

**REPORT OF THE AUDIT OF THE
LYON COUNTY
SHERIFF**

**For The Year Ended
December 31, 2015**



**MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS
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EXECUTIVE SUMMARY

AUDIT OF THE LYON COUNTY SHERIFF

**For The Year Ended
December 31, 2015**

The Auditor of Public Accounts has completed the Lyon County Sheriff's audit for the year ended December 31, 2015. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the receipts, disbursements, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$77,561 from the prior year, resulting in excess fees of \$421,699 as of December 31, 2015. Receipts increased by \$79,807 from the prior year and disbursements increased by \$2,246.

Report Comment:

2015-001 Prior Years' Disallowed Expenditures Have Not Been Reimbursed To The Drug Fund

Deposits:

The sheriff's deposits as of October 30, 2015, were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$329,016

The sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the sheriff's deposits in accordance with the security agreement.

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Wade White, Lyon County Judge/Executive
The Honorable Kent Murphy, Lyon County Sheriff
Members of the Lyon County Fiscal Court

Independent Auditor's Report

Report on the Financial Statement

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Sheriff of Lyon County, Kentucky, for the year ended December 31, 2015, and the related notes to the financial statement.

Management's Responsibility for the Financial Statement

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *Audit Guide for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



The Honorable Wade White, Lyon County Judge/Executive
The Honorable Kent Murphy, Lyon County Sheriff
Members of the Lyon County Fiscal Court

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

As described in Note 1 of the financial statement, the financial statement is prepared by the Lyon County Sheriff on the basis of the accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinion on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of each fund of the Lyon County Sheriff, as of December 31, 2015, or changes in financial position or cash flows thereof for the year then ended.

Opinion on Regulatory Basis of Accounting

In our opinion, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the Lyon County Sheriff for the year ended December 31, 2015, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated March 30, 2017, on our consideration of the Lyon County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance.

The Honorable Wade White, Lyon County Judge/Executive
The Honorable Kent Murphy, Lyon County Sheriff
Members of the Lyon County Fiscal Court

Other Reporting Required by *Government Auditing Standards (Continued)*

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

2015-001 Prior Years' Disallowed Expenditures Have Not Been Reimbursed To The Drug Fund

Respectfully submitted,

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

Mike Harmon
Auditor of Public Accounts

March 30, 2017

LYON COUNTY
KENT MURPHY, SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2015

Receipts

| | | |
|--|-----------|-----------|
| Corps of Engineers - Lake Patrol | | \$ 14,756 |
| State Fees For Services: | | |
| Finance and Administration Cabinet | \$ 30,111 | |
| Sheriff Security Service | 35,038 | 65,149 |
| Circuit Court Clerk: | | |
| Court Ordered Payments | | 1,014 |
| City of Kuttawa | | |
| Law Enforcement Services | 67,900 | |
| Alcoholic Beverage Control | 5,094 | 72,994 |
| Fiscal Court | | 81,192 |
| County Clerk - Delinquent Taxes | | 7,736 |
| Commission On Taxes Collected | | 233,530 |
| Fees Collected For Services: | | |
| Auto Inspections | 2,345 | |
| Accident and Police Reports | 170 | |
| Serving Papers | 8,530 | |
| Carrying Concealed Deadly Weapon Permits | 3,620 | |
| Transporting Prisoners | 179 | |
| Tax Bill Research Fees | 667 | 15,511 |
| Other: | | |
| Add-On Fees | 18,192 | |
| Juror Meals | 74 | |
| Miscellaneous | 6 | 18,272 |
| Interest Earned | | 19 |
| Total Receipts | | 510,173 |

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

LYON COUNTY
 KENT MURPHY, SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2015
 (Continued)

Disbursements

Operating Disbursements:

Materials and Supplies-

Office Materials and Supplies \$ 46

Checks 53

Other Charges-

Conventions and Travel 177

Transporting Prisoners 6,256

Postage 25

Bank Service Charges 1,092

Feeding Jurors 43

Total Disbursements \$ 7,692

Net Receipts 502,481

Less: Statutory Maximum 76,841

Excess Fees 425,640

Less: Training Incentive Benefit 3,941

Excess Fees Due County for 2015 421,699

Payments to Fiscal Court - Paid Monthly 421,699

Balance Due Fiscal Court at Completion of Audit \$ 0

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

LYON COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2015

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the sheriff as determined by the audit. KRS 134.192 requires the sheriff to settle excess fees with the fiscal court at the time he files his annual settlement with the fiscal court on or before September 1 of each year. KRS 64.830 requires an outgoing sheriff to settle excess fees with the fiscal court of his county by March 15 immediately following the expiration of his term of office.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Under this regulatory basis of accounting receipts and disbursements are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2015 services
- Reimbursements for 2015 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2015

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the county treasurer in the subsequent year.

C. Cash and Investments

KRS 66.480 authorizes the sheriff's office to invest in obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

LYON COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 1. Summary of Significant Accounting Policies (Continued)

D. Fee Pooling

The Lyon County Sheriff's office is required by the fiscal court to participate in a fee pooling system. Fee officials who are required to participate in fee pooling deposit all funds collected into their official operating account. The fee official is responsible for paying all amounts collected for others. Residual funds are then paid to the county treasurer on a monthly basis. Invoices are submitted to the county treasurer to document operating expenses. The fiscal court pays all operating expenses for the fee official.

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

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems (KRS). This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute five percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008, are required to contribute six percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 17.67 percent for the first six months and 17.06 percent for the last six months.

Hazardous covered employees are required to contribute eight percent of their salary to the plan. Hazardous covered employees who begin participation on or after September 1, 2008, are required to contribute nine percent of their salary to be allocated as follows: eight percent will go to the member's account and one percent will go to the KRS insurance fund. The county's contribution rate for hazardous employees was 34.31 percent for the first six months and 32.95 percent for the last six months.

In accordance with Senate Bill 2, signed by the Governor on April 4, 2013, plan members who began participating on, or after, January 1, 2014, were required to contribute to the Cash Balance Plan. The Cash Balance Plan is known as a hybrid plan because it has characteristics of both a defined benefit plan and a defined contribution plan. Members in the plan contribute a set percentage of their salary each month to their own accounts. Members contribute five percent (nonhazardous) and eight percent (hazardous) of their annual creditable compensation and one percent to the health insurance fund which is not credited to the member's account and is not refundable. The employer contribution rate is set annually by the Board based on an actuarial valuation. The employer contributes a set percentage of the member's salary. Each month, when employer contributions are received, an employer pay credit is deposited to the member's account. A member's account is credited with a four percent (nonhazardous) and seven and one-half percent (hazardous) employer pay credit. The employer pay credit represents a portion of the employer contribution.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008, must meet the rule of 87 (member's age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

LYON COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2015
 (Continued)

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

Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55. For hazardous employees who begin participation on or after September 1, 2008, aspects of benefits include retirement after 25 years of service or the member is age 60, with a minimum of 60 months of service credit.

CERS also provides post-retirement health care coverage as follows:

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

| Years of Service | % Paid by Insurance Fund | % Paid by Member through Payroll Deduction |
|-------------------------|---------------------------------|---|
| 20 or more | 100% | 0% |
| 15-19 | 75% | 25% |
| 10-14 | 50% | 50% |
| 4-9 | 25% | 75% |
| Less than 4 | 0% | 100% |

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

Hazardous employees whose participation began on or after July 1, 2003, earn 15 dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. Upon the death of a hazardous employee, such employee's spouse receives ten dollars per month for insurance benefits for each year of the deceased employee's hazardous service. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

KRS issues a publicly available annual financial report that includes financial statements and required supplementary information on CERS. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Lyon County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

LYON COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 3. Deposits (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the sheriff's deposits may not be returned. The Lyon County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of December 31, 2015, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of October 30, 2015, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured \$329,016

Note 4. Drug Enforcement Fund

The Lyon County Sheriff's office maintains a drug enforcement fund that is used solely for the purpose of drug enforcement and eradication. The beginning balance at January 1, 2015, was \$20,306. Receipts totaled \$4,477 and disbursements totaled \$5,339. The total fund balance was \$19,444 as of December 31, 2015.

Note 5. Federal Forfeiture Justice Fund

The Lyon County Sheriff's office maintains a federal forfeiture justice fund for its federal equitable sharing program. The account is funded by federally forfeited cash, property proceeds, and any interest earned thereon are equitably shared with participating law enforcement agencies. The funds are required to be used for law enforcement purposes in accordance with the statutes and guidelines that govern equitable sharing. As of January 1, 2015, the account had a balance of \$25,106. During the year, no receipts were deposited and no disbursements were made. The account had a balance of \$25,106 as of December 31, 2015.

Note 6. Corps of Engineers - Lake Patrol

The Lyon County Sheriff's office contracted with the U.S. Army Corps of Engineers to provide patrols around Lake Barkley project grounds from April 24, 2015 through September 7, 2015. The amount received under this contract during 2015 was \$14,756.

Note 7. City of Kuttawa

The Lyon County Sheriff's office entered into an agreement with the City of Kuttawa for law enforcement services within the city limits of Kuttawa for calendar year 2015. The amount received under this agreement was \$67,900.

Note 8. On Behalf Payments

The Lyon County Sheriff's office is required by the fiscal court to participate in a fee pooling system. Since the Lyon County Sheriff is fee pooling, the Lyon County Fiscal Court pays the Lyon County Sheriff's statutory maximum as reflected on the Lyon County Sheriff's financial statement. For the year ended December 31, 2015, the Lyon County Fiscal Court's contributions recognized by the Lyon County Sheriff included the amounts that were based on the statutory maximum as required by KRS 64.5275. The Lyon County Sheriff recognized receipts from fiscal court and disbursements for statutory maximum of \$80,782 for the year ended December 31, 2015.

LYON COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 9. Pending Litigation

The Lyon County Sheriff's office is involved in lawsuits that arose from the normal course of doing business. Due to the uncertainty of the litigation, a reasonable estimate of the financial impact on the sheriff's office cannot be made at this time.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Wade White, Lyon County Judge/Executive
The Honorable Kent Murphy, Lyon County Sheriff
Members of the Lyon County Fiscal Court

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

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Lyon County Sheriff for the year ended December 31, 2015, and the related notes to the financial statement and have issued our report thereon dated March 30, 2017. The Lyon County Sheriff's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statement, we considered the Lyon County Sheriff's internal control over financial reporting (internal control) to determine audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Lyon County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Lyon County Sheriff's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.



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

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Lyon County Sheriff's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under *Government Auditing Standards* and which is described in the accompanying comment and recommendation as item 2015-001.

Sheriff's Responses to Finding

The Lyon County Sheriff's responses to the finding identified in our audit are described in the accompanying comment and recommendation. The sheriff's responses were not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on them.

Purpose of this Report

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

Respectfully submitted,



Mike Harmon
Auditor of Public Accounts

March 30, 2017

COMMENT AND RECOMMENDATION

LYON COUNTY
KENT MURPHY, SHERIFF
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2015

STATE LAWS AND REGULATIONS:

2015-001 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.

LYON COUNTY
KENT MURPHY, SHERIFF
COMMENT AND RECOMMENDATION
For The Year Ended December 31, 2015

STATE LAWS AND REGULATIONS: (Continued)

2015-001 Prior Years' Disallowed Expenditures Have Not Been Reimbursed To The Drug Fund (Continued)

Sheriff Murphy's First Response: (Continued)

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.

