



Auditor of Public Accounts
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FOR IMMEDIATE RELEASE

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Harmon Releases Audit of Garrard County Sheriff's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2017 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 the internal control over financial operations and reporting.

The audit contains the following comments:

The sheriff's office lacks adequate segregation of duties: The sheriff's office lacks adequate segregation of duties over receipts, disbursements, and monthly reconciliations. Internal control procedures indicates the sheriff's bookkeeper opens mail, collects payments from customers, prepares deposits, prepares checks for the sheriff's signature, posts transactions to the receipts and disbursements ledgers, prepares monthly and quarterly reports, and prepares monthly bank reconciliations.

The sheriff's office has a small staff size that limits the ability to adequately segregate the duties surrounding receipts, disbursements, and monthly bank reconciliations. The lack of adequate segregation of duties increases the risk that undetected errors could occur. Additionally, the lack of adequate segregation of duties could result in misappropriation of assets or 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, recording receipts and disbursements, and preparing monthly reports and bank reconciliations, or the implementation of compensating controls is essential for providing protection from asset misappropriation or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

We recommend the sheriff separate the duties involved in receiving cash, preparing deposits, writing checks, posting to ledgers, preparing monthly bank reconciliations and comparing financial reports to ledgers. However, if an adequate segregation of duties is not feasible due to a limited budget, compensating controls could be designed more effectively and documented by the individual performing the procedure.

Sheriff's Response: Trying to get to the point of hiring another office staff full-time.

The sheriff did not deposit receipts daily: This is a repeat finding documented in the prior year audit report as Finding 2016-005. The sheriff did not deposit receipts daily in 2017. The sheriff has not established internal controls requiring a daily deposit of all funds received by his office. The sheriff's bookkeeper indicated that on most days receipts were minimal. The sheriff's office planned to prepare deposits on Mondays and Fridays unless daily receipts were considered significant. Eight deposits totaling \$179,813 were made during the month of November 2017, which is consistent with the policy described by the bookkeeper.

Failure to deposit receipts daily is an issue of noncompliance with the Department for Local Government (DLG) requirements for handling public funds. Failure to deposit receipts daily also exposes the sheriff's office to the risk of misappropriation of funds or inaccurate financial reporting.

The DLG, under the authority of KRS 68.210, has established minimum requirements for all government officials that handle public funds in the *County Budget Preparation and State Local Finance Officer Policy Manual*. With regard to receipts, governmental officials handling public funds are required to make "[d]aily deposits intact into a federally insured banking institution." In addition, good internal controls dictate that receipts should be deposited intact on a daily basis.

We recommend the sheriff make deposits daily as required by DLG.

Sheriff's Response: Will deposit daily especially in tax season, bi-weekly when not in tax season unless significant amounts are receipted we will deposit daily.

The sheriff's office lacks adequate internal controls over payroll: This is a repeat finding documented in the prior year audit report as Finding 2016-006. Garrard County Sheriff's employees are separated into two groups for payroll purposes. The Garrard County Sheriff's Office prepares payroll for court security 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 our testing of payroll, the following issues were noted:

- Garrard County Personnel Policy and Procedures manual requires a lunch period to be taken. Documentation of a lunch period was not annotated on the bookkeeper and school resource officer's timesheets.
- Bookkeeper and school resource officer timesheets were not mathematically correct.
- Bookkeeper and school resource officer incurred overtime during the period tested. Overtime incurred was not documented on the payroll summary report, which is used to issue payroll disbursements.
- One court security employee's timesheet was not signed by the employee or a supervisor.
- One employee's timesheet was not prepared.
- Payroll summary for administrative staff was not supported by accurate timesheets associated with the pay period tested.
- Leave balance reports are not accurate and properly maintained.

According to the sheriff, 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 undocumented and uncorrected payroll issues.

The sheriff is not in compliance with federal and state labor regulations or the county's personnel policy and procedure manual. The lack of controls over payroll have allowed employees to be underpaid. Additionally, timesheets understated the hours for administrative employees.

KRS 337.320(1) states:

Every employer shall keep a record of:

- (a) The amount paid each pay period to each employee;
- (b) The hours worked each day and each week by each employee; and
- (c) Such other information as the commissioner requires.

Good internal controls dictate that timesheets 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 manual 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."

KRS 337.355 states, in part, "[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 maintaining leave balances, requiring employees and supervisors to sign timesheets, ensuring timesheets reflect actual hours worked, requiring all employees to maintain timesheets, and requiring employees to document lunch periods on their timesheets. We further recommend the official ensure employees are in compliance with the U.S. Department of Labor, state law, and the Garrard County Personnel Policy and Procedures Manual.

Sheriff's Response: Verbal reprimands with employees on timesheets. Timesheets improved. Verbal reprimand with administrative assistant over payroll and time sheets. Adding tracking for sick & leave time to payroll software.

The sheriff failed to properly classify employees as hourly or salaried: This is a repeat finding from prior year audit report as Finding 2016-008. The Garrard County Sheriff's Office paid its school resource officer and bookkeeper on a monthly basis. Payroll checks were issued around the 25th of each month. The auditor was not able to support paycheck amounts by comparing payroll summary report and timesheets. Both employees prepared a timesheet; however, timesheets included overtime which could not be verified by reviewing payroll summary reports.

According to the sheriff, a significant portion of the Garrard County Sheriff's employees (school resource officer and bookkeeper) are being treated as salaried. The sheriff's bookkeeper and school resource officer payroll summaries were not supported by timesheets for each employee. Payroll summaries did not include a breakdown of hours worked or include overtime incurred.

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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(3)(b) states, “[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, Section 11 states that in order 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.”

Per the IRS website, “[u]nder common-law rules, anyone who performs services for you is your employee *if you can control what will be done and how it will be done*. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed.” The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work, not ‘what’ will be done and ‘how’ it will be done.

We recommend the sheriff contact the county attorney and the U.S. Department of Labor to obtain an opinion if any employee under his supervision can be considered a salaried employee.

Sheriff’s Response: To the best my knowledge all has been corrected with this issue.

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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