement in a series lasting over eight years. It was not apparent then, and no more so now, that a clothing allowance is not an allowable expense, but more importantly, documentation was prolific and the public purpose made obvious giving good cause to reconsider the statement that the clothing allowance in this case was made with no documentation existing to associate these payments with work performance. Say if you will, that you think it was unclear whether the expense was allowable and an AG opinion should be sought, but to treat the expense as a bonus

is an unfair characterization regarding employees who had been left in the cold to feel the compounding effect of missed raises in their ability to dress for work or retire while engaged in purely public service.

Finally, I think the report should include the details that when the former county attorney returned money to the grantor, page 51, he was not authorized to sign checks for the accounts of the office and because he could not access the authorized checks kept in the office, he used an unauthorized counter check, when he was not the county attorney and not the owner of the funds in any regard, officially or individually. He simply had no official capacity to act as county attorney or to use and control the funds belonging to the office. There was no reversion agreement with the grantor reviewed by the APA and he should be required to repay the funds to this office. Beyond that his actions meet the elements of KRS 514.030 where he exercised control of the property of another and dealt with it as his own while depriving the true owner of the property. In this case, \$2,108.65 was stolen from the office and has not been returned. Please see the audit report comments at page 31 regarding KRS 64.830.

Again, thank you for the work that your office does and did in this case. I hope you will receive my disagreement with all my respect as I intend it in no other manner. The fact that I disagree is not an indication that there is some deeper separation of agencies afoot here. Please feel free to call on me any time.

Sincerely,



William D. Elkins  
Clark County Attorney

**Gallatin County Attorney's Response**



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**COMMONWEALTH OF KENTUCKY  
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May 15, 2020

Mike Harmon  
Auditor of Public Accounts  
209 ST Clair Street  
Frankfort, KY 40601-1817

RE: Preliminary Response to Gallatin County Attorney's Office Audit

Dear Auditor Harmon,

I have received the "Examination of Certain Financial Operations and Internal Policies and Controls of Select Kentucky County Attorney Offices" draft report findings related to Gallatin County. Thank you for the report and the opportunity to review it. I assure you that I take the report very seriously and the accounting issues that it highlights.

I am familiar with the audit process as most offices in county government are audited regularly including the fiscal court and county judge's office, the sheriff, the county clerk as are several cities that I have worked with. I have been surprised that the county attorney's office has not been audited for the first 16 years I was in office. At this point I wish we had been so that our accounting practices could have been identified earlier in my tenure.

In the summer of 2019, we welcomed the audit and the opportunity the audit gives us to improve our office to benefit the people of Gallatin County. I hope the auditors who came to our office felt welcome and found our office cooperative.

While I am disappointed that your review has found several areas of concern, I want to thank you for your office's thorough and invaluable work. Again, I assure you that we take the report very seriously and have already begun the process of correcting the alleged errors.

We are always looking to improve our office. The following steps have been taken and will continue to be taken to address those accounting issues highlighted in your report:

- 1) We have hired a CPA to review this audit and make recommendations specific to our office on the "best practices" to use as we move forward.
- 2) We have implemented new bookkeeping resources with an emphasis on transparency and accountability.
- 3) While we question some of the findings as relates to the credit cards, cell phone bills, and



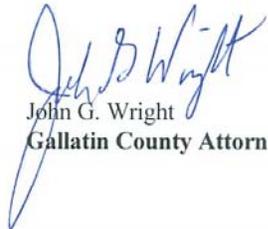
building insurance, steps are under way to reconcile all accounts to preserve the sanctity of public funds.

- 4) With the assistance of the CPA, we will perform the requisite analysis to divide the use of the office between the Gallatin County Attorney's Office and the private law office of John G. Wright to establish an appropriate division of costs and expenses as relates to the operation of the combined law office.

My primary concern is the confusion over rent that was paid to me by Gallatin County for the use of my private office at 101 East Market Street, Warsaw, Ky. The law office building belongs to my wife and me. In my lifetime Gallatin County has never provided the county attorney an office. It falls to the county attorney to provide his own office space. From 2003 to 2010, we only received \$100 a month in rent from Gallatin County. In mid-2010, that number changed from \$100 to \$800 a month to be more in line with the surrounding counties. There is confusion over whether that is money for bills (public money) or rent (private income to John and Barbie Wright). In 2018 and 2019 Gallatin County started giving us a 1099 for rental income. So, we paid income taxes on that rental income. I do not think the auditors understood this arrangement. It is my hope that a CPA can help clear the confusion. The auditors did not know that we had been receiving a 1099 on that money. I believe this skews the numbers in the report dramatically.

Per my CPA, I would request at least a 30-day delay on the release of the report to give my office with the assistance of the CPA to go over this 65-page report and better understand and respond with more detail. I believe my request is reasonable, since the auditors spent less than 30 minutes speaking with me. I would also request an opportunity prior to the release of the report to meet with the Auditors face to face with my CPA and go over the report and recommendations.

Sincerely,



John G. Wright  
Gallatin County Attorney

CC: Tiffany.Welch@ky.gov

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**Knox County Attorney's Response**



**GILBERT HOLLAND  
KNOX COUNTY ATTORNEY**

P.O. Box 1809  
Barbourville, Kentucky 40906  
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May 15, 2020

Hon. Mike Harmon  
Auditor of Public Accounts  
Commonwealth of Kentucky  
209 St. Clair Street  
Frankfort, Kentucky 40601

RE: Examination of certain financial operations and internal policies and controls of select Kentucky County Attorney Offices.

Dear Auditor Harmon:

First of all I would like to thank you for your efforts herein and compliment your staff that were sent to our office for this examination. They were very courteous and a pleasure to work with.

I would first like to start with Finding 5: "State Law provides minimal guidance and oversight of the County Attorney Offices."

I agree. We, as County Attorneys, are in a unique position in that we are given tasks to perform that are all over the spectrum and are provided funds to do so from numerous sources with little guidance of exactly how our duties are to be accomplished. I am sure that your staff has determined that no two counties operate the same. A manual or set of more detailed guidelines would be much appreciated.

As to Finding 4: Poor accounting and record keeping practices, along with questionable spending identified at County Attorney Offices

(1)Lack of segregation of duties in regards to the use of the office debit card. I do personally have control of the debit card, however the account associated with said card is reconciled by the office bookkeeper. It was also recommended that a debit/credit card not be used due to the potential of fraud. We intentionally set up the account for this purpose, and only keep a small balance in this account to limit the risk of fraud. The debit card is only used when ordering over the internet, or when using a check or getting a receipt is difficult so that the amount of any purchase, the date and location of the purchase will be recorded. In the future we will attempt to acquire receipts for all said purchases.

(2)Lack of supporting documentation. The questioned payment to me in the amount of \$771.00 was reimbursement for travel expenses I paid for myself and my assistant county attorney to attend the yearly prosecutors conference for our required continuing legal education. The receipt could not be found at the time of examination and due to time that had elapsed a duplicate receipt could not be obtained from the hotel nor the credit card company. In the future I will make certain that said receipts are retained. This office will also refrain from advertising through the local schools, organizations and such, if this is found to be unallowable under the "reasonable in amount, beneficial to the public, and not predominantly personal to the office" standard.

As to Finding 7: County Attorneys are not submitting excess cold check fees to the Fiscal Court as required by Kentucky Revised Statute 514.040.

This office was operating under an agreement with the Fiscal Court that pre-exists both administrations regarding these funds. The amount of cold check fees have dwindled in recent years due to fewer checks being written in general. However, if this requirement is not eliminated by the general assembly we will keep these funds separate and turn any excess fees over to the Fiscal Court in the future.

I thank you for the opportunity to respond to the findings of this examination and welcome all suggestions of how to improve our ability to manage the tasks and duties given to the County Attorney.

Sincerely,



Gilbert Holland  
Knox County Attorney

**Lawrence County Attorney's Response**



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE LAWRENCE COUNTY ATTORNEY

COUNTY ATTORNEY  
MICHAEL T. HOGAN

122 SOUTH MAIN CROSS STREET  
LOUISA, KENTUCKY 41230  
TELEPHONE: (606) 638-4051  
FAX: (606) 638-3437

May 15, 2020

The Honorable Mike Harmon  
Auditor of Public Accounts  
209 St. Clair St.  
Frankfort, KY 40601

Dear Auditor Harmon:

My office is in receipt of the preliminary document from the Auditor of Public Accounts entitled "Examination of Certain Financial Operations and Internal Policies and Controls of Select Kentucky County Attorney Offices."

After careful review, here are our responses to the specific findings of the examination that are applicable to the Office of Lawrence County Attorney:

**Finding 1: The Lawrence County Attorney Awarded \$134,500 in Bonuses from Delinquent Tax Funds to Staff, Including \$126,500 to His Spouse**

*Any individual that has had regular or even sporadic contact with the Office of Lawrence County Attorney over the last 17 years understands fully that Joy Hogan is the central figure to the daily operation and conduct of the office. Joy Hogan's title is Legal Secretary but she effectively operates as the office manager, chief administrative officer, and human resources director for the office, in addition to handling scheduling, correspondence, interacting with the public, and attending to a wide range of additional duties that make her the true indispensable, full-time employee of the office. Her work ethic is well-known and her value to the Office of Lawrence County Attorney is undisputed.*

*It is important to note that Joy Hogan has been employed by the Office of Lawrence County Attorney since Michael Hogan's tenure in the office began in January 2003. Prior to that time, she worked for Mr. Hogan in his private law office. Joy and Michael Hogan were married in 2008, after both of them were divorced from their previous spouses.*

*Section IV, Paragraph 1 of the Lawrence County Code of Ethics states that "An immediate family member of a County Government Official shall not be initially employed or appointed to a position in a county government agency within the same county in which the officer serves unless*

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*the spouse or family member is the best qualified, by education and/or experience, to fill such position."*

*Many years prior to this audit examination, the Lawrence County Ethics Commission made a formal determination that Joy Hogan was indeed "best qualified" for the position she holds within the Office of Lawrence County Attorney.*

*Joy Hogan's employment in the Office of Lawrence County Attorney is clearly in compliance with the Lawrence County Code of Ethics as she was best qualified by experience to continue serving in her position at the time of her marriage to Michael Hogan. By that time, she had years of experience and had consistently performed at a high level.*

*Under KRS 134.545, delinquent tax funds "shall be used only for payment of county attorney office operating expenses." There is no clear definition of the phrase "county attorney office operating expenses" in statute, and in Funk v. Milliken, 317 S.W.2d 49 (Ky. 1958) Kentucky's highest court determined public expenses should be "reasonable in amount, beneficial to the public, and not predominately personal to the officer."*

*Based upon the wide latitude for discretionary spending of the Delinquent Tax Fund presently given to Kentucky County Attorneys under current law, it is the position of the Lawrence County Attorney that the compensation Joy Hogan received from the Delinquent Tax Fund was salary supplementation in the form of honest pay for honest work that clearly benefitted the public in the form of compensating an exemplary employee who goes above and beyond to serve the office and the people of Lawrence County at a consistently high level.*

*Furthermore, under the Technical Audit Bulletin issued by the Kentucky Office of Attorney General Prosecutors Advisory Council and adopted by the Kentucky County Attorney Association on August 12, 2004, "Salaries of employees employed by the County Attorney's Office" is specifically included on Page 2 of the Bulletin under "Generally Accepted Standards for Defining Operating Expenses Associated with the Office of the County Attorney." (Item 5).*

*The payments made to Joy Hogan were to her alone and for her work alone, not as a "salary supplementation in excess of statutory limitation" to Michael Hogan as County Attorney, as is forbidden under "Unauthorized Expenditure of Fees" on Page 3 Technical Audit Bulletin. (Item 8).*

*Salary supplementation or "bonuses" paid to other staff also constituted fair and just compensation for legitimate work benefiting the public that was performed by employees in the Office of Lawrence County Attorney.*

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Auditor Harmon  
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*However, the Office of Lawrence County Attorney takes seriously any and all recommendations of the Auditor of Public Accounts, and desires to adhere to all best practices. In light of these findings, we will follow the recommendations of the Auditor and end all supplemental salary payments to employees out of the Delinquent Tax Fund and we will spend funds only in a manner*

*consistent with Funk v. Milliken, OAG 05-002, and the Technical Audit Bulletin adopted by the Kentucky County Attorney Association.*

Finding 4: Poor Accounting and Record Keeping Practices, Along with Questionable Spending Identified at County Attorney Offices

*The Office of Lawrence County Attorney concurs with this finding, and will adopt all recommendations made by the Auditor of Public Accounts related to this finding.*

Finding 5: State Law Provides Minimal Guidance and Oversight of County Attorney Offices

*The Office of Lawrence County Attorney concurs with this finding and encourages policymakers in state government to provide additional guidance and oversight. We will continue to follow all applicable laws of the Commonwealth of Kentucky.*

Finding 7: County Attorneys Are Not Submitting Excess Cold Check Fees to Fiscal Court as Required by Kentucky Revised Statute 514.040

*The Office of Lawrence County Attorney has never maintained any excess cold check fees. If at any time we do hold such excess fees, we will submit them to the Fiscal Court.*

My office sincerely appreciates the professionalism and courtesy extended to us by the staff of the Auditor of Public Accounts during the audit investigation, and we were happy to cooperate and comply fully with all requests made of us.

It is our desire to implement all of the recommendations made by the Auditor of Public Accounts in the examination going forward.

Along with my staff, I stand ready to continue to fully work with the Office of Auditor of Public Accounts in accordance with the laws of the Commonwealth of Kentucky. Thank you for your service to our Commonwealth.

Sincerely,



Michael T. Hogan  
Lawrence County Attorney

**Pike County Attorney's Response**

OFFICE OF  
HOWARD KEITH HALL  
PIKE COUNTY ATTORNEY  
P.O. BOX 1289  
PIKEVILLE, KENTUCKY 41502-1289  
  
TELEPHONE 606/432-6250  
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May 14, 2020

Hon. Mike Harmon  
Auditor of Public Accounts  
209 St Claire Street  
Frankfort, KY 40601-1817

RE: Response to Examination of Financial Operations (Audit)

Dear Mr. Harmon,

I am obviously pleased with your Examination and Audit which resulted in the draft report findings of May 13<sup>th</sup>, 2020. The audit found a \$25,000 clerical error in our favor made by other agencies that you audit regularly. This resulted in us recovering the money a couple months ago, which was owed to us from the Commonwealth of Kentucky. Ironically, this appears as a "concern" by the report when my office was the victim of a bookkeeping mistake of others not associated with the Pike County Attorney Office. The report uses terms like "erroneous" and "not been resolved" which unfairly seems to criticize the Pike County Attorney office. But I will always be grateful for your office procuring these funds for us!

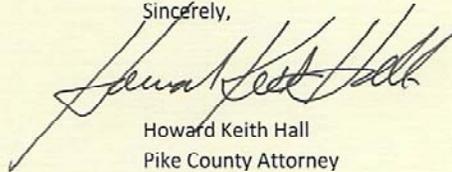
The Pike County Attorney Office will follow your recommendations stated on page 28 of the report to the County Attorneys by establishing written procurement procedures and financial processes. We already follow your other recommendations contained on page 28 of the draft in that we do not maintain a debit/credit card, don't make donations unrelated to public purpose, nor do we award bonuses.

The Pike County Attorney agrees with the recommendations to the Kentucky General Assembly and welcomes statutory clarifications; annual audits; and fiscal oversight. The Pike County Attorney also has no objection to the recommendations contained on page 37 and page 41 of the report as the office essentially has no existing bad check program now due to several social/economic factors of how business is conducted and County Attorneys rarely receive asset forfeiture monies like our Commonwealth Attorney does. (Only one check during the 2-year audit period which the office was entitled to but didn't run it through the proper channels). I wasn't aware we had received this check and deposited it. The bookkeeper wasn't aware of the process and procedure to receive these funds.

The Pike County Attorney Office will no longer advertise our programs with schools, clubs or quasi-governmental agencies, even in very small amounts as in the past, and even though those organizations serve a public purpose directly related to the goals of our Pike County Government and the Pike County Attorney. All County Attorneys regularly spend substantial amounts of personal money promoting our counties and our offices. We regularly have expenses in which we don't seek reimbursement. As always, I will gladly reimburse the Pike County Office for any expenses you and your office suggest and will modify the way we handle our finances periodically as you direct.

Thank you and your office for all you do for our great Commonwealth.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard Keith Hall", written in a cursive style. The signature is positioned above the typed name and title.

Howard Keith Hall  
Pike County Attorney

**Todd County Attorney's Response**



207 E. McReynolds Drive  
P.O. Box 129  
Elkton, Kentucky 42220

**JEFFREY B. TRAUGHBER**  
Todd County Attorney

Telephone: (270) 265-5651  
Facsimile: (270) 265-5652

May 14, 2020

Mike Harmon  
Auditor of Public Accounts  
209 St. Claire Street  
Frankfort, KY 40601-1817

RE: Examination of Certain Financial Operations and  
Internal Policies and Controls of Select Kentucky  
County Attorney Offices

Dear State Auditor Harmon:

Thank you for the opportunity to respond to the above-referenced Examination of certain Kentucky County Attorney Offices which included the examination of the Todd County Attorney's Office covering the period between July 1, 2017 and June 30, 2019. The undersigned took office as Todd County Attorney on January 7, 2019.

The Report Findings related to Todd County appear to be generally applicable to most or all of the examined County Attorney Offices. Therefore, the undersigned will utilize the entire report and its findings therein to improve the policies and practices of the Office of the Todd County Attorney to the maximum extent possible.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeffrey B. Traughber".

Jeffrey B. Traughber  
Todd County Attorney