



Auditor of Public Accounts
Adam H. Edelen

FOR IMMEDIATE RELEASE

Contact: Stephenie Hoelscher
stephenie.hoelscher@ky.gov
502.564.5841
513.289.7667

Edelen Releases Audit of Former Jackson County Sheriff's Office

FRANKFORT, Ky. – State Auditor Adam Edelen today released the audit of the 2013 financial statement of former Jackson County Sheriff Denny Peyman. 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.

Recent changes in auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the revenues, expenditures and excess fees of the former Jackson County Sheriff in accordance with generally accepted accounting principles in the United States.

The audit will be referred to the Attorney General.

The report found that the former sheriff did not maintain adequate accounting records of fee account revenues and expenditures to provide sufficient audit evidence. Also, auditors were unable to obtain required representation letters from the County Attorney and former Sheriff. Therefore, an audit opinion could not be expressed due to an unacceptably high audit risk, and therefore the report presents a disclaimer of opinion.

As part of the audit process, the auditor must comment on non-compliance 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 Sheriff did not manage the financial activities of his office. The former Sheriff did not manage the financial activities of his office by maintaining complete and accurate financial records, as further discussed in Comment 2013-002. The former Sheriff failed to

prepare receipts and disbursements ledgers, monthly bank reconciliations, and quarterly reports. Due to numerous errors and incomplete financial records noted in the following comments and recommendations, auditors cannot verify the accuracy of the former Sheriff's financial activities. Inaccurate and incomplete financial reports can lead to improper financial decision making, as well as increase the risk that errors and/or fraud will occur and go undetected. Due to the lack of financial records, auditors are unable to express an opinion on the former Sheriff's financial statement.

The former Sheriff needed to improve his financial practices and internal controls, as discussed in Comments 2013-002 and 2013-003, to ensure that proper information was submitted in a timely manner and was not misleading to users of the information. The former Sheriff's practices created an environment for potential material misstatements to occur in the financial statements, either by error or fraud, allowing them to go undetected. If the former Sheriff continued his poor financial practices and did not improve the internal control structure as recommended in 2013-003, taxpayer monies would continue to be at risk. We recommend the former Sheriff should have prepared complete and accurate financial reports that were supported by the ledgers and bank activity of his office.

Former Sheriff's response: As was previously disclosed to the auditors, the Fiscal Court restricted the Former Sheriff's budget beginning in October 2012 to the point where he could only employ one individual part time besides himself. This created an environment which made it impossible to have good internal controls in place for tax collection and record keeping. Because the additional employee was only part time, it created issues for preparing receipts and disbursement ledgers, monthly reconciliations, and quarterly reports. The Former Sheriff asked the Fiscal Court several times for additional staffing in order to implement better internal controls however the Fiscal Court refused every time. Individuals employed by the Fiscal Court have admitted under oath that these conditions were intentional and meant to make the Former Sheriff look bad in his audits.

Auditor reply: A small number of staff does not alleviate the former Sheriff's responsibility to comply with the minimum accounting requirements set forth in KRS 68.210.

The former Sheriff did not comply with the Uniform System of Accounts. Multiple year audit findings represent the former Sheriff's failure to comply with the Uniform System of Accounts as adopted under KRS 68.210. Among other provisions, this statute requires the official to maintain accurate recording of receipts by source and expenditures by payee, and to fulfill all other legal requirements relating to the oversight and management of public funds by his office. The former Sheriff failed to comply with the minimum requirements of the Uniform System of Accounts in the following areas:

- Deposits were not made intact daily
- Daily checkout sheets were not prepared timely
- Receipts and disbursements ledgers were not prepared
- Bank reconciliations were not prepared monthly.
- Quarterly reports were not prepared and submitted to the Department for Local Government as required.
- Annual financial statement was not prepared.

Failure to complete these tasks resulted in inadequate oversight and accountability over financial activity, as well as increased the risk that errors and/or fraud would occur and go undetected. We recommend the former Sheriff should have met the minimum requirements of accountability for compliance with the Uniform System of Accounts.

Former Sheriff's response: As was previously disclosed to the auditors, the Fiscal Court restricted the Former Sheriff's budget beginning in October 2012 to the point where he could only employ one individual part time besides himself. This created an environment which made it impossible to have good internal controls in place for tax collection and record keeping. Because the additional employee was only part time, it created issues for preparing receipts and disbursement ledgers, monthly reconciliations, and quarterly reports. Individuals employed by the Fiscal Court have admitted under oath that these conditions were intentional and meant to make the Former Sheriff look bad in his audits.

Auditor reply: A small number of staff does not alleviate the former Sheriff's responsibility to comply with the minimum accounting requirements set forth in KRS 68.210.

The former Sheriff's office lacked adequate segregation of duties. The former Sheriff's office lacked adequate segregation of duties over receipts, the reconciliation process, and other general areas, which further contributed to the inability to rely on his financial information. During our review of internal control, we noted that one individual was primarily responsible for all receipt/reconciliation functions, including opening incoming mail, receiving and recording cash, preparing bank deposits, preparing the daily checkout sheets, preparing bank reconciliations, and preparing the financial reports. No evidence of official oversight of any office functions was found.

This lack of oversight in internal controls contributed to the failure to prepare and maintain accurate records, failure to prepare and submit reports, and failure to make daily deposits intact, as noted in Comments 2013-02 and 2013-04. Segregation of duties or the implementation of compensating controls is essential for providing protection against asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily duties.

If, due to a limited number of staff, it is not possible to segregate duties, strong oversight over these areas should occur. The former Sheriff should have implemented cross checking procedures which should have been documented by the individual performing the procedures.

Former Sheriff's response: As was previously disclosed to the auditors, the Fiscal Court restricted the Former Sheriff's budget beginning in October 2012 to the point where he could only employ one individual part time besides himself. This created an environment which made it impossible to have good internal controls in place for tax collection and record keeping. Individuals employed by the Fiscal Court have admitted under oath that these conditions were intentional and meant to make the Former Sheriff look bad in his audits.

Auditor reply: As stated in the comment, if there is limited staff, strong oversight by the former Sheriff should have occurred.

The former Sheriff should have ensured monies collected were secured and handled properly. During audit procedures, we noted the following:

- Pre-numbered receipt forms were not issued for all monies collected and the sequence of receipts issued were not accounted for daily.
- Neither the daily checkout sheet nor bank deposit ticket separated cash from checks deposited.
- Daily collections were not deposited in a timely manner. For example, most receipts received in November 2013 were deposited in February 2014 and most receipts received in December 2013 were deposited in June 2014.
- There were many instances where a deposit was made up of receipts consisting of 3 or more days. Using the previous example, the November 2, 2013 daily checkout sheet included dates ranging from October 31, 2013 through November 2, 2013. The December 14, 2013 daily checkout sheet included dates ranging from December 1, 2013 through December 14, 2013.
- Monies collected for auto inspections were not deposited intact. The former Sheriff reported receipts for auto inspections at \$105; however, after reviewing auto inspection records, auditor determined that the former Sheriff should have collected \$1,420. Auditor recorded the difference of \$1,315 as un-deposited receipts.
- A bank account was not maintained by the former Sheriff for the complete calendar year. In October 2013, the former Sheriff attempted to switch banks but was unable to, leaving him to keep all cash/checks unsecured in his office.

This failure to properly secure and handle monies collected resulted in inaccurate and incomplete financial reporting, along with the increased possibility of misappropriation of assets. This condition is a result of not providing necessary training for the bookkeeper and the lack of management oversight.

The Department for Local Government, pursuant to KRS 68.210, requires pre-numbered receipts which should be kept in numerical order and accounted for daily, and also requires deposits to be made intact daily into a federally insured banking institution. We recommended the former Sheriff should have complied with KRS 68.210 by ensuring receipts were kept in numerical order, and accounted for daily, and that deposits were made intact daily. We further recommend the former Sheriff should collect the un-deposited funds or personally remit \$1,315 to Fiscal Court.

Former Sheriff's response: It was the Former Sheriff's policy and procedure to issue pre-numbered receipts for monies collected. There were a few instances where a receipt was not issued as the tax payer did not want a receipt however the money was accounted for. The sequence of receipts issued were not accounted for daily due to the lack of additional personnel. Daily collections were not deposited in a timely manner due to the lack of staff. The one staff could not be in two places at once. She could not collect taxes and deposit money at the same time. In regards to the auto inspection fees, the discrepancy noted was not un-deposited receipts. The Former Sheriff had the authority to waive the fee for auto inspections. Therefore the amount he collected, \$105, is an accurate reflection of fees collected. It was noted that the Former Sheriff had not maintained a bank account for the complete calendar year as he was looking to switch banks. The Former Sheriff did look into switching banks but still maintained the current bank account during this timeframe. It was also noted that the internal control conditions were a

result of not providing necessary training for the bookkeeper and the lack of management oversight. As was previously disclosed to the auditors, the Fiscal Court restricted the Former Sheriff's budget beginning in October 2012 to the point where he could only employ one individual part time besides himself. This created an environment which made it impossible to have good internal controls in place for tax collection and record keeping. This also meant that the Former Sheriff could not afford to have his bookkeeper trained due to lack of funds and lack of additional staff to help while she was trained.

Auditor reply: A small number of staff does not alleviate the former Sheriff's responsibility to comply with the minimum accounting requirements set forth in KRS 68.210. This also does not explain why deposits were not made for almost six months.

The former Sheriff should have properly accounted for forfeiture monies and filed appropriate reports. The former Sheriff did not file a yearly forfeiture report with the Office of Drug Control Policy - Justice and Public Safety Cabinet. Nor did the former Sheriff maintain formal receipts and disbursements ledgers for the forfeiture bank account. KRS 218A.440 requires all law enforcement agencies submit a report of assets seized and assets awarded including cash, vehicles, weapons, and real property within 60 days after the close of the fiscal year. A report is to be submitted even if there were no forfeitures during the year. Failure to file an annual forfeiture report resulted in the former Sheriff being noncompliant with the above statute and could have resulted in the former Sheriff no longer being eligible to receive those funds. We recommend the former Sheriff should have maintained a formal set of ledgers for the forfeiture bank account and filed the appropriate report to the Office of Drug Control Policy.

Former Sheriff's response: The Former Sheriff believes that there was fraud involved in the lack of filing of the yearly forfeiture report for the 2013 calendar year and it is currently under investigation at the Federal level.

Auditor reply: The former Sheriff never mentioned the possibility of fraud to the auditors.

The former Sheriff should have made fee pooling payments in accordance with the fee pooling ordinance. On November 13, 2012, a fee pooling ordinance was approved for the former Jackson County Sheriff's office. The ordinance states that all income and fees collected by the former Sheriff should be turned over to the County Treasurer on a weekly basis. The former Sheriff failed to make the weekly fee pooling payments in accordance with the approved ordinance. Payments made to the County Treasurer varied, with some payments being up to seven months late. Also, as determined by our audit, the former Sheriff still owes the County Treasurer \$49,013 for receipts collected during calendar year 2013 that has not been turned over as excess fees. Failure to turn over fee pooling payments as required results in the Fiscal Court not having the necessary funds in order to pay the former Sheriff's expenses. We recommended the former Sheriff comply with the approved fee pooling ordinance by submitting weekly fee pooling payments to the County Treasurer.

Former Sheriff's response: The ordinance referred to was passed by the Judge Executive and the County Magistrates based on fraudulent information. A previous audit indicated that the Former Sheriff had a deficit however this deficit was intentionally created by the Fiscal Court. This information was supplied by the County Treasurer under oath. It was noted that the Former Sheriff still owes the County Treasurer

\$49,013 for receipts collected during the calendar year 2013. The Former Sheriff had paid this amount to the County Treasurer however it was not accounted for properly on their books.

Auditor reply: An audit of the former Sheriff's accounts would be based solely on records kept by the former Sheriff. Any deficit reported would be based on this information. Based on the former Sheriff's records, the \$49,013 was never paid to the Fiscal Court.

The former Sheriff should collect and remit payments as recommended in order to close out the calendar year 2013 fee account. Based on the determination of fund balance noted below, additional excess fees (fee pooling payments) of \$49,013 are due to the Fiscal Court. The Department for Local Government, given the authority by KRS 68.210, requires a Uniform System of Accounts, which includes the proper collection of receivables and the distribution of fees to the appropriate entity. As noted in Comment 2013-02, the former Sheriff failed to maintain complete and accurate records, resulting in insufficient funds being paid to the Fiscal Court. We recommend the former Sheriff ensure the receivables and liabilities shown below are collected and remitted to the appropriate entity. We further recommend the former Sheriff pay the additional amount due of \$49,013 to the Fiscal Court.

Assets

Cash in Bank		\$	6,052
Deposits in Transit			
Receivables:			
Per Bank	\$	68,194	
Add-On Fees Due From 2012 Tax Account		23,678	
Commissions Due From 2012 Tax Account		5,442	
Commissions Due From 2013 Tax Account		17,637	
Undeposited Receipts - Accident Reports		<u>1,315</u>	<u>116,266</u>
Total Assets			122,318

Liabilities

Outstanding Checks		1,840	
Paid Liabilities (Per Bank)		71,435	
Unpaid Obligations:			
Due 2013 Tax Account - Service Charges		<u>30</u>	
Total Liabilities			<u>73,305</u>
Excess Fees Due The Fiscal Court As Of December 31, 2013			<u>\$ 49,013</u>

Former Sheriff's response: The ordinance referred to was passed by the Judge Executive and the County Magistrates based on fraudulent information. A previous audit indicated that the Former Sheriff had a deficit however this deficit was intentionally created by the Fiscal Court. This information was supplied by the County Treasurer under oath. It was noted that the Former Sheriff still owes the County Treasurer

\$49,013 for receipts collected during the calendar year 2013. The Former Sheriff had paid this amount to the County Treasurer however it was not accounted for properly on their books.

Auditor reply: An audit of the former Sheriff's accounts would be based solely on records kept by the former Sheriff. Any deficit reported would be based on this information. Based on the former Sheriff's records, the \$49,013 was never paid to the Fiscal Court.

The former Sheriff should have eliminated the deficit of \$112,889 in his official 2011 Fee Account. The former Sheriff had a deficit of \$112,889 in his official 2011 Fee Account that has not been rectified. This deficit was attributed to the following:

- (a) Poor and inaccurate records as noted in 2011-01 of the 2011 audit report, which resulted in a deficit of \$28,868 as of December 31, 2011. The former Sheriff did not open a new bank account for his calendar year 2012 Fee Account, which led to \$28,868 of 2012 receipts being used for 2011 disbursements.
- (b) 2011 payroll liabilities due the Fiscal Court in the amount of \$65,275;
- (c) An overpayment of commissions due to the 2011 Tax Account in the amount of \$28,252;
- (d) In addition to the above, the Fee Account is due \$8,987 from the Fiscal Court for an excess fee payment made on January 9, 2012 in error.
- (e) Disallowed expenditures totaling \$519 as noted in 2011-03 of the 2011 audit report have not been repaid by the former Sheriff.

As noted in 2011 audit report, the former Sheriff failed to maintain accurate receipts and disbursements ledgers along with accurate monthly bank reconciliations. Accurate records, along with the reconciliation of these records, would have prevented this deficit from occurring. KRS 68.210 gives the Department for Local Government the authority to require a uniform system of accounts. Maintaining a balanced budget is included in the requirements for a fee official. We recommend the former Sheriff consult with the Fiscal Court and County Attorney to determine how to eliminate this deficit.

Former Sheriff's response: The Former Sheriff did pay these amounts and the money was intentionally misappropriated by the Fiscal Court. In regards to disallowed expenditures totaling \$519 were expenditures made by former deputies or court security of whom he had no managerial control over.

Auditor reply: Based on the former Sheriff's records, the \$112,889 deficit was never paid to the Fiscal Court. Additionally, the former Sheriff is responsible for any expenditure made out of his official fee account; therefore, he is responsible for disallowed expenditures.

The former Sheriff should have collected receivables and paid liabilities from his 2012 Fee Account as determined by prior year audit. Based on our audited financial statement, additional excess fees of \$27,312 are due to the Fiscal Court. The Department for Local Government, given the authority by KRS 68.210, requires a Uniform System of Accounts, which includes the proper collection of receivables and the distribution of fees to the appropriate entity. The former Sheriff failed to implement prior year recommendations, resulting in the former Sheriff being unable to close his 2012 Fee Account. We recommend the former Sheriff ensure the receivables and

liabilities on the “determination of fund balance” shown below are collected and remitted to the appropriate entity. We further recommend the former Sheriff pay the additional excess fees of \$27,312 due to the Fiscal Court.

DETERMINATION OF FUND BALANCE			
Cash in Bank		\$7,466.39	
Deposits in Transit		18,863.90	
Receivables Per Bank Statement		16,532.61	
Receivables Collected After Audit		33,669.12	
Receivables To Be Collected:			
Forest Service -	August Reimbursement	\$ 1,262.50	
2011 Tax Account -	Payment Error	1,544.04	
2012 Tax Account -	Tax Commissions due	1,008.19	
2011 Tax Account -	Commission due per 2011 Tax Settlement	9,653.54	
2011 Tax Account -	Add On Fees due	12,089.92	
2011 Fee Account -	Expenditures Paid From Wrong Account	28,868.00	
Fiscal Court -	Forfeiture Money Paid as Excess Fees	878.05	
Sheriff Denny Peyman -	Undeposited Revenues	564.82	
Sheriff Denny Peyman -	Disallowed Expenditures	398.18	<u>56,267.24</u>
	Total Assets		\$ 132,799.26
Outstanding Checks		34,893.98	
Liabilities To Be Paid:			
Forfeiture Account -	Deposited Into Wrong Account	\$ 878.05	
Kyle Martin - Deputy 1	September Net Pay due	145.79	
Jamie Etherton - Deputy 2	Partial September Net Pay due	369.47	
Ky Retirement System	Withholdings for September 2012	1,252.62	
Federal	Withholdings for September 2012	1,669.55	
Medicare	Withholdings for September 2012	434.85	
State of Kentucky	Withholdings for September 2012	868.16	
City of McKee	Withholdings for September 2012	251.81	
Occupational Tax	Withholdings for September 2012	158.78	
Jackson Co. Fiscal Court	Employee Dental, Vision & Life Ins.	1,277.98	
Ky Dept. for Unemployment	Employer Share for September 2012	99.53	
Medicare	Employer Share for September 2012	286.13	
State of Kentucky	Employer Share for September 2012	425.01	
Jackson Co. Fiscal Court	Salaries Before Fee Pooling	62,475.43	<u>70,593.16</u>
	Total Liabilities		<u>\$ 105,487.14</u>
	Fund Balance (2012 Excess Fees)		<u><u>\$ 27,312.12</u></u>

Former Sheriff's response: The Former Sheriff did pay this amount and the money was intentionally misappropriated by the Fiscal Court.

Auditor reply: Based on the former Sheriff's records, this amount was never paid to the Fiscal Court.

The former Sheriff should require depository institutions to pledge or provide sufficient collateral to protect deposits. On December 5, 2013, \$513,115.12 of the former Sheriff's deposits of public funds in depository institutions were uninsured and unsecured. According to

KRS 66.480(1)(d) and KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with Federal Deposit Insurance Corporation insurance, equals or exceeds the amount of public funds on deposit at all times. The former Sheriff and Depository Institution had a written agreement stating the Depository Institution would provide adequate collateral to protect the former Sheriff's deposits. Even though this written agreement existed, the Depository Institution did not provide enough collateral. We recommended the former Sheriff require the Depository Institution to pledge or provide collateral in an amount sufficient to secure deposits of public funds at all times.

Former Sheriff's response: The Former Sheriff followed all the laws in this regards. The Depository Institution failed to comply with the written agreement.

The former Sheriff should publish information required by KRS 91A.040. The former Sheriff did not publish the information required in relation to the fee audit for calendar year 2012. Failure to publish the required information results in noncompliance with state law. KRS 91A.040 requires county officials to publish portions of the audit reports and the accompanying statements within 30 days of the release of the audit report:

- The auditor's opinion letter. This letter is published by APA when audit is released, so former Sheriff will not have to re-publish, just needs to ensure it was published.
- A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at the Sheriff's office and is available for public inspection during normal business hours.
- A statement that any citizen may obtain from the Sheriff a copy of the complete audit report, including financial statements and supplemental information, for his personal use.
- A statement which notifies citizens requesting a personal copy of the audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents (\$0.25) per page.
- A statement that copies of the financial statement prepared in accordance with KRS 424.220 is available to the public at no cost at the business address of the officer responsible for preparation of the statement.

We recommend the former Sheriff publish required portions of his audit report for the fee account for calendar year 2013 along with the required accompanying statements within 30 days after the audit is released.

Former Sheriff's Response: This information was published in the local newspaper.

Auditor reply: Auditor's were not given, nor found, any evidence this information was published within 30 days.

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](#).

###

The Auditor of Public Accounts ensures that public resources are protected, accurately valued, properly accounted for, and effectively employed to raise the quality of life of Kentuckians.

Call 1-800-KY-ALERT or visit our website to report suspected waste and abuse.

