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Harmon Releases Audit of Former Leslie County Sheriff's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2017 financial statement of former Leslie County Sheriff Delano Huff. 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 former Leslie County Sheriff in accordance with accounting principles generally accepted in the United States of America. The former sheriff's financial statement did not follow this format. However, the former 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 comments:

The former Leslie County Sheriff's Office did not issue receipts for all auto inspections and a deputy sheriff received third party compensation for performing official duties: This is a repeat finding that was included in the prior year audit report as Finding 2016-002 with additional related findings for the period of January 1, 2017 through December 31, 2017.

The former sheriff's office collected fees for inspecting vehicles during the title application process. Auto inspection fees are \$5 per vehicle if the inspection is performed at the sheriff's office or \$15 for the first inspection and \$5 for each subsequent inspection if the inspection is performed

off-site. These funds are to be deposited into the sheriff's official account and used for the lawful purposes of the office.

The former sheriff and bookkeeper informed auditors that a deputy had turned in \$400 cash subsequent to calendar year 2017. The deputy stated the money was collected for auto inspections performed during a furlough period between April 2017 and October 2017 when all of the former sheriff's paid deputies were laid off. The deputy stated the money was for auto inspections that he had kept in his police cruiser and forgotten about.

Two Perry County auto dealerships confirmed that amounts of \$5,829 and \$551 that were paid by check directly to the deputy for auto inspections during calendar year 2017. These funds were not deposited into the former sheriff's fee account. The deputy's endorsement is on the cancelled checks provided by the dealerships. In addition to the checks written to the former Leslie County sheriff's deputy, the dealerships also wrote checks to the former Leslie County Sheriff's Office for vehicle inspection fees totaling \$475 and \$1,085. The dealership stated that the deputy charged \$15 for the first inspection and \$10 for additional inspections. The amount charged for additional inspections is \$5 more than allowed per statute.

Based on a five day sample of records from the Perry County Clerk's Office, the same Leslie County deputy performed at least 18 additional auto inspections in Perry County in 2017 and only two receipts were traced back to deposits of the former sheriff's fee account, leaving an estimated \$80 that was not deposited into the former Leslie County sheriff's fee account. When performing auto inspections in Perry County, the deputy would sign the auto inspection as a deputy of Perry County. Perry County Sheriff's Office payroll records do not have this deputy included as a Perry County deputy.

During May 2017, the former Leslie County sheriff's deputies performed 37 auto inspections based on records filed with Leslie County Clerk's Office. Eight receipts for auto inspections were deposited into the former sheriff's fee account leaving 29 receipts for auto inspections unaccounted for, and an estimated \$145 that was not deposited into the former Leslie County sheriff's fee account for the month of May 2017.

The former sheriff acknowledged that the deputy brought in cash for auto inspections. It is unknown if the former sheriff was aware that the deputy was receiving direct compensation for performing auto inspections. The auto dealership would contact the deputy directly when they needed auto inspections performed.

The former sheriff's office did not have internal controls in place to ensure that receipts were issued for all auto inspections or that fees were deposited.

Because a former sheriff's deputy was receiving outside compensation for performing normal duties, performing auto inspections in another county, and receipts were not being properly issued, the former sheriff's office is not in compliance with state laws and regulations. Based on the confirmed amount paid directly to the former sheriff's deputy, the former sheriff could have also overcharged for services.

The former sheriff's deputy received \$6,380 during calendar year 2017 directly from auto dealerships. In addition, \$145 for auto inspections performed during May 2017 were not deposited into the former Leslie County sheriff's fee account. A larger amount may have been due to the fee account if additional months were examined.

KRS 61.310(2) states in part, "[a] peace officer shall not receive any compensation or remuneration, directly or indirectly, from any person for the performance of any service or duty. . . Any peace officer who violates this subsection maybe removed from office, under the provisions of KRS 63.170."

KRS 64.410(2) states in part, "[n]o officer shall demand or receive for his services: (a) Any other or greater fee than is allowed by law[.]"

KRS 186A.115(2)(b) sets the fee for automobile inspections at \$5, payable to the sheriff's office. KRS 186A.115(c) states, "[t]here shall be an additional fee of ten dollars (\$10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area[.]" In addition, KRS 64.840(1) requires, "all county officials shall, upon the receipt of any fine, forfeiture, tax, or fee, [to] prepare a receipt that meets the specifications of the state local finance officer[.]"

KRS 186A.115(1)(a) states the vehicle is to be inspected, "by a certified inspector in the county in which the application for title is to be submitted to the county clerk." KRS 186A.115(2)(a) states, "[t]he certified inspector shall be certified through the Department of Vehicle Regulation. . . and shall be designated by the county sheriff." 601 KAR 9:085 and 9:090 require that the inspection occur in the county where the application is submitted and by an inspector designated by that county's sheriff.

The former sheriff should have implemented internal controls to ensure that all receipts of the office were deposited into the fee account, deputies only complete auto inspections where they have jurisdiction, and deputies should not receive compensation from third parties for normal duties. We recommend the former sheriff deposit personal funds of \$145 to the 2017 fee account for the auto inspections not deposited. This finding will be referred to the Kentucky Office of the Attorney General.

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

The former Leslie County Sheriff's quarterly report was materially inaccurate: This is a repeat finding that was included in the prior year audit report as Finding 2016-001. The former sheriff's fourth quarter report was not an accurate representation of the financial activity of the former sheriff's office for calendar year 2017. Multiple items were incorrectly classified and had to be adjusted to correct account classifications in order for the report to be accurate. In total, the receipts were misstated by \$327,986 and the disbursements were misstated by \$302,151. The fourth quarter report should accurately detail all of the fees collected and disbursed from the former sheriff's fee account.

The former sheriff's bookkeeper did not accurately post transactions to correct line items in the bookkeeping software. As a result, the fourth quarter report was materially inaccurate.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. Pursuant to KRS 68.210, the state local finance officer has prescribed minimum accounting and reporting standards in the Department for Local Government (DLG)'s *County Budget Preparation and State Local Finance Officer Policy Manual*.

Additionally, KRS 43.075(3) states in part, "[t]he uniform audit standards and procedures promulgated by the Auditor shall include but need not be limited to the requirement that each person performing an audit shall determine whether the fiscal court or county official is complying with the requirements of the uniform system of accounts adopted under KRS 68.210, whether there is accurate recording of receipts by source and expenditures by payee[.]"

The former sheriff should have ensured all postings to the bookkeeping software are accurate and reviewed the fourth quarter financial report for accuracy. We recommend the sheriff's office ensure postings are accurate and reports are reviewed for accuracy.

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

The former Leslie County Sheriff's Office lacked adequate segregation of duties over receipts, disbursements, and reconciliations: This is a repeat finding that was included in the prior year audit report as Finding 2016-003. The former sheriff's office lacked adequate segregation of duties over receipts, disbursements, and bank reconciliations. The bookkeeper may collect and issue receipts, prepare the daily checkout sheet, and prepare the daily deposit. The bookkeeper may also prepare the daily checkout sheet, post to the receipts ledger, prepare and sign disbursements, and prepare the monthly bank reconciliations.

The lack of adequate segregation of duties within the former sheriff's office was the result of limited staff size which prevented the former sheriff from segregating accounting duties to different individuals within the former sheriff's office. The lack of segregation of duties could result in undetected misappropriation of assets and inaccurate financial reporting to external agencies such as the Department for Local Government (DLG).

The segregation of duties over various accounting functions such as opening mail, preparing deposits, and recording receipts and disbursements, is essential for providing protection from asset misappropriation and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

The former sheriff, or his designee, should have implemented compensating controls to limit the severity of the lack of adequate segregation of duties. Examples of the compensating controls include:

- The former sheriff or his designee could have periodically recounted and deposited cash receipts. This review could have been documented by initialing the daily checkout sheet and deposit ticket.

- The former sheriff could have reviewed supporting documentation for all disbursements. This review could have been documented by initialing the invoice.
- The former sheriff could have required two signatures on all checks, including the former sheriff's signature.
- The former sheriff could have received bank statements unopened, and reviewed for any unusual items prior to giving them to the individual performing the bank reconciliations.

We recommend the sheriff's office implement compensating controls to mitigate the risk of lack of segregation of duties.

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

The former Leslie County Sheriff has not received telecommunication tax commissions due to his fee account: Every month, the Kentucky Department of Revenue electronically deposits funds totaling \$256 into a fee account of the former sheriff for telecommunication tax commissions. These funds are due to the current sheriff and could be used to operate his office.

The former sheriff has not followed up with the Kentucky Department of Revenue to instruct them to direct these funds to an account maintained by the current sheriff.

As a result, 12 monthly payments totaling \$3,074 were not received by the former sheriff, and are now due to the fiscal court as excess fees. These funds could have been used for the other lawful purposes of the former sheriff's office.

Good internal controls require the former sheriff make efforts to collect funds due to his office for the operation of his office.

We recommend the former sheriff contact the Kentucky Department of Revenue to resolve the situation and contact the former sheriff to have the funds deposited into his account written over to the current sheriff.

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

The former Leslie County Sheriff has not settled 2016 fee account receivables and liabilities due per audit: The following 2016 fee audit receivables and liabilities have not been properly settled:

Assets

Cash in Bank		\$ 6,131
Uncollected Receivables:		
Disallowed Payroll Costs - Due From Sheriff	\$ 7,887	
Due from 2017 Fee Account - December 2016 Delinquent Tax	148	
Due from Paul Howard 2011 Fee Account - Telecommunications Commissions	1,537	
Due Personally from Sheriff - Auto Inspections	65	
Due from Tax Account - November 2016 Commissions	5,636	
Due back from Bank or Personally from Sheriff for 2017 Bank Service Fees	38	15,311
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Total Assets		21,442

Liabilities

Unpaid Obligations:		
Due to 2017 Tax Account		4,544
Due to 2017 Fee Account (Army Corp of Engineers)		6,063
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Total Liabilities		10,607
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Due to Fiscal Court as 2016 Excess Fees		\$ 10,835
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The former sheriff's bookkeeper failed to settle the 2016 fee account amounts and the former sheriff did not have any controls in place to ensure the 2016 fee account was properly settled. As a result of not settling the account, money due to the county that can be used for expenses of the county, has not been turned over to them.

KRS 134.192(12) states in part, "the sheriff shall pay to the governing body of any county any fees, commissions, and other income of his or her office[.]" The former sheriff did not receive the payments noted above and did not personally deposit funds to cover the deficit amount noted. As a result, the former sheriff did not collect the funds necessary to pay excess fees over to the fiscal court.

We recommend the former sheriff personally deposit \$7,952 to the 2016 fee account. After this deposit is made, the former sheriff should deposit the receivables identified above and remit remaining liabilities to the fiscal court in order to properly settle all receivables and liabilities.

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

The former Leslie County Sheriff has not settled 2015 fee account receivables and liabilities due per audit: The following 2015 fee audit receivable and liability has not been properly settled:

Beginning Balance	\$ 0
Receivables:	
Tax Commissions	13,151
Liabilities:	
2015 Excess Fees Due Fiscal Court	13,151
Ending Balance	<u>\$ 0</u>

The former sheriff’s bookkeeper failed to settle the 2015 fee account amounts and the former sheriff did not have any controls in place to ensure it was properly settled. As a result of not settling the amounts, money due to the county that can be used for expenses of the county, has not been turned over to them.

KRS 134.192(12) states in part, “the sheriff shall pay to the governing body of any county any fees, commissions, and other income of his or her office[.]” The former sheriff did not receive tax commissions as noted above to settle the 2015 fee account. As a result, the former sheriff did not collect the funds necessary to pay excess fees over to the fiscal court.

We recommend the former sheriff deposit the receivable identified above and remit remaining 2015 excess fees to the fiscal court.

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

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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