



Auditor of Public Accounts
Adam H. Edelen

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

Edelen Releases Audit of Magoffin County Sheriff's Office

FRANKFORT, Ky. – State Auditor Adam Edelen today released the audit of the 2013 financial statement of Magoffin County Sheriff Carson Montgomery. 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.

The audit will be referred to the Internal Revenue Service, the Kentucky Department of Revenue, and the Attorney General.

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 Magoffin County Sheriff in accordance with generally accepted accounting principles in the United States. The report found that the financial statement of the Sheriff 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 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 Sheriff's should comply with the Uniform System of Accounts. The Sheriff's 4th Quarter Report was not accurate and did not include any funds received or expended after December 31, 2013. Receipts of \$21,379 and expenditures of \$74,423 were not posted and included on the financial statement or ledgers. Without the inclusion of these, receipts and expenditures do not agree to the bank activity. In addition, there were numerous items posted to inappropriate accounts.

Multiple year audit findings represent 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 Sheriff failed to comply with the minimum requirements of the Uniform System of Accounts in the following areas:

- Annual financial statement was not prepared accurately or presented to the fiscal court.
- Quarterly reports were not submitted to the Department for Local Government as required.
- Complete and accurate receipt and disbursement ledgers were not properly maintained.

Inaccurate financial reporting to the Department for Local Government, Fiscal Court, and auditors is due to insufficient attention to detail and a lack of review of the reports and ledgers for accuracy. The 4th Quarter Report is intended to be an accurate reflection of the financial position of the Sheriff's office for the calendar year ended. The 4th Quarter Report should include all receipts and disbursements for the year, and agree to the reconciled bank balance. Failure to complete these tasks results in inadequate oversight and accountability over financial activity as well as increases the risk that errors and/or fraud will occur and go undetected. We recommend the Sheriff meet the minimum requirements of accountability for compliance with the Uniform System of Accounts.

Sheriff's response: The new office manager will be preparing an annual settlement and present it to the fiscal court. Quarterly reports are now being submitted timely.

The Sheriff did not remit payroll withholding funds to proper agencies. The Sheriff withheld payments from employee payroll checks for FICA, Retirement, Federal, and State withholdings as required. However, the Sheriff did not remit these employee withholdings to the appropriate agencies. In addition, the Sheriff did not provide the required employer matching funds for FICA and retirement withholdings. As of September 5, 2014, the Sheriff owes the Internal Revenue Service \$31,096 for FICA withholdings, matching funds, and federal withholdings. The Sheriff owes the Magoffin County Fiscal Court \$16,373 for retirement withholdings funds payable to County Employees Retirement System and \$640 for payroll taxes withholdings.

KRS 141.330 states employer shall, on or before the last day of the month following the close of each quarterly period, pay over to the department the tax required to be withheld. Title 26 of the *United States Code* outlines requirements for FICA withholding and matching requirements in addition to federal withholding requirements. 103 KAR 18:010 requires all employers to deduct, withhold, and pay to the state taxes required to be withheld.

Failure to remit these payments can result in significant financial penalties to the Sheriff as well as reduce the employees' years of service credit and financial contributions used to calculate retirement benefits. After the Sheriff collects additional receivables, we recommend the Sheriff make these payments immediately and also contact each agency for assistance in calculating penalties and interest accrued on the late payments. These penalties and interest cannot be paid from the fee account and if any are assessed should be paid from personal funds of the Sheriff.

We will refer this issue to the Internal Revenue Service, the Kentucky Department of Revenue, and the Attorney General.

Sheriff's response: Payroll withholdings are being paid to proper agencies.

The Sheriff should only expend funds for allowable purposes. During our review of expenditures, we noted the Sheriff expended \$41 for disallowed items. These items consisted of the following:

- A donation of \$41 was made.

In Funk v. Milliken, 317 S. W. 2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature. We recommend that the Sheriff reimburse the 2013 Fee Account \$41 from his personal funds for these disallowed expenditures. Furthermore, we recommend that the Sheriff only expend funds for allowable purposes.

Sheriff's response: This was an error made and monies will be forwarded from the Sheriff's personal funds to refund the \$41.00.

The Sheriff's office lacks adequate segregation of duties. A lack of adequate segregation of duties exists over all accounting functions. During our review of internal controls, we noted the Sheriff's bookkeeper is responsible for opening incoming mail, receiving and recording cash, preparing of bank deposits, posting to the receipts and disbursements ledgers, and preparing financial reports. A limited budget places restrictions on the number of employees the Sheriff can hire. When faced with a limited number of staff, strong compensating controls should be in place to offset the lack of segregation of duties.

A segregation of duties over various accounting functions, such as opening mail, recording cash, preparing bank deposits, posting transactions to ledgers, and preparing financial reports or the implementation of compensating controls, when needed because the number of staff is limited, is essential for providing protection from asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their responsibilities.

To adequately protect against misappropriation of assets and/or inaccurate financial reporting, the Sheriff should separate the duties involving the opening of mail, depositing of cash, posting of transactions to the ledgers, and preparing financial reports. If, due to a limited number of staff, that is not feasible, strong oversight over these areas should occur and involve an employee not currently performing any of those functions. Additionally, the Sheriff could provide this oversight. If the Sheriff does implement compensating controls, these should be noted on appropriate source documentation.

Sheriff's response: We now have a new office manager who is overseeing all the problems identified.

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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