



Auditor of Public Accounts
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FOR IMMEDIATE RELEASE

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Harmon Releases Audit of Lyon County Sheriff's Office

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2015 financial statement of Lyon County Sheriff Kent Murphy. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account, and the other reporting on the audit of the fee account used to operate the office.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements, and excess fees of the Lyon County Sheriff in accordance with accounting principles generally accepted in the United States of America. The sheriff's financial statement did not follow this format. However, the sheriff's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 sheriff audits in Kentucky.

As part of the audit process, the auditor must comment on noncompliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comment:

Prior years' disallowed expenditures have not been reimbursed to the drug fund. Disallowed expenditures of \$787 from the Sheriff's 2013 Fee Audit and \$428 from the Sheriff's 2014 Fee Audit have not been reimbursed to the drug fund due to the sheriff not being in agreement as to the nature of the items. The expenditures that were disallowed were items bearing the sheriff's name.

According to KRS 218A.420(4), proceeds from the sale of the forfeited property are to be used for direct law enforcement purposes. In addition, Kentucky's highest court, in the case of Funk

v. Milliken, 317 S.W.2d 499, (Ky. 1958), holds that a sheriff as a fee officer is not allowed to expend the public funds of his office on items that are primarily personal in nature.

We recommend the sheriff reimburse the drug fund account in the amount of \$1,215 from his personal funds in order to comply with KRS 218A.420(4) and Funk v. Milliken, 317 S.W.2d 499, (Ky.1958).

Sheriff Murphy's first response:

This letter is response to this year's audit of the Lyon County Sheriff's Department, which sets forth conclusions from a prior year's audit which disallowed certain expenditures from the Sheriff's Forfeiture Fund. The relevant audit information regarding disallowed expenditures are from audit year 2013-2014 and the present year's audit. The audit reflects that approximately \$1,200.00 should be reimbursed by me personally to the Fund. At that time, I expressed my disagreement with the conclusions of the audit requiring my personal reimbursement. As the disallowed expenditures appear in this present audit, my position remains the same and I do not believe that reimbursement by me should be required.

The conducting auditor personnel were both professional and courteous at all relevant times herein and I, as Sheriff of Lyon County, respect the hard work that they are called upon to do. I do respect their conclusion in this matter. However, I simply do not agree.

My disagreement with the conclusions of the auditor's office, from which I take exception are as follows:

- 1. No additional funds have been expended since the 2013-2014 fiscal year audit. The sums which were disallowed during the 2013-2014 audit are the same sums which are set forth in this present audit.*
- 2. The expenditures in question from the Lyon County's Sheriff's Forfeiture Fund were not spent for any personal purpose on my behalf, but they were spent for the education of our Lyon County School students as to the dangers of illicit drugs to them and their fellow students throughout this community. In my judgment, this expenditure for the education of our youth serves a legitimate public purpose.*
- 3. The items which the Sheriff's Forfeiture Fund purchased were rulers and pencils, which contained my name as Lyon County Sheriff and the phrase, "Just Say No To Drugs".*
- 4. There was nothing political on the rulers and pencils, such as, "Elect Kent Murphy, Lyon County Sheriff" or "Vote to Re-elect Kent Murphy, Lyon County Sheriff".*

I have read the law provided me by the auditor's office, upon which the auditors rely in disallowing the expenditures in question. The regulation provided 40 KAR 4:010 applies to purchases by County Attorneys and Commonwealth's Attorney Offices from their respective forfeiture fund accounts held by the Prosecutors Advisory Council in Frankfort, Kentucky.

I do not believe this regulation applies to the Sheriff's Office. Should it be determined it does, I note a provision which sets forth that asset forfeiture money "can be expended for programs, communications and advertising, including apparel identifying the Office of the

Commonwealth's or County Attorney, which relates to education, crime prevention and prosecution." It is my belief that the expenditures made by this office related directly to the purposes of this provision. I have done my best to honorably serve the people of Lyon County. This service has reflected mine and my staff's dedication to comply with the rule of law regarding expenditures for public purpose over private gain. That is what I have done throughout and that is what I will continue to do. A valid public purpose was served with the expenditures, which should be allowed. The money in the Forfeiture Fund comes from money taken from drug dealers profits engaging in illegal drug activity. These funds are then used for various purposes. One of which is what I spent the money for.

Thank you for the opportunity to respond to this year's audit.

Sheriff Murphy's second response:

I attach hereto the February 28, 2017 Preliminary Audit forwarded to my attention, as well as my initial response to said audit. The latest proposed audit of March 30, 2017, continues to assert that I, as Sheriff of Lyon County, should reimburse the Sheriff Drug Fund for certain expenditures made from said fund for education of our community youth as to the dangers of illicit narcotics. In our initial audit, you refer to 40 KAR 4:010 as one of the factors dictating said money be repaid. In your latest proposed audit, there is no longer a reference to this regulation. I can only assume that you agree that same does not apply, as I suggested previously.

KRS 218A.420(4) sets forth, in my opinion, the questioned expenditure can be used for a direct law enforcement purpose. It is my firm belief that the education of our youth of the dangers of illicit narcotics is a purpose allowed under the statute. Education can lead to the lessening of our crime rate. Surely steps undertaken by my office to lessen a county's crime rate must be considered a direct law enforcement purpose as regards the expenditure made from the sheriff's drug fund.

I restate the reasons contained in my first response in support of my position that funds were expended for a valid public purpose.

Auditor's reply:

As noted in the original comment, expenditures disallowed in the sheriff's 2013 and 2014 audits have not been reimbursed to his drug account. These expenditures were deemed unallowable by the audits, and the sheriff is personally responsible for all disallowed expenditures.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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