



Auditor of Public Accounts
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FOR IMMEDIATE RELEASE

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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2017 financial statement of former Ballard County Sheriff Cary Batts. 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 Ballard 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 Ballard County Sheriff failed to report funds paid to an employee for vehicle parts and installation: The former Ballard County Sheriff paid an employee \$13,883 for vehicle parts and installation on the sheriff office's vehicles. The employee provided several statements with dollar amounts owed, but no supporting receipts or invoices were attached to document the amount the employee paid for the parts. According to the former sheriff, the payments were reimbursements to the employee, but the employee refused to provide detailed invoices for parts. However, upon discussion of the issue with the Ballard County Attorney, auditors were told that the payments were not reimbursements, but actually payments to the employee as a vendor for work performed on

vehicles and the corresponding parts. The county attorney also stated that the work was performed by the employee on personal time, not work time. According to the former sheriff, he preferred to pay the deputy because the deputy was able to order and install the parts cheaper than anyone else. According to the county attorney, there are other employees who have performed similar services, since the nearest vendor performing the same services was considerably higher in cost. Additionally neither the former sheriff nor county attorney realized that paying as a vendor or contract labor in addition to wages earned may be an Internal Revenue Service (IRS) issue.

A deputy was compensated for parts and work performed and the income was not reported on the employee's W-2, nor was a 1099 issued. Additionally, the deputy who is an employee of the Ballard County Sheriff's office, was also treated as a vendor or contract labor. According to IRS Publication 15, Cat. No. 10000W, (Circular E), Employer's Tax Guide: "You must file Form 1099-MISC, Miscellaneous Income, to report payments of \$600 or more to persons not treated as employees (for example, independent contractors) for services performed for your trade or business. Generally, don't use Forms 1099 to report wages and other compensation you paid to employees; report these on Form W-2."

We recommend the former sheriff consult with the county attorney and contact the Internal Revenue Service to determine the proper course of action for reporting the payments made to the deputy. In situations that have elements that meet the criteria for an employee relationship and an independent contractor relationship, the IRS will assist in making this determination. Publication 15-A states, "If you want the IRS to determine whether or not a worker is an employee, file Form SS-8 with the IRS." Additionally, the former sheriff should determine if federal wage and labor laws were violated in regards to the hours the deputy worked performing labor on the sheriff's office vehicles. All communications and actions taken to remedy this issue should be documented.

Former Sheriff's Response: All of the equipment in question regarding this comment from the auditor continues to be installed in the patrol cruisers in which they were installed. I, along with ALL of my other employees, can attest to the fact that the equipment which was obtained from the deputy was new, and was immediately installed in cruisers in which they were to be used.

The amount that was paid to a deputy, who is now Chief Deputy with the new Sheriff, was for the amounts that he submitted to be itemized, submitted personal invoices. Before any monies were paid to a deputy, he told me in no uncertain terms that the amounts that he submitted were exactly his cost. A deputy provided exact amounts to me that he said the equipment was going to cost the Sheriff's Office. The amounts he submitted were substantially below any prices that I found locally or on the internet for the same equipment. He told me that he was not making anything on the equipment. When I first made the agreement with a deputy, I was under the assumption that he would be submitting invoices from the source of the equipment. When I realized that he was not submitting invoices from the supplier of the equipment I approached him and asked him if he could supply them to me.

His response was, "Nope". I then asked him if maybe the equipment when shipped, had an invoice that he could give me. He responded minimally again by saying, "Nope, Sorry, that's all that I can give you. That should be enough". After a couple of more questions to the deputy it became apparent that he was not going to supply any invoices from the supplier of the equipment, nor let me know who

was providing him the equipment. This attitude from deputy, the current Chief Deputy of the Ballard County Sheriff's Office, is very typical and synonymous with his obstinate character that I have experienced in the past.

The purchase of the equipment from the deputy was made with no financial gain for myself, and the promise from the deputy that he also was gaining nothing financially from the transactions. I cannot be for certain that the deputy was being truthful to me when he promised he was not gaining financially, but I can acknowledge that I did extended research in trying to find the cheapest prices for this equipment and would challenge anyone to find this equipment at a lower price than what the Sheriff's Office paid the deputy. In afterthought, I have some opinions regarding "how" he may have been able to get it so cheaply, including the possibility of him having a "wholesale" relationship with someone who was able to provide him with wholesale prices, but I cannot be certain because he would never disclose the information. The decision to purchase this equipment at these prices was done solely by me to provide the Ballard County Sheriff's Office with the lowest cost option to obtain this necessary equipment, and would not have been made if I had felt that any unethical practices were being used to provide us this equipment.

I do not agree that I should personally be in debt to Ballard County for the amount in question because the equipment was installed in patrol cruisers and remains in those same patrol cruisers to this date. I would further state that if there are questions regarding where the equipment was originally secured from, that the Ballard County Fiscal Court might require the now Chief Deputy to comply with answering questions from them in an effort to obtain full disclosure from the deputy.

Auditor reply: The comment does not indicate that the former sheriff is liable for the issue discussed above.

The former Ballard County Sheriff had control deficiencies and noncompliances over receipts: This is a repeat finding from the prior year which was included in the report as Finding 2016-002. The former Ballard County Sheriff had internal control deficiencies and non-compliances regarding receipts. The former sheriff did not batch receipts or make daily deposits. Instead receipts were batched and deposited weekly. Testing revealed the sheriff only made five deposits during the month of November, two of which included more than one day of receipts. One deposit totaling \$2,131 was for seven business days' receipts, and a second deposit totaling \$70,162 was for four business days' receipts. Daily checkout sheets did not show a breakdown of cash and checks collected. Also, receipts issued to customers were prepared in duplicate rather than triplicate as required. According to the former sheriff, they did not batch or make daily deposits during the slow months when receipts were minimal. According to the office personnel, receipts were not issued in triplicate because the sheriff's office could not justify the cost. The former Ballard County Sheriff was in non-compliance with KRS 68.210 and 64.840. Additionally, receipts were left vulnerable to misappropriation or theft because they were not batched and deposited daily.

The Department for Local Government's (DLG) *County Budget Preparation And State Local Finance Officer Policy Manual*, promulgated pursuant to KRS 68.210, requires receipts be kept intact and deposited daily. KRS 64.840 requires manual receipts to be prepared in triplicate. Strong internal

controls dictate that daily checkout sheets include a breakdown of cash and checks and receipts should be batched and deposited daily to decrease the risk of misappropriation of funds.

We recommend the sheriff's office comply with the DLG policy manual and KRS 64.840 by batching receipts daily. Additionally, the sheriff's office should include a breakdown of checks and cash received on the daily checkout sheets, prepare receipts in triplicate, and make deposits daily.

Former Sheriff's Response: We made deposits when deposits were significant, and even tried to make small deposits on a much more regular basis also when time permitted. While running the Sheriff's Office, emergencies and important matters many times occurred at inopportune moments which may have interfered with making "daily" deposits. These type of situations would have been alleviated had the Sheriff's Office been in a better financial position to hire another full time secretary at the time.

It took most of my four year term to put the Sheriff's Office financially back where it needed to be in order to allow for hiring another full time secretary with the current budget. Even though I will no longer be Sheriff, after four years I have rebuilt the Sheriff's Office to a financial level where it can thrive, enabling the new Sheriff to easily hire another full time secretary without the need for any extra monies from the Ballard County Fiscal Court. As proof of that, I will soon be reimbursing the Ballard County Fiscal Court over \$80,000 in excess fees from the 2018 budget cycle, which runs on a calendar year. This amount is historically unprecedented, and accounts for almost 10% of the budget. I accomplished this feat at the same time that I managed to obtain better cruisers and equipment for the Sheriff's Office. This \$80,000 surplus of money that the Sheriff's Office is given each year can easily be used to hire another full time secretary without having to ask the Fiscal Court for more money to do this.

The audit was not started until mid to late 2018, and completed in 2019, which doesn't enable me to "correct" these situations. The financial decisions I made during my term, however, will allow the new Sheriff the ability to hire the needed second secretary position to allow himself the opportunity to avoid this error.

The former Ballard County Sheriff's office lacked adequate segregation of duties: This is a repeat finding from the prior year which was included in the report as Finding 2016-001. The former Ballard County Sheriff's office lacked adequate segregation of duties. The bookkeeper collected money, prepared deposits, posted to the ledgers, prepared checks, created reports, and performed all account reconciliations. Dual signatures were required on all checks, however no additional controls were noted. According to the former sheriff, the bookkeeper had so many responsibilities due to the limited size of the office. A lack of segregation of duties or strong oversight increases the risk of undetected misappropriation of assets or inaccurate financial reporting.

Segregation of duties or the implementation of compensating controls, when limited by the number of staff, is essential for providing protection against the misappropriation of assets and inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

Good internal controls dictate that certain accounting functions should be performed by several different employees to provide reasonable assurance the financial activity is properly accounted for and accurately reported. In order to achieve a proper segregation of duties, we recommend the sheriff's office assign some of the duties to other employees. If that is not feasible due to a lack of staff, the sheriff's office should implement more compensating controls to offset the lack of segregation of duties.

Former Sheriff's Response: It took most of my four year term to put the Sheriff's Office financially back where it needed to be in order to allow for hiring another full time secretary with the current budget. Even though I will no longer be Sheriff, after four year I have rebuilt the Sheriff's Office to financial level where it can thrive, enabling the new Sheriff to easily hire another full time secretary without the need for any extra monies from the Ballard County Fiscal Court. As proof of that, I will soon be reimbursing the Ballard County Fiscal Court over \$80,000 in excess fees from the 2018 budget cycle, which runs on a calendar year. This amount is historically unprecedented, and accounts for almost 10% of the budget. I accomplished this feat at the same time that I managed to obtain better cruisers and equipment for the Sheriff's Office. This \$80,000 surplus of money that the Sheriff's Office is given each year can easily be used to hire another full time secretary without having to ask the Fiscal Court for more money to do this.

This audit was not started until mid to late 2018, and completed in 2019, which doesn't enable me to "correct" these situations. My actions during my term, however, will allow the new Sheriff the ability to hire the needed second secretary position to allow himself the opportunity to avoid this error. Hiring another full time secretary should enable adequate segregation of duties.

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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