

**REPORT OF THE AUDIT OF THE
FORMER WHITLEY COUNTY
SHERIFF**

**For The Year Ended
December 31, 2009**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE FORMER WHITLEY COUNTY SHERIFF

**For The Year Ended
December 31, 2009**

The Auditor of Public Accounts was engaged to audit the statement of revenues, expenditures, and excess fees - regulatory basis of the former Whitley County Sheriff's Office for the year ended December 31, 2009. As a result of this engagement we have issued a disclaimer of opinion.

Report Comments:

- 2009-01 The Former Sheriff Did Not Maintain Accurate Accounting Records And Account For All Receipts In The Appropriate Year
- 2009-02 The Former Sheriff Lacked Adequate Internal Controls Over Overtime And Holiday Pay
- 2009-03 The Former Sheriff Expended \$62,760 For Vehicle Repairs And Maintenance That Auditors Question As Reasonable And Necessary Expenses
- 2009-04 The Former Sheriff Improperly Disposed Of A County Vehicle
- 2009-05 The Former Sheriff Should Have Provided Adequate Oversight For All Fuel Purchases Made With Credit Cards
- 2009-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting Functions
- 2009-07 All Whitley County Assets Should Be Titled In The Name Of The County
- 2009-08 The Former Sheriff Did Not Take Proper Corrective Action For A Prior Year Finding
- 2009-09 The Former Sheriff Expended Seized Assets Prior To Forfeiture By The Court And Has Not Paid Amounts Due Others From Forfeitures
- 2009-10 The Former Sheriff Had Disallowed Expenditures Of The Drug And Alcohol Account
- 2009-11 The Former Sheriff Did Not Maintain Proper Documentation For Receipts And Disbursements Of The Drug And Alcohol Account
- 2009-12 The Former Sheriff Should Submit Additional Excess Fees To The Fiscal Court

Deposits:

The Sheriff's deposits were insured and collateralized by bank securities or bonds.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Pat White, Jr., Whitley County Judge/Executive
The Honorable Lawrence Hodge, Former Whitley County Sheriff
The Honorable Colan Harrell, Whitley County Sheriff
Members of the Whitley County Fiscal Court

Independent Auditor's Report

We were engaged to audit the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the former Sheriff of Whitley County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the former Sheriff.

As further explained in the accompanying comments and recommendations, the former Whitley County Sheriff did not maintain adequate accounting records of fee account revenues and expenditures for the 2009 calendar year. The former Sheriff's financial records do not permit the application of other auditing procedures to the fee account revenues and expenditures. In addition, we were not provided with a management representation letter from the former Sheriff or a legal representation letter from the County Attorney.

Since we were unable to obtain management and legal representation letters as required by auditing standards, the former Whitley County Sheriff did not maintain adequate accounting records, and we were unable to apply other auditing procedures to satisfy ourselves as to the validity of fee account revenues and expenditures, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the former Sheriff's statement of revenues, expenditures and excess fees - regulatory basis for the 2009 calendar year.

In accordance with Government Auditing Standards, we have also issued our report dated March 25, 2011 on our consideration of the former Whitley County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is 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. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Pat White, Jr. Whitley County Judge Executive
The Honorable Lawrence Hodge, former Whitley County Sheriff
The Honorable Colan Harrell, Whitley County Sheriff
Members of the Whitley County Fiscal Court

We also present the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2009-01 The Former Sheriff Did Not Maintain Accurate Accounting Records And Account For All Receipts In The Appropriate Year
- 2009-02 The Former Sheriff Lacked Adequate Internal Controls Over Overtime And Holiday Pay
- 2009-03 The Former Sheriff Expended \$62,760 For Vehicle Repairs And Maintenance That Auditors Question As Reasonable And Necessary Expenses
- 2009-04 The Former Sheriff Improperly Disposed Of A County Vehicle
- 2009-05 The Former Sheriff Should Have Provided Adequate Oversight For All Fuel Purchases Made With Credit Cards
- 2009-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting Functions
- 2009-07 All Whitley County Assets Should Be Titled In The Name Of The County
- 2009-08 The Former Sheriff Did Not Take Proper Corrective Action For A Prior Year Finding
- 2009-09 The Former Sheriff Expended Seized Assets Prior To Forfeiture By The Court And Has Not Paid Amounts Due Others From Forfeitures
- 2009-10 The Former Sheriff Had Disallowed Expenditures Of The Drug And Alcohol Account
- 2009-11 The Former Sheriff Did Not Maintain Proper Documentation For Receipts And Disbursements Of The Drug And Alcohol Account
- 2009-12 The Former Sheriff Should Submit Additional Excess Fees To The Fiscal Court

This report is intended solely for the information and use of the former Sheriff and Fiscal Court of Whitley County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

March 25, 2011

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

Federal Grants

U.S. Corp. of Engineers	\$ 3,410	
U.S. Department of Forestry	5,000	\$ 8,410

State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)		41,193
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State Fees For Services:

Finance and Administration Cabinet	34,948	
Cabinet For Health And Family Services	23,243	58,191

Circuit Court Clerk:

Fines and Fees Collected	2,090	
Court Ordered Payments	610	2,700

Fiscal Court

Contributions	423,278	
Transports	27,208	450,486

County Clerk - Delinquent Taxes		66,619
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Commission On Taxes Collected		296,894
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Fees Collected For Services:

Auto Inspections	9,970	
Accident and Police Reports	2,136	
Serving Papers	55,760	
Carrying Concealed Deadly Weapon Permits	9,380	
School Resource Officer	38,873	
Transporting Prisoners	7,218	

Other:

Tax Penalty - \$5 Advertising Fee	6,425	
Tax Penalty - 10% Fee	36,294	
Miscellaneous	2,678	168,734

Interest Earned		4,733
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The accompanying notes are an integral part of this financial statement.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2009
(Continued)

Revenues (Continued):

Borrowed Money:

State Advancement	\$	140,000	
Bank Note		125,500	\$ 265,500

Total Revenues 1,363,460

Expenditures

Operating Expenditures:

Personnel Services-

Deputies' Salaries	\$	459,798
KLEFPF Salaries		31,922
Other Salaries		300

Employee Benefits-

Employer's Share Social Security		41,581
Employer's Share Retirement		24,783
Employer's Share Hazardous Duty Retirement		111,989
Employer Paid Health Insurance		79,629
Employee Dental Insurance		3,559

Contracted Services:

Advertising		230
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Auto Expense-

Gasoline		73,368
Vehicle Maintenance and Repairs		62,760

Supplies and Materials:

Office Materials and Supplies		5,968
Uniforms		6,198

Other Charges:

Dues		1,508
Postage		1,313
Bond		964
Miscellaneous		2,079
Storage		700
Radio/Camera/Supplies		525
Prisoner Blood Kit		125
Evidence Supplies		268
Summons Other Counties		80

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

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2009
(Continued)

Expenditures (Continued)

Operating Expenditures: (Continued)

Other Charges: (Continued)

Cell Phones	\$	2,897	
Transports		<u>9,564</u>	\$ 922,108

Debt Service:

State Advancement		140,000	
Notes		125,500	
Bank Note Fees		500	
Interest		<u>4,954</u>	<u>270,954</u>

Total Expenditures			<u>\$ 1,193,062</u>
Net Revenues			170,398
Less: Statutory Maximum			<u>84,663</u>
Excess Fees			85,735
Less: Training Incentive Benefit			<u>3,528</u>
Excess Fees Due County for 2009			82,207
Payment to Fiscal Court - February 12, 2010		40,624	
Payment to Fiscal Court - April 5, 2010		<u>19,239</u>	<u>59,863</u>
Balance Due Fiscal Court at Completion of Audit			<u><u>\$ 22,344</u></u>

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

WHITLEY COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2009

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 revenues over expenditures 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 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures 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 2009 services
- Reimbursements for 2009 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2009

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

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, 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).

WHITLEY COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that 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.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months of the year.

Hazardous covered employees are required to contribute 8 percent of their salary to the plan. Hazardous covered employees who begin participation on or after September 1, 2008, are required to contribute 9 percent of their salary to the plan. The county's contribution rate for hazardous employees was 29.5 percent for the first six months and 32.97 percent for the last six months.

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 (members 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.

Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55. For hazardous employees who begin participation on or after September 1, 2008, aspects of benefits include retirement after 25 years of service or the member is age 60, with a minimum of 60 months of service credit.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The former Whitley 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(4), 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.

WHITLEY COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 3. Deposits (Continued)

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 former Whitley County Sheriff did not have a deposit policy for custodial credit risk but rather followed the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Bank Loans

- A. The Sheriff received a bank loan of \$70,250 on January 8, 2009 for the purpose of Operating Expense. The terms of the loan agreement required one (1) payment of \$72,626 on October 8, 2009. The Sheriff paid a total of \$70,250 of principal and \$2,376 of interest in three payments. As of December 31, 2009 the balance of the loan was zero.
- B. The Sheriff received a bank loan of \$55,250 on February 4, 2009 for the purpose of operating expense. The terms of the loan agreement required one (1) payment of \$57,828 on February 4, 2010. The Sheriff paid a total of \$55,250 of principal and \$2,578 in two payments. As of December 31, 2009 the balance of the loan was zero.

Note 5. Drug and Alcohol Account

Under the terms mandated by the Commonwealth of Kentucky, the Whitley County Sheriff received proceeds from the confiscation, surrender, or sale of real and personal property involved in drug related convictions. These funds are to be used exclusively for direct law enforcement activities and are not considered part of excess fees. The beginning balance as of January 1, 2009 was \$7,014, which was revised to include prior year receivables and liabilities. Receipts and expenditures were \$16,073 and \$19,534, respectively, leaving a bank balance as of December 31, 2009 of \$3,553. Additionally, this account has uncollected receivables of \$1,750 and unpaid liabilities of \$5,442 from prior years transactions. As of December 31, 2009 the adjusted book balance for this account reflected a deficit of \$139.

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



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Pat White, Jr., Whitley County Judge/Executive
The Honorable Lawrence Hodge, Former Whitley County Sheriff
The Honorable Colan Harrell, Whitley County Sheriff
Members of the Whitley 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**

We were engaged to audit the statement of revenues, expenditures, and excess fees - regulatory basis of the former Whitley County Sheriff for the year ended December 31, 2009, and have issued our report thereon dated March 25, 2011 wherein we disclaimed an opinion on the financial statement because the former Sheriff failed to maintain adequate accounting records and we were not provided management and legal representation letters. We conducted our audit 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.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Whitley County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures 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 Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the former Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as described in the accompanying comments and recommendations, we identified a certain deficiency in internal control over financial reporting that we consider to be a material weakness and other deficiencies that we consider to be significant deficiencies.

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 statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying comments and recommendations as items 2009-01 and 2009-06 to be material weaknesses.



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)

Internal Control Over Financial Reporting (Continued)

A significant deficiency is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompanying comments and recommendations as items 2009-02, 2009-05, 2009-11, and 2009-12 to be significant deficiencies.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the former Whitley County Sheriff's financial statement for the year ended December 31, 2009, 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 comments and recommendation as items 2009-03, 2009-04, 2009-07, 2009-08, 2009-09, 2009-10, and 2009-12.

This report is intended solely for the information and use of management, the Whitley County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

March 25, 2011

COMMENTS AND RECOMMENDATIONS

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2009

FINANCIAL STATEMENT FINDINGS:

2009-01 The Former Sheriff Did Not Maintain Accurate Accounting Records And Account For All Receipts In The Appropriate Year

The former Sheriff did not maintain accurate financial records for the 2009 fee account. In addition, the former Sheriff deposited 2009 fee receipts to the 2008 tax account. During our testing of receipts and disbursements we noted the following known errors:

- \$447 of calendar year 2008 receipts for transports were deposited to the 2009 fee account and posted to the 2009 receipts ledger. These funds were subsequently transferred to the 2008 fee account but were not adjusted off the 2009 receipts ledger.
- \$7,914 of tax commissions and a telecom payment due the 2009 fee account were deposited to the 2008 fee account and posted to the 2008 fee account. The former Sheriff was advised of this in the prior year audit but did not correct this finding.
- An additional \$161 due from the 2008 tax account was not posted to the receipts ledger.
- \$28 due from the 2009 tax account for commissions was not posted to the 2009 receipts ledger.
- \$400 of 2009 fee receipts for serving papers were deposited to the 2008 tax account. These were not recorded in the receipts ledger for 2009.
- \$4,362 due the 2009 fee account from the 2008 tax account for Sheriff's 10% Add-on fees were not posted to the receipts ledger.
- A \$10 posting error was made for miscellaneous receipts.
- A total of \$192 in cold check fees collected for returned checks for the 2009 fee and 2008 tax accounts were not posted to the receipts ledger.
- Bank note origination fees of \$500 for bank loans were borrowed and repaid but were not posted to the former Sheriff's 2009 receipts or disbursements ledgers.
- Additional interest earned on the 2009 fee account balance totaling \$34 and additional interest due from the 2008 tax account totaling \$1,250 was not posted to the receipts ledger.
- Two checks were incorrectly posted to the disbursements ledger by \$172.
- A bank service charge for \$9 was not posted to the disbursements ledger.
- Unexplained adjustments of \$438 and \$25 were made to the receipts and disbursements ledgers for agreement to the bank totals.

In addition, auditors made numerous reclassifications to receipts and noted that several postings to the receipts ledger were made after the fourth quarter financial statement was prepared. Adjustments were also made for refunded expenditures.

Total receivables due the 2009 fee account as noted above are \$14,266.

We recommend the former Sheriff make the necessary transfers from the appropriate tax and fee accounts to the 2009 fee account to correct the deposit errors and undistributed commission, interest and penalties as stated above.

Former Sheriff's Response: The former Sheriff did not respond.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-02 The Former Sheriff Lacked Adequate Internal Controls Over Overtime And Holiday Pay

During our testing of payroll we noted the following:

- For the pay period tested, six out of thirteen (6 of 13) deputies did not sign their timesheets.
- Full time employees were treated as salaried workers and received the same wages each pay period regardless of hours worked. Time sheets did not document lunch periods or additional hours for holidays worked.

The former Sheriff previously stated that he followed the Whitley County Personnel Policy Manual. The County personnel policy manual states, "Full time employees that are scheduled to work on News Years, Thanksgiving Day, Christmas Eve, and Christmas Day shall receive their regular rate of pay and Holiday Pay for these holidays." Also according to Federal wage and hour guidelines, only the former Sheriff's Chief Deputy could have been considered a salaried employee.

Per the former Sheriff's bookkeeper, office employees and deputies took working lunches and additional hours or days off when they worked overtime or holidays. However, the former Sheriff did not maintain any evidence to support that statement. Since no evidence was available, auditor could not determine if overtime or holiday wages were properly calculated.

Former Sheriff's Response: The former Sheriff did not respond.

2009-03 The Former Sheriff Expended \$62,760 For Vehicle Repairs And Maintenance That Auditors Question As Reasonable And Necessary Expenses

The former Sheriff did not properly account for vehicle repair disbursements and auditors are questioning \$62,760 as reasonable and necessary expenditures. The following was noted during testing of the invoices:

- The former Sheriff purchased twenty-four (24) sets of four (4) tires and three (3) pairs of two (2) tires. Based on the mileage recorded on the invoices, four (4) sets were for vehicles with less than 10,000 miles on the current tires. Auditors were unable to determine, with certainty, how many vehicles were in use during 2009. (See comment 2009-07). Based on a review of fuel charged in October 2009, 16 individuals charged for fuel, with two considered special deputies. The fuel card statement, however, did not include any type of identification on 14 of the vehicles driven, only the individual's name and card #. The other two only included a description listed as Crown Vic.
- Ten (10) invoices, totaling \$4,652, show repairs and maintenance performed on a vehicle which had been sold in 2004. Those invoices show several different deputies signatures approving the service orders.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-03 The Former Sheriff Expended \$62,760 For Vehicle Repairs And Maintenance That Auditors Question As Reasonable And Necessary Expenses (Continued)

- The former Sheriff made fourteen (14) payments totaling \$62,759 for vehicle repairs and maintenance during 2009. Twelve (12) of these payments totaling \$62,033 were made to the same vendor. This represents a 32% increase over the prior year.
- Based on the invoice dates, ten (10) of the payments were not made within thirty days but the company did not charge any finance charges.
- There was no evidence the former Sheriff advertised for bids on annual auto expense.

In Funk v. Miliken, 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. Many of these expenditures appear to be unnecessary and unreasonably excessive.

We recommend the former Sheriff consult with the fiscal court to determine the reasonableness and necessity of these expenditures. If the fiscal court deems the expenditures unnecessary and unreasonable, they will become disallowed expenditures subject to reimbursement by the former Sheriff personally. The \$62,760 would then be turned over to the fiscal court as excess fees.

Former Sheriff's Response: The former Sheriff did not respond.

2009-04 The Former Sheriff Improperly Disposed Of A County Vehicle

The former Sheriff did not follow proper procedures as outlined in the County Administrative Code when disposing of a surplus vehicle. On April 28, 2009, the former Sheriff accepted \$275 as payment for a vehicle and deposited the funds into the 2009 Fee account. The individual who purchased the vehicle is the same vendor who received \$62,033 from the former Sheriff for vehicle repair and maintenance (See Comment 2009-3). The memo section on the check from the individual who originally paid the sheriff stated the vehicle was purchased for parts. However, no evidence was found this vehicle had been declared a surplus vehicle by the Fiscal Court.

Based on information obtained through the Automated Vehicle Identification System (AVIS) in the County Clerk's office, the book value of this vehicle at the time of disposal was \$4,225.

In addition, we found the vehicle was not transferred to the individual from whom the Sheriff received the \$275 payment. Documents from the County Clerk's office filed when the vehicle was transferred showed the Sheriff originally signed the back of the title transferring the vehicle to that individual but later signed an affidavit of correction stating the vehicle was actually sold to someone else. The registration documentation dated June 30, 2009, for the person to whom the car was actually transferred indicated the sale price was \$1,500. This was \$1,225 more than amount deposited into the fee account. This finding will be referred to the Whitley County Attorney.

Former Sheriff's Response: The former Sheriff did not respond.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-05 The Former Sheriff Should Have Provided Adequate Oversight For All Fuel Purchases Made With Credit Cards

During the test of credit card fuel purchases, auditors were provided a copy of a statement from the vendor which details each employee's name along with their purchases including time, amount and odometer reading, from which payment was made. The former Sheriff previously stated he required deputies to retain the original invoices for fuel purchases. However, for the month tested, October 2009, there were eighteen (18) unsubstantiated fuel charges totaling \$578. These fuel purchases were made by five (5) deputies and the former Sheriff. It is important to note that one of the deputies did not have invoices to substantiate any of his fuel charges.

Auditors also noted there were seven unusual charges. On 10/12/09 the former Sheriff made two fuel purchases 1 minute apart. On 10/23/09 a deputy made two fuel purchases 4 minutes apart. On 10/26/09 another deputy made two fuel purchases 5 minutes apart. And on 10/02/09 a deputy had a „grocery“ charge of \$3. There were no notations on the original invoices or the statement to explain these unusual charges.

Former Sheriff's Response: The former Sheriff did not respond.

2009-06 The Former Sheriff's Office Lacked Adequate Segregation Of Duties Over Accounting Functions

During review of internal controls, we noted the former Sheriff's bookkeeper received and recorded cash, opened and processed mail, prepared daily checkout sheets, made daily bank deposits, prepared and posted disbursement checks, reconciled bank records to the ledgers and prepared all monthly reports. The former Sheriff did not provide oversight or any type of compensating controls to offset this.

Because of a lack of segregation of duties, and because the former Sheriff did not provide strong oversight over the office, the following occurred:

- The Former Sheriff Did Not Maintain Accurate Accounting Records And Did Not Account For All Receipts In The Appropriate Year
- The Former Sheriff Lacked Adequate Internal Controls Over Overtime and Holiday Pay
- The Former Sheriff Did Not Maintain Proper Documentation For Receipts And Disbursements of The Drug And Alcohol Account

A segregation of duties over the various accounting functions or the implementation of strong compensating controls when 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 daily responsibilities.

Former Sheriff's Response: The former Sheriff did not respond.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-07 All Whitley County Assets Should Be Titled In The Name Of The County

During our review of prior year audit findings, the auditors noted that the vehicles purchased were titled in the name of the Whitley County Sheriff. According to the Automated Vehicle Identification System (AVIS) in the County Clerk's office, 14 of the 28 cars insured by the Fiscal Court were registered to the Whitley County Sheriff's Department. In addition to the previously mentioned vehicles, we found 19 additional vehicles, 14 vehicles registered to the Whitley County Sheriff's Department and 5 registered to the Whitley County Fiscal Court, which were not insured during 2009. Auditors were able to determine that 16 of the cars that were not insured were wrecked. The other 3 were old and are presumed junked since the Sheriff's Department or Fiscal Court had no documentation for these.

The Whitley County Fiscal Court maintained automotive insurance on the Sheriff's Department vehicles. In addition, the Fiscal Court contributed a substantial amount of funds to the former Sheriff's office. Without those contributions, the vehicle purchases would not have been possible. Therefore, we consider these vehicles as being purchased with county funds. All purchases made with county funds should be held in the name of the Whitley County Fiscal Court.

The Sheriff should have titled vehicles, and any other property, purchased with county funds in the name of the county.

Former Sheriff's Response: The former Sheriff did not respond.

2009-08 The Former Sheriff Did Not Take Proper Corrective Action For A Prior Year Finding

As of December 22, 2010 the former Sheriff had not taken proper corrective action for a prior year finding.

In the prior year audit, we reported the former Sheriff under-reported earned income for two (2) employees by a total of \$11,603. We recommended the former Sheriff issue amended Federal Wage and Tax Statements (form W-2) for these employees and submit an amended summary of total wages paid to the IRS, the Kentucky Revenue Department, and the Whitley County Occupational Tax Office. In addition, we listed the employer's share of Social Security totaling \$888 for these unreported wages as an unpaid liability of the 2008 fee account. No corrective action has been taken for one of the two employees.

The former Sheriff prepared an amended W-2 form for the other employee, thus reporting \$10,686 of the previously unreported amount and remitted the correct amount for the employer's share of social security taxes to the Internal Revenue Service. The employee should have then paid all additional amounts due for the employee share of Social Security as well as all federal, state, and local taxes due. However, the former Sheriff remitted a total of \$2,471 from the 2008 fee account for this employee's additional payroll taxes due. The employee portions incorrectly paid from the 2008 fee account were as follows: \$1,938 to the IRS for Social Security and federal income taxes due, \$426 to the Kentucky State Treasurer for state income taxes due, and \$107 to Whitley County Occupational Tax for local payroll taxes due.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-08 The Former Sheriff Did Not Take Proper Corrective Action For A Prior Year Finding
(Continued)

The employee who originally received the salary should have personally remitted these withholdings since she received credit for them on the amended W-2 and was originally paid the gross amount of the salary payments. It should be noted that this individual is no longer an employee of the sheriff's office. The former Sheriff should have ensured the 2008 fee account was reimbursed by the employee for the employee's portion of all taxes due. We recommend the former Sheriff collect \$2,471 from the employee and deposit it into the 2008 fee account or deposit personal funds of \$2,471 if he is unable to collect from the employee. Please note auditors previously reported a known cumulative deficit of \$15,054 for the 2007/2008 fee accounts (former Sheriff used one bank account). The known cumulative deficit is now \$17,525.

Former Sheriff's Response: The former Sheriff did not respond.

2009-09 The Former Sheriff Expended Seized Assets Prior To Forfeiture By The Court And
Has Not Paid Amounts Due Others From Forfeitures

As of December 31, 2008, the former Sheriff's drug and alcohol account had a balance of \$7,014.

From the prior year audits, auditors recommended the former Sheriff transfer \$350 from the 2005 tax account and \$1,400 from the 2007 tax account and pay liabilities totaling \$5,442 (\$5,407 due to the Office of the Attorney General for the County Attorney's portion of the sale of forfeited assets and \$35 due to a defendant). As of December 31, 2009, the former Sheriff had not transferred these funds or paid these liabilities. If the former Sheriff had transferred all amounts due from other accounts and paid all known liabilities, he would have had a total of \$3,322 in his drug and alcohol account at December 31, 2008. However based on available records, this account should have had a balance of at least \$8,810 on that date for known amounts which had been seized and deposited but had not yet been awarded to the Sheriff's office.

During calendar year 2009, of the \$8,810 discussed above, \$8,447 was subsequently awarded to the former Sheriff and the remaining \$363 was ordered to be returned to the defendant.

Also during calendar year 2009, the former Sheriff deposited \$16,073 to his drug and alcohol account and expended a total of \$19,534. Included in the amount deposited were two (2) seizures totaling \$2,228 of which \$734 was ordered to be refunded to the defendant. The remaining \$1,494 had not been adjudicated as of December 31, 2009. If the former Sheriff had transferred all amounts due from other accounts and paid all liabilities due, including prior year amounts, he would have had a deficit of \$139 in his drug and alcohol account as of December 31, 2009. Based on available records, there should have been at least \$1,494 in the account for the seized funds not yet adjudicated.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-09 The Former Sheriff Expended Seized Assets Prior To Forfeiture By The Court And Has Not Paid Amounts Due Others From Forfeitures (Continued)

Per KRS 218A.415(2)(a) and (b), the Sheriff may take custody of and remove property seized to an appropriate location for disposition in accordance with the law. Once the seized property is forfeited by court order, then the Sheriff may retain the assets for official use or sell that which is not required to be destroyed by law.

We recommend the former Sheriff transfer \$350 from the 2005 tax account, \$1,400 from the 2007 tax account, deposit personal funds of \$5,176 (See Comment 2009-10) and \$1,950 (See Comment 2009-11), and pay amounts due others as noted above. The remaining balance should then be transferred to the new Sheriff.

Former Sheriff's Response: The former Sheriff did not respond.

2009-10 The Former Sheriff Had Disallowed Expenditures of The Drug And Alcohol Account

During the test of disbursements of the drug and alcohol account, auditors noted that between June 29, 2009 and July 20, 2009, \$5,176 was expended from the drug and alcohol account for custom imprinted items. The following items were purchased:

- 2,500 nail files imprinted with: "Sheriff Lawrence Hodge says „BE DRUG FREE“"
- 2,000 liter bags imprinted with: "Please help SHERIFF LAWRENCE HODGE CLEAN UP WHITLEY COUNTY"
- 2,000 pens imprinted with: "Whitley County Sheriff Lawrence Hodge Says, „Do the RIGHT thing“ STAY OFF DRUGS"
- 3,000 Halloween bags imprinted with: "WHITLEY COUNTY SHERIFF LAWRENCE HODGE SAYS „DON“T BE TRICKED INTO USING DRUGS.“"
- 3,000 Sheriff's badges imprinted with: "I'm a DRUG FREE Deputy for Sheriff Lawrence Hodge"
- 1,000 bracelets imprinted with: "Sheriff Lawrence Hodge says „BE DRUG FREE“"

In Funk vs. Milliken, 317 S.W.2d 499 (KY. 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses. Since these expenditures were for items that included the former Sheriff's name, they are considered personal in nature. In addition, since these purchases were made with funds due to others (See Comment 2009-9), we have disallowed these expenditures. We recommend the former Sheriff deposits personal funds of \$5,176 to reimburse the drug and alcohol account for these disallowed expenditures.

Former Sheriff's Response: The former Sheriff did not respond.

WHITLEY COUNTY
LAWRENCE HODGE, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2009-11 The Former Sheriff Did Not Maintain Proper Documentation For Receipts And Disbursements Of The Drug And Alcohol Account

During 2009, the former Sheriff did not maintain adequate documentation for receipts and disbursements of the drug and alcohol account. In prior years, the former Sheriff maintained a handwritten log explaining the purposes of the drug account disbursements. The bookkeeper stated that during 2009, the former Sheriff implemented the guidelines and forms to be utilized for Sheriffs' record keeping systems adopted by the Kentucky Sheriffs Association as recommended in the prior year audit. However, this information was not made available to auditors.

We noted twelve (12) checks totaling \$1,850 were issued to the former Sheriff and one (1) check for \$100 was issued to a deputy from the drug and alcohol account. These checks were cashed at local banks or businesses reportedly to be used for undercover operations, such as payments to informants or making drug and alcohol buys.

No signed documentation was made available to auditors to show the checks cashed were actually used for these purposes. In addition, no receipts or disbursements ledgers were maintained for the drug and alcohol account. As a result, we have disallowed the \$1,950 undocumented drug and alcohol account disbursements discussed above.

We recommend the former Sheriff reimburse the drug and alcohol account \$1,950 in personal funds.

Former Sheriff's Response: The former Sheriff did not respond.

2009-12 The Former Sheriff Should Submit Additional Excess Fees To The Fiscal Court

On February 16, 2010, the former Sheriff presented his annual settlement to the fiscal court for approval. Excess fees per the annual settlement were \$66,514 and the former Sheriff made a partial payment of \$40,624 with a check dated February 12, 2010. On April 5, 2010 the former Sheriff made an additional payment of \$19,239. The former Sheriff had enough funds remaining in his fee account to pay the remaining \$6,651 at that time.

Based on our audit, however, known excess fees for calendar year 2009 were \$82,207. Therefore, additional excess fees of \$22,344 are due to the fiscal court for calendar year 2009.

As stated in comment 2009-1, the former Sheriff's accounting records were not accurate. Receipts of the former Sheriff's office were often deposited into the wrong accounts. Auditors noted receivables of \$14,266 due the 2009 fee account. We have adjusted the 2009 fee receipts ledger for known errors and additional known amounts due but cannot be certain that all receipts have been properly accounted for.

We recommend the former Sheriff transfer additional amounts due the 2009 fee account from other fee and tax accounts and then pay the additional excess fee of \$22,344 to the fiscal court.

Former Sheriff's Response: The former Sheriff did not respond.

