



Auditor of Public Accounts  
Mike Harmon

**FOR IMMEDIATE RELEASE**

Contact: **Michael Goins**  
[Michael.Goins@ky.gov](mailto:Michael.Goins@ky.gov)  
**502.564.5841**  
**502.209.2867**

**Harmon Releases Audit of Garrard County Sheriff's Office**

**FRANKFORT, Ky.** – State Auditor Mike Harmon today released the audit of the 2015 financial statement of Garrard County Sheriff Tim Davis. 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 Garrard County Sheriff in accordance with accounting principles generally accepted in the United States of America. The sheriff's financial statement did not follow this format. However, the sheriff's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 sheriff audits in Kentucky.

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

The audit contains the following comments:

**The sheriff transferred \$15,000 in federal forfeiture funds to the 2015 fee account:** Our review of the sheriff's bank statements indicates the sheriff transferred \$15,000 of federal forfeiture funds to the fee account in January 2015. These funds were returned to the federal forfeiture account in February 2016. Inquiries of the sheriff and bookkeeper indicate these funds were transferred to cover January payroll expenses. Funds for January payroll were not available in the 2015 fee account because the sheriff's application for state advancement was not submitted timely. Additionally, the sheriff was not aware that federal forfeiture funds are considered one-time monies and once spent should not be reimbursed.

Failure to submit the application for state advancement timely resulted in the sheriff not having fee account funds available to make the initial 2015 payroll. When federal forfeiture funds are transferred to the fee account they lose their identity and make it extremely difficult to determine if they were spent for the intended purposes.

The U.S. Department of Justice has issued *A Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (Guide) that “seeks to assist state and local law enforcement agencies participating in the program by clarifying the directives they must follow to obtain and use equitably shared funds.” As stated in the guide, “equitably shared funds shall be used by law enforcement agencies for law enforcement purposes only.” Federal guidelines also include ‘impermissible uses’ of equitable sharing funds; specifically, one of the ‘impermissible uses’ is salaries. The Guide states, “[e]quitably shared funds may not be used to pay the salaries and benefits of sworn or non-sworn law enforcement personnel.”

We recommend the sheriff discontinue the practice of transferring federal forfeiture funds to the fee account to cover payroll or fee account expenses. We also recommend the sheriff restrict the expenditure of federal forfeiture funds to those items defined in federal guidelines. Furthermore, we recommend the sheriff make timely application for participation in the state advancement program which is designed to assist sheriffs in obtaining funds necessary to operate the office when fees are not available.

*Sheriff's Response: Taking steps to correct this like adding to advancement amount, new payroll system/practices.*

**The Garrard County Sheriff's Office lacks adequate internal controls over payroll:** Garrard County Sheriff's employees are separated into three groups for payroll purposes. The Garrard County Sheriff's Office prepares payroll for road deputies, court security officers, and administrative staff including the sheriff. The personnel in each of these groups have various requirements for employment such as full-time, part-time, and salaried and our testing of payroll included an examination of these requirements and the documentation maintained by the sheriff to support payroll expenditures.

The Garrard County Sheriff does not have appropriate internal controls over the payroll process. During 2015 the following issues were noted:

- The bookkeeper does not have a timesheet.
- One timesheet in the test period was not signed by the employee.
- All deputies' timecards were processed without supervisor approval.
- Three employees were paid without timecard documentation.
- Comparisons of the 911 logs to the timesheets indicated three deputies had 15 instances of days worked or at least a partial day that was not included on the employee's timesheet.
- Deputies' timesheets did not reasonably agree to the 911 activity log.
- The county personnel policy requires a lunch period to be taken. Documentation of lunch period was not annotated on timesheets.
- Employees did not always work sufficient hours to be considered full-time employees.

- Timesheets did not accurately reflect actual employee activity such as sick, vacation, or transport.

Weak internal controls over payroll did not prevent or detect these issues.

The sheriff is not in compliance with federal and state labor regulations or the county's Personnel Policy and Procedure code.

KRS 337.320(1) requires every employer to "keep a record of: (a) [t]he amount paid each pay period to each employee; (b) [t]he hours worked each day and each week by each employee; and (c) [s]uch other information as the commissioner requires."

Timesheets should be kept for payroll verification, as a record of leave time used, and to document employees are working at least the minimum number of hours to be eligible for full-time benefits such as retirement and health insurance.

The Garrard County Personnel Policy and Procedures policy states, "[l]unch periods will be taken in the period between 11:00 a.m. and 2:00 p.m., except in the case of emergency or necessity as determined by the County Official or Department head."

The United States Department Of Labor – Wage and Hour Division defines Kentucky's "Minimum Length of Meal Period Required under State Law for Adult Employees in Private Sector" as "[r]easonable off-duty period, ordinarily ½ hour but shorter period permitted under special conditions, between 3rd and 5th hour of work. Not counted as time worked. Coffee breaks and snack time not to be included in meal period."

The Garrard County Personnel Policy and Procedures policy states, "[r]egular full-time employees are those scheduled to work at least 37.5 hours per week. These employees will be eligible for county benefits. Regular Full-Time employees are those scheduled to have at least 1,820 paid hours of work per year and are listed in Groups I, II, III."

We recommend the Garrard County Sheriff strengthen internal controls over payroll by requiring employees and supervisors to sign timecards, ensure timecards reflect actual hours worked, require all employees to maintain timecards, and require employees to document lunch periods on timecards. We further recommend the official ensure employees are in compliance with the U.S. Department of Labor, state law, and the county's personnel policy.

*Sheriff's Response: Issues being corrected through better understanding of payroll software. Talked with employees about better record keeping as to timesheets.*

**Court security officers' time sheets did not reflect correct hours worked:** Garrard County Court Security Officers (CSOs) maintained individual timesheets which employees prepared on a monthly basis. The timesheets prepared reflect time in and time out on the days worked. Timesheet information is then transferred to a Court Security Schedule on a bi-weekly basis. The Court Security Schedule including the hours worked is sent to the bookkeeper who then issues payroll checks the following Tuesday. Our test procedures included a comparison of CSOs'

timesheets to the Court Security Schedule and then to the actual payroll issued for December 2015. Our test procedures indicated that payroll is being paid based on the court security schedules not actual timesheets. Our test procedures further revealed the following inconsistencies when compared to the court security schedules used to issue payroll checks:

- Eight hours worked per the timesheet, but the court security schedule reflected no hours worked on that day
- Thirteen instances of hours being calculated incorrectly on the timesheet and subsequently transferred to the court security schedule used to calculate payroll
- One instance of over-recording hours when transferring from the employees timesheet to the court security schedule
- Twenty-five instances of employees working over five hours but having no lunch break
- Three instances of transport time does not appear to be included on the time sheets

The sheriff took office in January 2015 and he was unaware of many of the U.S. Department of Labor requirements and Kentucky Revised Statutes (KRS) that govern payroll. Additionally, human error combined with the lack of internal controls have allowed these payroll issues to be undocumented and uncorrected.

The lack of controls over payroll have allowed employees to be both overpaid and underpaid. Additionally, sufficient supporting documentation for payroll has not been maintained and numerous issues of noncompliance were noted with regard to KRS. Timesheets under and overstated the hours the CSOs actually worked. Misstatements in the amount of hours worked could have prevented employees from receiving benefits they were entitled to, such as retirement.

KRS 337.320(1) requires every employer to “keep a record of: (a) [t]he amount paid each pay period to each employee; (b) [t]he hours worked each day and each week by each employee; and (c) [s]uch other information as the commissioner requires.”

Timesheets should be kept for payroll verification, as a record of leave time used, and to document employees are working at least the minimum number of hours to be eligible for full-time benefits such as retirement and health insurance.

KRS 337.355 requires that “[e]mployers, except those subject to the Federal Railway Labor Act, shall grant their employees a reasonable period for lunch, and such time shall be as close to the middle of the employee's scheduled work shift as possible. In no case shall an employee be required to take a lunch period sooner than three (3) hours after his work shift commences, nor more than five (5) hours from the time his work shift commences.”

We recommend the Garrard County Sheriff strengthen internal controls over payroll by ensuring timecards reflect actual hours worked and that paychecks are subsequently based on actual hours worked during the period, requiring employees to document lunch periods on timecards, and ensuring compliance with KRS regarding payroll.

*Sheriff's Response: New timesheets created and issued to all employees. Explained timesheets and importance of doing them correctly with all employees.*

**The Garrard County Sheriff failed to properly classify employees as hourly or salaried:** The Garrard County Sheriff's Office paid its deputies and bookkeeper on a monthly basis. Payroll checks were issued around the 25th of each month. Paycheck amounts were the same (based on the individual's 'salary') regardless of the number hours worked and were for the whole month (i.e. March 1 through March 31). A comparison of timesheets to the E-911 call log indicates deputies do not always work a 40 hour work-week but could also work over 40 hours in a week. The bookkeeper did not maintain a timesheet, therefore hours could not be verified, nor could it be determined if the employee worked sufficient hours to be considered a full-time employee. Although the sheriff did keep a calendar of deputies' time off for sick leave or personal days, there was not a total of cumulative time allowed or used and the timesheets did not always reflect the employees' correct status. Additionally, not all timesheets could be located for review and some details (such as the year) were not documented on the timesheets.

For payroll purposes, a significant portion of the Garrard County Sheriffs' employees (road deputies and bookkeeper) were being treated as salaried.

A schedule of four days on and four days off for road deputies, without consideration as to the actual work week start or end, has allowed road deputies to be overpaid some weeks and underpaid in other weeks. The sheriff's bookkeeper and road deputies also did not maintain sufficient time records to ensure full-time employment status as defined by the county's personnel policy.

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Timesheets should be kept for payroll verification, as a record of leave time used, and to document employees are working at least the minimum number of hours to be eligible for full-time benefits such as retirement and health insurance.

KRS 337.285(1) states, "[n]o employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed."

OAG 79-448, discusses Section 3 of the Kentucky Constitution stating that Section 3 "is unequivocal on the point that public emolument to any person must be based on the consideration of public services. By the strongest implication this means 'public services actually rendered.' It does not mean 'public services to be rendered.'"

803 KAR 1:070 Section 3(3)(a) states that "[t]o qualify for the administrative exemption, an employee's primary duty shall include the exercise of discretion and independent judgment with respect to matters of significance. The exercise of discretion and independent judgment shall involve the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term 'matters of significance' refers to the level of importance or consequence of the work performed." 803 KAR 1:070 Section

3(b) states in part, “[f]actors to consider if determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to. . . whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters[.]”

803 KAR 1:070 section 10 defines a salaried employee as one being paid “on a salary basis” meaning an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee’s work. Subject to certain exceptions, an exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. In addition, to qualify for exemption, employees generally must be paid at not less than \$455 per week on a salary basis. If the employer makes deductions from an employee’s predetermined salary, i.e., because of the operating requirements of the business, that employee is not paid on a “salary basis.”

We recommend the Garrard County Sheriff strengthen internal controls over payroll by requiring employees to complete and sign accurate timesheets and by having the timesheets reviewed and approved by the supervisors (documented by signing or initialing the timesheet). The timesheets could then be provided to the bookkeeper after the hours have been worked which would help to ensure accurate wages are being paid as well as ensure the wages are earned prior to payroll checks being issued. We recommend the sheriff document his policy for sick, vacation, and personal time and ensure the timesheets accurately reflect the use of these days. We further recommend the sheriff contact the county attorney and/or the department of labor to obtain an opinion if any employee under his supervision can be considered a salaried employee.

*Sheriff’s Response: Personnel has been classified as hourly per recommendations of auditors.*

Auditor’s Reply: We did not recommend that particular classifications be made; however, we do recommend that management classify employees in accordance with applicable guidance based on documented support. As stated above, we also recommend that management seek outside guidance for further clarification.

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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