

**REPORT OF THE AUDIT OF THE  
ESTILL COUNTY  
SHERIFF**

**For The Year Ended  
December 31, 2016**



**MIKE HARMON  
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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Kevin Williams, Estill County Judge/Executive  
The Honorable Gary Freeman, Estill County Sheriff  
Members of the Estill 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 Estill County, Kentucky, for the year ended December 31, 2016, 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 and budget laws. 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 Kevin Williams, Estill County Judge/Executive  
The Honorable Gary Freeman, Estill County Sheriff  
Members of the Estill 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 Estill 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 Estill County Sheriff, as of December 31, 2016, 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 Estill County Sheriff for the year ended December 31, 2016, 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 June 25, 2018, on our consideration of the Estill County Sheriff’s internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, 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.

Based on the results of our audit, we have presented the accompanying Schedule of Findings and Responses, included herein, which discusses the following report comments:

- 2016-001 The Estill County Sheriff Did Not Deposit Funds On A Daily Basis
- 2016-002 Full Time Benefits Were Provided To An Employee Who Is Not A Full Time Employee
- 2016-003 The Estill County Sheriff’s Office Does Not Have Adequate Segregation Of Duties

Respectfully submitted,



Mike Harmon  
Auditor of Public Accounts

June 25, 2018

ESTILL COUNTY  
GARY FREEMAN, SHERIFF  
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2016

Receipts

State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)	\$	7,983
State Fees For Services:		
Finance and Administration Cabinet	\$	11,021
Sheriff Security Service		<u>4,260</u>
		15,281
Circuit Court Clerk:		
Fines and Fees Collected		4,739
Fiscal Court		25,581
County Clerk - Delinquent Taxes		14,680
Commission On Taxes Collected		190,069
Fees Collected For Services:		
Auto Inspections	1,825	
Accident and Police Reports	415	
Serving Papers	15,894	
Carry Concealed Deadly Weapon Permits	<u>9,295</u>	27,429
Other:		
Add-On Fees	21,760	
Miscellaneous	<u>10,822</u>	32,582
Interest Earned		<u>12</u>
Total Receipts		318,356

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

ESTILL COUNTY  
 GARY FREEMAN, SHERIFF  
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2016  
 (Continued)

Disbursements

Operating Disbursements:

Personnel Services-

Deputies' Salaries	\$	38,401	
Part-Time Salaries		5,638	
Other Salaries		33,264	
Overtime		9,929	
KLEFPF Salaries		6,563	

Employee Benefits-

Employer's Share Social Security		11,473	
Employer's Share Retirement		15,494	
Employer Paid Health Insurance		13,407	

Contracted Services-

Advertising		134	
Vehicle Maintenance and Repairs		5,279	
Computer Services		4,414	

Materials and Supplies-

Office Materials and Supplies		2,364	
Uniforms		1,079	

Auto Expense-

Gasoline		6,444	
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Other Charges-

Telephone Services		2,811	
Postage		94	
Miscellaneous		560	

\$ 157,348

Total Disbursements

\$ 157,348

Net Receipts

161,008

Less: Statutory Maximum

83,356

Excess Fees Due County for 2016

77,652

Additional Excess Fees Paid - November 17, 2016 (See Note 6)

9,138

Payments to Fiscal Court - April 17, 2017

68,514

77,652

Balance Due Fiscal Court at Completion of Audit

\$ 0

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



ESTILL COUNTY  
NOTES TO FINANCIAL STATEMENT

December 31, 2016

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 2016 services
- Reimbursements for 2016 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2016

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).

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

The county official and employees have elected to participate, pursuant to KRS 78.530, in the County Employees Retirement System (CERS), which is 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.

ESTILL COUNTY  
 NOTES TO FINANCIAL STATEMENT  
 December 31, 2016  
 (Continued)

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

The sheriff's contribution for calendar year 2014 was \$16,184, calendar year 2015 was \$14,072, and calendar year 2016 was \$15,494.

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 be allocated as follows: five percent will go to the member's account and one percent will go to the KRS insurance fund.

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. Nonhazardous covered employees contribute five percent of their annual creditable compensation. Nonhazardous members also contribute 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 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.

The county's contribution rate for nonhazardous employees was 17.06 percent for the first six months and 18.68 percent for the last six months.

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:

<b>Years of Service</b>	<b>% Paid by Insurance Fund</b>	<b>% Paid by Member through Payroll Deduction</b>
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.

ESTILL COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2016  
(Continued)

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

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 Estill 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.

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 Estill 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, 2016, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Drug Forfeiture Account

The Estill County Sheriff maintains an account for the purpose of receiving assets forfeited to the Commonwealth of Kentucky as a result of legal proceedings. Disbursements from this account are to be for law enforcement activities. The balance in the account on January 1, 2016, was \$4,790. The sheriff received \$293 during the year and expended \$3,368. The drug forfeiture account balance was \$1,715 as of December 31, 2016.

Note 5. COPS Technology Grant

The Estill County Sheriff was awarded a Department of Justice Community Oriented Policing Services (COPS) Law Enforcement Technology Grant in 2009 in the amount of \$60,000. The purpose of this grant is to purchase and utilize technology to enhance and support law enforcement activities of the sheriff's department. The balance in the account on January 1, 2016, was \$6,300. The sheriff did not receive nor expend any funds during the year. The COPS technology grant account balance was \$6,300 as of December 31, 2016.

Note 6. Additional Excess Fees Paid

An extra payroll reimbursement payment was given to the Estill County Fiscal Court by the Estill County Sheriff. This payment will be considered additional excess fees paid since the sheriff has already turned over all excess fees and closed out the 2016 Fee Account.

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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*

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**MIKE HARMON**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Kevin Williams, Estill County Judge/Executive  
The Honorable Gary Freeman, Estill County Sheriff  
Members of the Estill 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 Estill County Sheriff for the year ended December 31, 2016, and the related notes to the financial statement and have issued our report thereon dated June 25, 2018. The Estill 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 Estill County Sheriff's internal control over financial reporting (internal control) to determine the 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 Estill County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Estill County Sheriff's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Responses, we identified a certain deficiency in internal control that we consider to be a material weakness.

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 a 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. We consider the deficiency described in the accompanying Schedule of Findings and Responses as item 2016-003 to be a material weakness.



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 Estill 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 instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying Schedule of Findings and Responses as items 2016-001 and 2016-002.

**Views of Responsible Official and Planned Corrective Action**

The Estill County Sheriff's views and planned corrective action for the findings identified in our audit are described in the accompanying Schedule of Findings and Responses. 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,

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

Mike Harmon  
Auditor of Public Accounts

June 25, 2018



SCHEDULE OF FINDINGS AND RESPONSES

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ESTILL COUNTY  
GARY FREEMAN, SHERIFF  
SCHEDULE OF FINDINGS AND RESPONSES

For The Year Ended December 31, 2016

STATE LAWS AND REGULATIONS:

2016-001 The Estill County Sheriff Did Not Deposit Funds On A Daily Basis

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This is a repeat finding and was included in the prior year audit report as finding 2015-001. Receipts were not deposited daily as required. Per discussion with the bookkeeper, receipts were not deposited daily because receipt amounts are not significant in total; therefore, a deposit is made when a large amount is received or at least weekly. By not properly depositing monies received by the office daily, this could result in loss of receipts or misplaced monies. Under the authority of KRS 68.210, the Department for Local Government (DLG) has established requirements for all local government officials handling public funds. These requirements, outlined in the *County Budget Preparation and State Local Finance Officer Policy Manual*, include “[d]aily deposits intact into a federally insured bank institution.” We recommend the sheriff adhere to the requirements of KRS 68.210 by depositing all public funds received into an official account on a daily basis.

*Sheriff's Response: I understand.*

2016-002 Full Time Benefits Were Provided To An Employee Who Is Not A Full Time Employee

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One employee does not fit the classification description of full time employee per the county's administrative code. This employee received the same benefits as full time employees: vacation leave, sick leave, and health insurance. In addition, the sheriff paid health insurance from the fee account on behalf of this employee during a five month period for which the employee was laid off and receiving unemployment benefits. Furthermore, these same benefits were not extended to other part-time or seasonal workers. The sheriff said he was not aware that the employee's current work schedule was not addressed in the administrative code and that the administrative code specifically prohibited benefits being extended to employees who were not full time employees. The sheriff is not in compliance with the county's administrative code by offering these full time benefits. Furthermore, improper health insurance payments were made on behalf of the employee. Unnecessary expenditures from the fee account could be the personal responsibility of the sheriff. The county's administrative code outlines benefits available to full-time workers including health insurance, sick leave, vacation leave, unemployment, etc. The administrative code states, “[f]ull-time employees shall be entitled to all benefits as provided in this Personnel Policy and the Administrative Code. Part-time, seasonal, or temporary employees shall not be entitled to any benefits unless specified by resolution at the time of hiring.” We recommend the sheriff ensure all employees fit an employment classification established in the county's administrative code. We further recommend he ensure all classes of employees receive the same benefits in accordance with the county's administrative code. If necessary, the sheriff should consult with the fiscal court to ensure his unique staffing situations are addressed in the county's administrative code. Lastly, we recommend the sheriff seek guidance from the county attorney regarding this issue.

*Sheriff's Response: Employee works full-time more than the required six months. Therefore she did not fall in any of the employee category listed in personnel policy.*

ESTILL COUNTY  
GARY FREEMAN, SHERIFF  
SCHEDULE OF FINDINGS AND RESPONSES  
For The Year Ended December 31, 2016  
(Continued)

INTERNAL CONTROL - MATERIAL WEAKNESS:

2016-003 The Estill County Sheriff's Office Does Not Have Adequate Segregation Of Duties

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This is a repeat finding and was included in the prior year audit report as finding 2015-002. The responsibilities of recording, depositing, and reconciling cash are delegated to the same individual. The sheriff stated that due to a restricted budget, hiring additional staff in order to segregate duties is not an option. Since only one person performs these functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. It increases the risk that undetected fraud and errors will occur. The functions of receiving, recording, depositing, and reconciling cash should be separated whenever possible in order to decrease the risk that undetected errors, misstatements, and fraud will occur. If duties cannot be adequately segregated due to small staff size, the sheriff could implement and document compensating controls to reduce the risk of inadequate segregation of duties. Examples of compensating controls include: the sheriff comparing daily checkout sheet to receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, performing surprise cash counts, reviewing invoices prior to payment, and reviewing all financial reports. The sheriff could document his review process by initialing reports and supporting documentation. We recommend the sheriff segregate the duties of receiving, recording, depositing, and reconciling cash or implement and document compensating controls to offset this control issue.

*Sheriff's Response: Due to staff constrictions this comment cannot be corrected, but will address more precautions to this comment.*