

TO: Bourbon County Commissioners  
FROM: Tiana McElroy, Bourbon County Attorney *TM*  
DATE: December 13, 2022  
RE: Investigation of Bourbon County Sheriff Department Accounts



On the 29<sup>th</sup> day of July, 2022, the Bourbon County Commission held a special meeting that included Commissioner Jim Harris, Commissioner Clifton Beth (via cell phone), County Counselor Justin Meeks, Financial Director Susan Bancroft, Shane Walker, and this writer. The day prior, July 28, 2022, Susan Bancroft asked this writer if she was available for a special meeting at 1:30 on July 29<sup>th</sup>. This writer advised that she had a criminal docket with the district court judge at 1:30 on July 29<sup>th</sup>, but could meet earlier that same day. Susan Bancroft then advised this writer that the meeting would be held at 1pm on July 29, 2022. At that time, this writer was aware that the Financial Director was alleging violations by the Bourbon County Sheriff's Department, but was unaware that the meeting being held was a commission meeting and that it would ultimately be an executive session regarding an investigation into these accounts

On July 29<sup>th</sup>, prior to the start of the executive session, this writer was advised that the meeting would be an executive session to discuss the accounts held by the Bourbon County Sheriff's Department because Susan Bancroft believed that some of the accounts were in violation of statute and that there may be a possible misuse of funds from those accounts. This writer was told that an investigation would need to occur and that this writer would be in charge of the investigation unless she declined and sent the matter to the Attorney General's office. This writer went into the executive session with the aforementioned attendees and was tasked with the duty to conduct an investigation regarding the Bourbon County Sheriff Department's bank accounts and the use of monies from those accounts. The Commission granted \$50,000 for use in paying a forensic auditor to assist in the investigation.

Susan Bancroft provided this writer with the name of a forensic auditor in Kansas by the name of Scot Loyd. On the 2<sup>nd</sup> day of August, 2022, this writer contacted Mr. Loyd by telephone and explained the concerns of the Financial Director and the County Commissioners. This writer had a lengthy discussion with Mr. Loyd, who stated that he was essentially one of, if not the only, forensic auditor in Kansas and, as a result, he would not likely be able to begin the investigation until mid to late October 2022 if he agreed to investigate the matter. Shortly after the phone conversation, this writer forwarded information contained in an email in which Terry Sercer, the County Auditor, outlined his opinion regarding the Sheriff's accounts.

On August 11, 2022, Mr. Loyd emailed this writer advising that he had reviewed the information provided regarding the Sheriff's accounts and it was his opinion that there would be several other sheriffs in the state of Kansas that would have the same type of violations. He further indicated that he would be contacting the Kansas Association of Counties to see if he could get more information regarding potential violations of Kansas statutes, best practices for commissary funds, and would try to determine a good strategy for Bourbon County and the other 104 counties in Kansas which likely had the same issues.

This writer has practiced criminal law (violations of state statutes) for nearly 20 years. An investigation begins with a complaint and that complaint is investigated by proper authorities (sheriff, police department, highway patrol, KBI). The investigating agency interviews the complainant, any other potential witnesses who may have information, and the alleged violator(s). The agency gathers any necessary documents, photos, and other evidence. To ensure that there is no issue with tainting of evidence, the investigating agency keeps custody of original evidence (records, property, etc). Once the investigation is complete, the investigating agency submits a report (often several reports) to a prosecuting attorney for review to determine whether or not charges should be filed.

In this matter, the complainant was the Financial Director, Susan Bancroft, who made claims that the Bourbon County Sheriff's Department had accounts that were not under the Bourbon County Treasurer and that the accounts not being under the treasurer was a violation of Kansas statute. She also made statements about possible misuse of funds from those accounts – meaning that many accounts have statutory requirements as to how the money from the accounts can be used by the agency and Ms. Bancroft thought that the money may not have been used as required by statute.

As with any other investigation, this process began with a complaining witness and was then to be given to a forensic auditor for purposes of gathering information regarding the accounts as well as expenditures from the accounts. It is not, however, how the process actually occurred. During the pendency of the investigation, Susan Bancroft made KORA requests for some documents and proceeded to gather information that should have been handled solely by the auditor.

On November 7, 2022, Susan Bancroft asked this writer if she had time to meet. When this writer asked what Ms. Bancroft wanted to meet about, Ms. Bancroft stated that she wanted to discuss the audit and how Terry Sercer wanted to deliver the findings from the previous years since she (Susan Bancroft) did all the work. She further stated that Terry Sercer wanted to present her (Susan Bancroft's) findings to me in another report. When this writer questioned the matter further, Susan stated that "we were trying to keep me [Susan Bancroft] out of the line of fire having Terry do the report." This

writer responded that Susan's allegation that we were trying to keep her out of the line of fire by having Terry do the report was incorrect. This writer stated that we had talked to Terry about looking at prior years because the other forensic auditor (Scot Loyd) didn't seem like he would meet our needs and that it may save the County money by having him do the report for all prior years. Susan then advised that she had just spoken to Terry Sercer and that he didn't have time to audit the accounts for the prior years. She stated that she has already done all the work and that another individual named Cheyenne, could just be walked through everything and prepare a report. This writer advised that she would prefer someone without any prior connection to Bourbon County to conduct an investigation and prepare a report, and that this writer would seek another individual to do the investigation since Cheyenne had a prior connection to Bourbon County.

On November 9, 2022, Susan Bancroft contacted this writer and stated that the commissioners would like me to attend an executive session on Tuesday, November 15<sup>th</sup>. When this writer asked what the session is regarding, Susan stated that she wasn't sure, but that the commissioners were going to hire Cheyenne to do the audit and wanted to let me know. She stated that the commissioners asked her to recommend someone to do the audit for the prior years. She further stated that she knew nothing about my investigation because I wouldn't meet with her and that she would just tell the commissioners that I am unavailable for the executive session. This writer responded that I was, in fact, available and that Susan was not to tell the commissioners that this writer was not available for a meeting regarding the investigation.

On November 15, 2022, this writer requested an executive session with the 3 commissioners and the county counselor to discuss the investigation. This writer requested an executive session because, at this time, the matter was still an ongoing investigation and information had not yet been given to the public. At this meeting, this writer advised the commissioners that Susan Bancroft had immersed herself so deeply into the investigation that this writer had concerns about issues with prosecution of any statutory violations, if any, because Susan was a complaining witness and not an investigative official. Commissioner Blythe concurred with the fact that complaining witnesses should not be so involved in investigations.

This writer further told the commissioners that it was impossible to continue with the investigation since the Financial Director had become so involved in the investigative process and had, in fact, taken it upon herself to gather information she believed to be relevant. This writer advised that, should the commissioners wish to proceed with the investigation, they should talk to the KBI because that agency would have more distance from the Financial Director and would be able to conduct the

investigation without interference by the Financial Director who, to this writer's knowledge, is not certified or otherwise qualified to conduct a forensic audit. This writer also stated that the accounts in question had been initially established by a prior sheriff and, since the investigation began, had been moved to the treasurer as required by statute so the Bourbon County Sheriff was now in compliance with regard to his accounts. This writer further informed the commissioners that there was no documentation to support any allegations of misuse of funds. Finally, this writer advised that, since the Kansas Constitutional Amendment (Amendment 2) had been passed by voters, ouster proceedings were now the sole responsibility of the Attorney General and that the County Attorney no longer had any power to conduct any such proceedings – if that was how the commissioners wished to proceed. Commissioner Beth made comments indicating he did not like the Bourbon County Sheriff's Department and that he believed they were harassing him.

This writer did not prepare a final report until now because of the possibility that the commissioners would be submitting the investigation to the KBI as had been discussed in executive session. However, on December 6, 2022, during public comment, a citizen addressed the accounts and violations alleged by the auditor (referring to the audit submitted the week prior) in a public comment. During that comment, the citizen stated that the County Attorney [this writer] needs to stand up; that [the public] is not getting what they voted into office; and that she [the citizen] would be campaigning hard for anyone who runs against elected officials in 2 years. Commissioner Jim Harris subsequently stated that he joined in the citizen's frustration regarding the violations and that the power to oust is up to the Bourbon County Attorney (please see Kansas Constitutional Amendment 2 as passed by voters on November 8, 2022). Based upon the comments made in an open meeting regarding the alleged violations and the investigation, it is this writer's belief that the investigation is now a public issue and a final report can be made regarding this writer's involvement in the matter.

This writer also feels it important to address allegations made against her as County Attorney at the December 6<sup>th</sup> meeting regarding the County Attorney not standing up or doing her job. The office of the Bourbon County Attorney is primarily responsible for reviewing reports, charging for violations of statutes, and pursuing those charged cases through to resolution.

Bourbon County criminal dockets are open to the public. Judge Mark Ward handles felony matters through sentencing whether the case was resolved via plea agreement or via jury or bench trial. This writer has handled all of Judge Ward's docket (save for a few when sick or a family emergency prevented her from appearing) since July of 2021 when she was sworn in as County Attorney. The

public may attend hearings and those who choose to attend these dockets can see how criminal cases are being handled by this writer as County Attorney.

As far as the additional responsibility of conducting an investigation (as discussed in this memo), the Bourbon County Board of Commissioners told this writer that she could chose to accept the responsibility of investigating the allegations made by the Financial Director or the investigation could be sent to the Kansas Bureau of Investigation (KBI), and this writer chose to accept the responsibility. This report is now submitted for public review based upon the conclusion of this writer's part of the investigation and based upon the fact that such investigation has been publicly discussed in an open meeting by both the Board and the public.

Respectfully submitted

Tiana McElroy



# BATY | OTTO | CORONADO | SCHEER

January 16, 2023

Bourbon County Board of County Commissioners  
210 S. National Ave.  
Fort Scott, Kansas 66701



Re: *Financial Audit by County Attorney of Bourbon County Sheriff's Office*

Dear Commission:

I am writing in reference to the Audit report ("Report") prepared by Tiana McElroy as County Attorney on December 13<sup>th</sup>, 2022. It is my understanding based on that report that the commission asked Tiana to serve as the County Auditor to assess the financial record of the Bourbon County Sheriff's Office. That report raises concerning questions regarding the Kansas Open Meetings Act (KOMA), as well as the County's compliance with various statutes.

From the outset, there is some difficulty in explaining the legal procedure and process employed by the County that ultimately resulted in the creation of Ms. McElroy's report. K.S.A 19-625 clearly allows for the examination of the Sheriff's financial accounts and ledgers. Although the lack of transparency in the process makes it hard to determine why the Commission asked Ms. McElroy to perform the audit, it appears it did so under K.S.A. 19-716, which allows County Attorneys in counties with a population under 70,000 to audit county offices. However, subsection (b) of that statute mandates that if the subject county has a county counselor, the county counselor shall then assume the roles and responsibilities of the audit. Clearly, that did not happen here for some reason.

Despite this unclarity, Ms. McElroy agreed to perform the audit as requested by the Commission. While there is no need to re-hash the Report itself, the report makes a couple conclusions noteworthy. First, the process was wrought with secrecy and personal motivation. Further, the County was aware of minor violations (that were identified by County Auditor Terry Sercer, which upon information have since been remedied) and it is unclear why a secondary investigation was needed. To this end, the Financial Director's preferred forensic auditor, Scot Llyod opined that the minor violations were likely to be shared by the various sheriffs in Kansas' 104 other counties. Finally, the Report concluded that if another audit was to be conducted it undoubtedly should be done at arm's length and in accord with proper procedures.

While the events leading up to Ms. McElroy's Report spear riddled with procedural deficiencies, the events seem fraught with Kansas Open Meetings violations as well. To the best of my ability, I have assessed the various justifications for executive sessions offered by the County, and it appears a majority of the time the justification was the discussion of non-elected personnel. Yet, given the discussions undoubtedly were centered on Sheriff Bill Martin (an elected official) and his financial information (public records), it appears inconceivable that those meetings were to discuss non-elected personnel or otherwise non-public information. Accordingly, it is difficult to imagine how executive sessions were an appropriate forum for these meetings to occur. Indeed, it appears that these meetings were held precisely to keep the information away from the purview of the public, and such motivation resulted in the County arguably violating both the letter and the spirit of the KOMA (at least one member of those meetings has recognized the intent of KOMA on this issue; in her December 18, 2022 letter to the County Commission regarding the "Meeting on December 6, 2022"

and County Attorney Tiana McElroy, Ms. Susan Bancroft acknowledged "...I have no other choice but to do this during a public meeting as KOMA laws do not allow me to discuss an elected official in executive session").

Ms. McElroy, pursuant to statute, ultimately filed her Report with the County Clerk. *See* K.S.A. 19-608. However, conspicuously, the Commission neglected its duties under the very same statute. K.S.A. 19-608 ("At the next succeeding meeting ... after the auditor shall have filed his report with the county clerk..., it shall be the duty of the County Clerk to present such report to said board; and it shall be the duty of said board of county commissioners to confirm such report...").

Over a month has passed since the date of the Report, and the County has not taken up the matter for any public discussion. Instead, law enforcement officers have seemingly been requested to attend meetings to ensure there is no argumentative or aggressive rhetoric regarding the Report. This process clarifies two points: First, the County has an apparent desire for information regarding the Sheriff's finances and second, the County does not want a fair and open discussion of its concerns regarding the Sheriff's finances. It troubles me that the County can very easily accomplish its first goal stated above if it would engage in an open and legal discussion regarding the same. The Sheriff is and has always been open and transparent in his office's records and finances, yet the County has gone to extensive lengths to avoid any open discussion with his office. To put this issue to rest, Sheriff Martin hereby proposes and requests to be put on the agenda at the next regularly-scheduled Commission meeting to discuss the alleged violations, to discuss any efforts to correct them that have occurred, and hopefully allay the concerns of the commission regarding the Sheriff's finances in a fair and open manner.

Should you have any further questions or concerns regarding this letter and the request to be placed on the agenda, please do not hesitate to contact me at the information below.  
Regards,

Sincerely,

**Jacob D. Bielenberg**  
Attorney for Sheriff Bill Martin, Bourbon County Sheriff's Office  
jbielenberg@batyotto.com  
| O | 816.531.7200

January 2, 2023

To: Commissioner Harris  
Commissioner Blythe  
Commissioner Beth

Re: Memo from County Attorney Regarding Investigation

It has come to my attention that a memo from the County Attorney has been released regarding the investigation. After reviewing the memo, it is important to note that she left out important details in her timeline of events. This will be the second time that Ms. McElroy has not shown a professional courtesy and is publicly attempting to discredit me. In addition, she is insinuating interference with an investigation.

I am unsure why Ms. McElroy has turned very bitter towards me. Up until November 7, 2022, I felt we had a very good working relationship. October 26<sup>th</sup> She was telling me how much she appreciated me by text message.

On September 23, 2022, Ms. McElroy met with Terry Sercer, Randy Phillips and myself at 11:00 in my office to discuss if Mr. Sercer could assist in auditing the 3 new accounts that were under investigation and were discovered during a KORA request made by me during the summer of 2022. During this meeting Mr. Sercer said that he could review the accounts for previous years but it would be November before he could potentially have a report ready. In an effort to save money for the County, we discussed during the meeting that I would complete a KORA request to gather the detail that looked questionable for activity with the three accounts. This KORA request was made on the afternoon of September 23<sup>rd</sup>. (Please see the attached email between Mr. Sercer and me on December 21, 2022, regarding the meeting we had with Ms. McElroy on September 23<sup>rd</sup>). In her memo to the commission, she states the following:

As with any other investigation, this process began with a complaining witness and was then to be given to a forensic auditor for purposes of gathering information regarding the accounts as well as expenditures from the accounts. It is not, however, how the process actually occurred. During the pendency of the investigation, Susan Bancroft made KORA requests for some documents and proceeded to gather information that should have been handled solely by the auditor.

Mr. Sercer agreed that I would gather documentation for him to review to keep the process moving forward and Ms. McElroy was also a part of this discussion. If this was not the approach she wanted to take then this should have been disclosed to me at the time of our meeting.

The research completed by me was to support the conversation that took place on September 23, 2022. At no time did the County Attorney express to me that I was "immersing myself" to deeply into the investigation. I prepared the information for the auditor that was asked of me and reported my findings to the auditor and Ms. McElroy on October 24, 2022, by email – where she asks me for a meeting to discuss. However, we never met to discuss due to scheduling conflicts. I sent additional information on October 26, 2022, November 4, 2022, due to a delay in a response from the original KORA request. On

November 7, 2022, I gathered and reported audit findings for 2017-2021. The final draft of 2021 Audit findings were forwarded to Ms. McElroy on November 15<sup>th</sup>.

Many conversations have been taken out of context and provided in a memo to you and it leaves me asking the question why. I was requested to assist the auditor in gathering information and that is all I prepared. I do not dispute the fact that I do not hold a CPA but do have 20 years of experience in governmental accounting. In addition, I have been a witness during other governmental court proceedings over financial and statutory issues.

If there is any other information or clarification you would like for me to provide I would be happy to assist you. I was hired to assist the commission with financial oversight, compliance with statutory regulations and budget preparation to alleviate the cost of outside services. Even though this is a difficult situation to discuss, for many reasons, my commitment to serving this community continues to be very important to me. In closing, I will continue to take great pride in my abilities, work ethic and the responsibilities assigned to me by you.



**BATY | OTTO | CORONADO | SCHEER**

January 23, 2023

Via email and submission to the County Clerk

Justin Meek  
Bourbon County County Counselor  
210 S. National Ave.  
Fort Scott, Kansas 66701

Re: *Financial Audit of Bourbon County Sheriff's Office*

Dear Justin and the Commission:

I am writing following our discussion on Friday, January 20, 2022. You advised me that because the County was still engaged in an audit of the Sheriff's financial documents, the Commission would not be putting us on the agenda as requested.

I note that the County received a final audit report from Diehl Banwart Bolton, whom the County engaged for its overall audit. I have reviewed those documents, and it appears that while there were issues "meriting the Commission's attention," the issues with the Sheriff's financials did "not involve a material weakness or significant deficiency." It is also worth noting that County Attorney Tiana McElroy stated in her investigation report that "the accounts in question had been initially established by a prior sheriff and, since the investigation began, had been moved to the treasurer as required by statute so the Bourbon County Sheriff was now in compliance with regard to his accounts." Given the above, the use of tens of thousands of dollars in public funds to seek further audits seems to be somewhat excessive and unnecessary.

Despite that finding, the County has nevertheless apparently engaged another entity for a separate audit of the Sheriff's financial records. In our discussion you stated that the remaining issue centered on the notion that the Sheriff had not provided invoices or statements supporting the transactions in the accounts referenced and for that reason "statutory violations" remained.

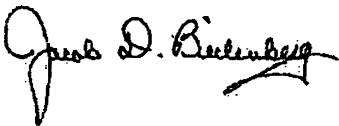
However, Ms. Bancroft issued a KORA request to the Sheriff on September 23, 2022. The request sought "'receipts' for sixteen (16) expenditures in Account 10944 DTF DBM#1 with City State Bank and receipts for fourteen (14) transactions from the Concealed Carry Fund with Landmark Bank." The Sheriff responded with 41 pages of responsive documents, which are attached hereto for your reference. It should be noted, however, that the Sheriff was unable to obtain one record related to the "Lesley Herring/15 years award" purchased from EDCO Awards and Specialties, which despite not being responsive, the Sheriff considered it relevant and sought to obtain it.

Oddly, the Bourbon County Treasurer, on January 20, 2023, requested the Sheriff provide the same information. This Request raises several questions. First, what happened to the documents obtained

by Ms. Bancroft – were they provided for information in the Diehl Banwart Bolton audit, have they been provided to the new auditor, or have they just been disregarded because they support the transactions and do not provide a basis for nefarious spending as was hoped? Second, why hasn't the auditor requested documentation or explanation for the Sheriff directly, which is the proper procedure for a formal audit? Moreover, the Sheriff has routinely requested to sit down with the auditor and explain each transaction, cash, check, or otherwise, but has continually been denied an opportunity to do so – how come? Finally, I note the Sheriff offered to discuss these matters directly with the Board, in open session, but was denied that request as well. There appears to be a great deal of denials regarding open discussion to address this issue, despite repeated accusations that the Sheriff's office is harassing the County. Quite to the contrary, it appears this issue will continue ad nauseum despite the Sheriff's desire, and continued efforts, to cooperate.

Because it appears that the Board does not want to have a full discussion on the matter in open session, the Sheriff is happy to, and will continue to, address these issues via letters such as this until such time as the Commission will permit the Sheriff to get on the agenda to discuss these audits. Perhaps in lieu of a public discussion with the Commission, the County could address the questions raised herein via written response. Also helpful would be an enumeration of any other information the County believes the Sheriff has not provided, so that I may assist in identifying that information and providing it in an effort to put this issue to rest.

Regards,



**Jacob D. Bielenberg**

Attorney for Sheriff Bill Martin, Bourbon County Sheriff's Office

[jbielenberg@batyotto.com](mailto:jbielenberg@batyotto.com)

| O | 816.531.7200

## **Bourbon County, KS Audit Findings by Year**

### **2017 Compliance with Kansas Statutes**

- Budget Violation: Expenditures exceeded budget in Bridge & Culvert and Landfill funds. K.S.A. 79-2935
- Reconciliation of Cash in bank to County Accounting Records

2018 – Letter from Auditor on important activities not being completed. These should have been K.S.A. violations.

- Reconciliation of Cash in bank to County Accounting Records
- Reconciliation of Annual Tax Roll
- Preparation of Financial Statements
- Audit Adjustments to the Accounting Records
- Inmate Funds
- County Attorney Diversion Funds
- Rotation of Duties

### **2019 Compliance with Kansas Statutes**

- Expenditures exceeded cash in the Road & Bridge and Special Alcohol & Drug Funds. K.S.A. 10-1121.
- Reconciliation of Cash in bank to County Accounting Records
- Reconciliation of Annual Tax Roll
- Preparation of Financial Statements
- Audit Adjustments to the Accounting Records
- Inmate Funds
- County Attorney Diversion Funds
- Rotation of Duties

### **2020 Compliance with Kansas Statutes**

- Outstanding checks for two years or more were not cancelled and restored to the fund originally charged as specified in K.S.A. 10-815.
- Tax distributions to taxing subdivisions were not made properly as one distribution was overpaid and several distributions (some from prior years) were underpaid in apparent violation of K.S.A. 12-1678a.
- Bank reconciliations were not made in a timely manner and not correctly done, resulting in cash balances for county funds not in agreement with the actual cash in the bank in apparent violation of K.S.A. 10-1118.
- Quarterly Financial statements showing cash balances for all the funds of the county were not published in violation of K.S.A. 19-520.
- Significant Deficiency – Put on Corrective Action Plan due to Single Audit
  - Drafting of Financial Statements — auditors providing significant assistance with the financial statements when the Treasurer and Clerk should be providing the financial statements in a format that the auditor makes very few correcting entries
  - Reconciliation of Cash in bank to accounting records – understatement of cash by \$76,000 in the financial records.

- Reconciliation of Annual Tax Roll – required to be done by the end of October each year by the Treasurer. \$19 million difference in 2019 and 37,000 difference in 2020.
- Public Works Billings - \$100,000 in Landfill not billed timely and collected late in 2021.

### 2021 Compliance with Kansas Statutes

This financial statement and the regulatory-required supplementary information is designed to show compliance with the cash basis and budget laws of Kansas. The County was in apparent compliance with these laws except as follows:

- K.S.A 12-1678a states that “the county treasurer shall distribute the taxes collected for each taxing subdivision within the county.” Tax distributions to taxing subdivisions were not made properly as one distribution was overpaid in violation of K.S.A 12-1678a. The incorrect distributions resulted in negative cash balances in various funds in violation of K.S.A. 10-1113.
- K.S.A 10-1118 states that “the treasurer of every municipality shall keep a record of the amount of money on hand in the treasury, which record shall show at all times the amount of money in each particular fund.” Bank reconciliations were not made in a timely manner throughout the year, resulting in cash balances for county funds not in agreement with cash in the bank in violation of K.S.A 10-1118. Cash was properly reconciled by the end of the year.
- K.S.A 19-520 states that “the county treasurer in each county on the last business day of January, April, July and October in each year, to make a statement showing the amount in the treasury on the day of making the statement and the different funds to which it belongs; the amount of funds of the state, county and each township, city, school district or other district in the county being clearly set forth.” K.S.A. 19-524 states that “the statement of the county treasurer, when completed, shall be published once in the official newspaper of the county.” Quarterly financial statements showing cash balances for all the funds of the county were not published in a timely manner in apparent violation of K.S.A 19-520 and 19-524.
- K.S.A 19-228 states that the board of county commissioners shall cause to be published at the end of each calendar quarter or, if the county commissioners so provide, at the end of each month, an itemized statement of all sums of money allowed in excess of \$50...” There are several additional requirements on that exact manner of this statement as referred to in this statute. K.S.A 19-304 (c) states that the County Clerk shall “keep the seals, records, and papers of the board of commissioners...” The statements as required by K.S.A 19-228 were not published.
- Three bank accounts were disclosed during the audit that were in control of the sheriff’s department. Certain fees for process serving, conceal and carry, and registered offender fees were placed in these accounts. K.S.A. 28-1005 states that “...the sheriff shall turn over to the county treasurer for deposit in the county general fund all fees received...” which are violations of this statute. Because of these separate accounts which were not under the supervision of the commissioners, treasurer, or clerk, additional statutes were violated as follows:
  - KSA 10-1117 states that the “Clerk maintains record of each fund’s indebtedness. The clerk ... should keep a record of total money in treasury as well as in each particular fund. A record of all indebtedness and contracts creating a liability as well as all

warrants or checks written should be kept. Upon request by any person, these records should be shown to such person.” There is a violation of this statute in as much as the Clerk has not kept track of the activity in these three accounts.

- KSA 10-1118 states that “the treasurer maintains records to show the amount of money in each fund. Upon request by any person, these records should be shown to such person.” There are violations of this statute as well since the Treasurer has not maintained the records for these funds.
- K.S.A. 12-105a, 12-105b, 10-801 et seq specify how funds are to be disbursed as provided by law. In summary, all expenses must be supported by invoices, checks paid by the clerk, and approval made by the county commissioners. There are violations of these statutes as well.
- K.S.A. 9-1402 and K.S.A. 9-1405 specify that the county treasurer shall ensure that “Deposits with statutorily authorized financial institutions are adequately secured.” This was not done since the Treasurer was not aware of these accounts.

### SHERIFFS FUNDS

While in the process of completing the fieldwork on the audit, it came to our attention that the Sheriff’s office had three bank accounts for which we had no knowledge of. These accounts were as follows:

1. Bank account for out of State fees for process serving.
2. Bank account for fees from conceal and carry registration.
3. Bank account for registered offenders.

Once we were aware of these accounts, we reviewed the 2021 activity in these accounts, summarized as follows:

	2021 Receipts	2021 Expenses	Balance 12/31/2021
Process Serving	\$ 2,832.54	\$ 3,259.39	\$ 984.84
Conceal Carry	1,137.00	470.50	2,647.01
Registered Offenders	9,210.00	3,846.50	22,197.09
<b>Totals</b>	<b>\$ 13,179.54</b>	<b>\$ 7,576.39</b>	<b>\$ 25,828.94</b>

Expenses in all three funds were supported by invoices and appeared to be allowable expenses of the County. All three accounts have been open for many years under the supervision of the sheriff’s office. Several sheriffs have overseen these accounts throughout the years. Our audit was only for the year ended December 31, 2021. We did not review any activity in these accounts prior to 2021.

There are internal control issues whenever accounts are kept under the control of one department. Internal controls should be in place to ensure that funds are properly turned over to the county, expenses are supported by invoices and approved by the county, and the Treasurer monitors cash balances. It is our understanding that Kansas statutes require the sheriff to turn over these funds to the county and under the review of the treasurer, clerk, and county commission. Accordingly, since the funds were not turned over

to the county, numerous apparent violations of Kansas statutes were cited in the audit this year.

We recommend that these funds be turned over to the county treasurer and supervised by the county clerk, treasurer and commissioners as required by Kansas statutes. Given that fact that the accounts have been outside the scope of the audit the last few years, we recommend that the activity of the accounts be review for five years prior to 2021 to determine if the expenses were allowable and proper expenses even though they were improperly spent through the Sheriff's office instead to having been turned over to the County treasurer as stated previously.

In addition, since there were these instances of accounts under the county's tax id number that were not monitored by the clerk, treasurer and commissioners, the county should contact all the financial institutions in the county to determine if there were any other accounts that are not monitored by the county as required by Kansas statutes.

### INMATES FUNDS

The Community Corrections Department maintains an inmate's fund in a separate checking account. This account serves two purposes. When a prisoner is placed in the jail, money on the possession of the inmate or additional money provided for the inmate is placed in this account. The inmate can use these funds to purchase goods from the commissary. Proceeds from the sales of commissary items to inmates are also placed into this checking account to purchase items for resale to the inmates. Historically, the profits from sales to inmates have been used to assist in the expenses of the jail. There is a weakness in internal controls over this account since the inmates' funds are maintained by one employee of the County. A weakness occurs whenever there is only one employee involved in all aspects of the accounting process including receipt of funds, the maintenance of accounting records, reconciliation of the bank account, and disbursement of funds. These duties are currently performed by the inmates' funds coordinator.

Due to the weakness in internal controls over these funds, it is important that the accounting for these funds is properly maintained, and good internal control procedures are followed. The following procedures should be performed for the inmate funds:

1. The check register should be reconciled to the bank statement each month.
2. The balances held for inmates should be readily maintained.
3. Money should be receipted and deposited promptly.
4. Disbursements should be supported by invoices.
5. Checks greater than \$500 should be signed by two people.
6. All accounting and reconciliation documents prepared each month should be initialed by the person preparing the work as well as a supervisor showing that the work has been reviewed by a second person.

It is our understanding that these procedures are performed at the Correctional Center. We want to emphasize the importance of these controls over inmate funds.

In addition to the issue with internal controls, the inmates account balance has steadily grown each year from a balance of \$17,984 as of December 31, 2013, to a balance of \$133,996 as of December 31, 2021. Although historically the Inmates account has maintained a balance for jail expenses, we believe that it would be prudent to require excess funds in the account to be turned over to the county treasurer. We

suggest that a reasonable amount be kept in the account for monthly expenses of the account, with excess funds turned over to the county treasurer and placed in the Public Safety Fund. Expenses should be limited solely to purchases of items for resale to inmates and not for expenses for contract labor and/or purchases of items that may be subject to county bidding requirements.

Items highlighted in Yellow are Penal Statutes: Punishable by Law