



RUTHERFORD COUNTY SHERIFF'S OFFICE

Investigative Report
November 16, 2016

Justin P. Wilson, Comptroller





STATE OF TENNESSEE

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Comptroller

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November 16, 2016

Rutherford County Mayor and
Board of County Commissioners
Rutherford County Courthouse
One Public Square
Murfreesboro, Tennessee 37130

Ladies and Gentlemen:



Our office received an allegation regarding a potential conflict of interest involving Rutherford County Sheriff Robert Arnold and JailCigs, a company that sells electronic cigarettes to inmates. We performed an investigation of the Rutherford County Sheriff's Office (RCSO), in conjunction with the Tennessee Bureau of Investigation, the Federal Bureau of Investigation, and the U.S. Department of Homeland Security for the period August 1, 2013, through April 30, 2015; however, we expanded our scope to April 30, 2016 to include other selected records when necessary. A summary of deficiencies is noted below:

- The sheriff and the chief deputy of administration violated numerous state and local laws, policies, and procedures by doing business with JailCigs and concealing their interest and ownership in JailCigs.
- The sheriff and the chief deputy of administration violated state law and local purchasing policies and procedures.
- Sheriff elect Robert Arnold violated state law when he performed an official act on August 31, 2010, prior to his term as sheriff officially beginning on September 1, 2010.
- A deputy made false statements on federal, state, and local government forms.
- A deputy made false statements to investigative auditors regarding his citizenship status.

- The Sheriff's Office did not maintain adequate time and attendance records for exempt employees.
- Several employees of the Sheriff's Office, including the sheriff and the chief deputy of administration, violated the office electronic mail policy.
- Several employees of the Sheriff's Office, including the sheriff and the chief deputy of administration, violated the office outside employment policy.

Findings and recommendations, as a result of our investigation, are presented in this report. We reviewed these findings and recommendations with certain Rutherford County officials. In addition, these findings and recommendations have been reviewed with the district attorney general for the Sixteenth Judicial District, and the Office of the United States Attorney for the Middle District of Tennessee.

On May 27, 2016, the grand jury of the United States District Court for the Middle District of Tennessee, Nashville Division, indicted Sheriff Robert Arnold and Chief Deputy of Administration Joe Russell on 14 counts, including one count of conspiracy, four counts of money/property fraud, five counts of honest services fraud, two counts of bribery concerning programs receiving federal funds, one count of extortion under color of official right, and one count of attempt to tamper with a witness by corrupt persuasion.

On November 14, 2016, the Chancery Court for the State of Tennessee's Sixteenth Judicial District in Rutherford County suspended Sheriff Robert Arnold from performing any duties of his office pending a final hearing in an ouster proceeding. The suspension is without pay.

INVESTIGATIVE FINDINGS AND RECOMMENDATIONS

FINDING 1 **THE SHERIFF AND THE CHIEF DEPUTY OF ADMINISTRATION VIOLATED NUMEROUS STATE AND LOCAL LAWS, POLICIES, AND PROCEDURES BY DOING BUSINESS WITH JAILCIGS AND CONCEALING THEIR INTEREST AND OWNERSHIP IN JAILCIGS**

Sheriff Robert Arnold and his Chief Deputy of Administration Joe Russell violated numerous state and local laws, multiple State of Tennessee ethics policies concerning conflict of interest, and county policies and procedures by doing business with JailCigs and concealing their interest and ownership in JailCigs. JailCigs is a company that sells e-cigarettes to inmates for \$12.95 each, plus shipping. Two of Sheriff Arnold's relatives and Chief Deputy Russell own the Marietta, Georgia-based company JailCigs. We noted the following deficiencies regarding JailCigs:

- A. Sheriff Arnold violated the conflict of interest disclosure statement statute, Section 8-50-501 et seq., *Tennessee Code Annotated (TCA)*, which requires disclosure of:
 - (1) The major source or sources of private income of more than \$1,000, including, but not limited to, offices, directorships, and salaried

employments of the person making disclosure, the spouse, or minor children residing with such person,...

Sheriff Arnold failed to disclose his connection with JailCigs on his 2014 *Statement of Disclosure of Interests*, Form SS-8005, which was due to be filed by January 31, 2014. The sheriff earned over \$1,000 from JailCigs in 2013, which should have been disclosed (see Table A).

- B. Additionally, Section 8-50-503, *TCA*, states, “Any disclosure statement shall be amended from time to time as conditions change because of the termination or acquisition of interests as to which disclosure is required.” Since Sheriff Arnold continued to earn money from JailCigs in 2014, he should have disclosed that fact immediately (see Table A).
- C. Sheriff Arnold and Chief Deputy Russell denied receiving any money from JailCigs when questioned by Comptroller Auditors from the Division of Local Government Audit on July 17, 2014 regarding JailCigs. On January 21, 2015, Sheriff Arnold listed JailCigs as an investment and source of income on a statement filed with the Tennessee Ethics Commission and also listed his wife as holding investments in JailCigs on the document. From December 2013, through April 2015, JailCigs issued checks to Sheriff Arnold totaling \$59,525.50; issued checks to Sheriff Arnold’s wife totaling \$7,264.50; and issued checks to Chief Deputy Russell totaling \$52,234.41 (see Table A). On October 25, 2013, Sheriff Arnold issued a \$3,000 personal check to JailCigs and noted “investment” at the bottom of the check. On October 24, 2013, Chief Deputy Russell issued a \$3,000 personal check to JailCigs (see Table B). Neither Sheriff Arnold nor Chief Deputy Russell notified leadership of Rutherford County nor the county’s legal counsel that they were owners and/or operators of JailCigs.
- D. Sheriff Arnold and Chief Deputy Russell also violated Section 12-4-101(a)(1), *TCA*, which states:

It is unlawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall or may be interested, to be directly interested in any such contract.

Sheriff Arnold and Chief Deputy Russell exercised decision-making authority by allowing JailCigs to advertise and sell e-cigarettes to the jail population. Additionally, neither Sheriff Arnold nor Chief Deputy Russell publicly acknowledged any indirect interest in the JailCigs contract pursuant Section 12-4-101(b).

- E. Sheriff Arnold and Chief Deputy Russell used their positions to allow JailCigs to advertise and sell e-cigarettes to inmates in the Rutherford County Jail while concealing their relationship with JailCigs. Section 39-16-402, *TCA*, Part (a) states:

- (a) A public servant commits an offense who, with intent to obtain a benefit or to harm another, intentionally or knowingly:
 - (1) Commits an act relating to the public servant's office or employment that constitutes an unauthorized exercise of official power;
 - (2) Commits an act under color of office or employment that exceeds the public servant's official power;
 - (3) Refrains from performing a duty that is imposed by law or that is clearly inherent in the nature of the public servant's office or employment;
 - (4) Violates a law relating to the public servant's office or employment; or
 - (5) Receives any benefit not otherwise authorized by law.

Part (b) of Section 39-16-402, *TCA*, states that “for purposes of subdivision (a)(2), a public servant commits an act under color of office or employment who acts or purports to act in an official capacity or takes advantage of the actual or purported capacity.”

- F. Sheriff Arnold and Chief Deputy Russell violated Rutherford County’s purchasing law, Chapter 421, Private Acts of 1943, when they used their positions to promote and allow JailCigs to sell e-cigarettes to inmates in the Rutherford County Jail while circumventing the purchasing procedures of the county. This private act states:

The county executive shall be the purchasing agent for Rutherford County and ex-officio chairman of the County Purchasing Committee and shall be charged with the full responsibility of executing any and all of the provisions of this act under the direction of the County Purchasing Committee, which shall have the sole power and authority to contract for and purchase all materials, supplies, and equipment of every kind whatsoever, including insurance, for the use of every official, agent, servant, department, or agency of, supported by or under the control of the county government, and no other official, employee, or agent of the county or of any of its departments or agencies shall have the right to contract for or purchase any of such material or supplies.

Furthermore, the act states:

Neither the County Purchasing Committee nor any assistant or employee working under its direction shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in the purchase of any supplies, materials, or equipment for the county, nor in any firm, corporation, partnership, association, or individual furnishing any such supplies, materials, or equipment; nor shall the

County Purchasing Committee or any assistant or employee accept or receive directly or indirectly from any person, firm corporation, partnership, or association to whom any contract may be awarded, by rebate, gift or otherwise, any money or other thing of value whatsoever, or any promise, obligation or contract for future reward or compensation.

- G. Sheriff Arnold and Chief Deputy Russell also violated both the *Rutherford County Sheriff's Office Employee Handbook* and the *Rutherford County Employee Handbook*, which state employees shall not engage in any activity, private or official capacity, where a conflict of interest may exist. The handbooks also prohibit employees from accepting gratuities, loans, or gifts of great value from organizations, business concerns, or individuals with whom they conduct official business.

Table A summarizes the JailCigs payments to Sheriff Arnold, the sheriff's wife, and Chief Deputy Russell. Table B lists the payments from those individuals to JailCigs.

Table A**Payments from JailCigs to:**Sheriff Robert ArnoldChief Deputy Joe Russell

<u>Date</u>	<u>Amount</u>
12-4-13	\$ 2,500.00
1-2-14	500.00
1-7-14	1,756.50
2-7-14	964.50
4-7-14	3,054.00
5-7-14	2,533.50
6-4-14	2,500.00
6-6-14	5,000.00
7-7-14	7,634.00
7-25-14	7,500.00
10-3-14	3,000.00
10-3-14	2,500.00
11-14-14	2,724.00
12-2-14	3,054.00
12-2-14	4,000.00
1-15-15	6,405.00
4-5-15	3,900.00
Total	<u>\$ 59,525.50</u>

<u>Date</u>	<u>Amount</u>
12-9-13	\$ 2,500.00
1-2-14	2,014.41
1-7-14	1,756.50
2-7-14	964.50
3-15-14	1,428.00
5-15-14	4,159.00
6-4-14	2,500.00
7-7-14	2,634.00
8-5-14	3,200.00
11-7-14	5,500.00
12-2-14	3,054.00
12-2-14	3,124.00
12-2-14	4,000.00
1-6-15	3,250.00
2-5-15	700.00
2-5-15	3,750.00
2-5-15	300.00
3-3-15	3,500.00
4-2-15	3,900.00

Total **\$ 52,234.41**

Sheriff Arnold's Wife

<u>Date</u>	<u>Amount</u>
2-3-15	\$ 3,764.50
3-3-15	3,500.00
Total	<u>\$ 7,264.50</u>

Table B		
Checks Issued to JailCigs		
From	Date	Amount
Rutherford County Sheriff	10-25-13	\$ 3,000.00
Chief Deputy of Administration	10-24-13	<u>3,000.00</u>
Total		<u><u>\$ 6,000.00</u></u>

When we interviewed Sheriff Arnold regarding the conflict of interest, he stated, “The Sheriff is exempt from all policies and procedures.” However, he could not provide documentary evidence to support his statement.

RECOMMENDATION

Sheriff Arnold and Chief Deputy of Administration Russell should comply with all state and local laws, policies, and procedures.

FINDING 2 THE SHERIFF AND THE CHIEF DEPUTY OF ADMINISTRATION VIOLATED STATE LAW AND LOCAL PURCHASING POLICIES AND PROCEDURES

Sheriff Arnold and Chief Deputy Russell violated state law and local purchasing policies and procedures on multiple transactions. Rutherford County operates under the purchasing procedures provided in Chapter 421, Private Acts of 1943, which states that the county mayor, by virtue of his/her position on the Purchasing Committee, is given the sole authority to make all purchases, contracts, and rental agreements for the county. In addition, only the county mayor can execute contracts for the rental or lease of real estate, machinery, or other equipment and contract for service/maintenance. Purchases exceeding \$10,000 are to be made after the solicitation of competitive bids and are subject to the approval of the Purchasing Committee. Purchases less than \$10,000 are to be made after an effort to obtain the lowest or best price. The deficiencies noted below resulted from management’s circumvention of laws, policies, and procedures.

- A. Sheriff Arnold and Chief Deputy Russell violated the county’s purchasing law, Chapter 421, Private Acts of 1943, when they used their positions to advertise, solicit, and allow JailCigs to sell e-cigarettes to inmates in the Rutherford County Jail while concealing their relationship with the business. In addition, both men

circumvented the purchasing policies and procedures of the county [see Finding 1(F) above].

- B. Sheriff Arnold provided JailCigs the exclusive right to sell e-cigarettes to county inmates without soliciting competitive bids or obtaining the approval of the county mayor. During an interview, Chief Deputy Russell stated he had obtained a couple of verbal bids; however, Mr. Russell never produced any documentation to verify his statement.
- C. Sheriff Arnold entered into a contract for electronic tablets without soliciting competitive bids or obtaining the approval of the county mayor. On December 9, 2014, Sheriff Arnold signed an agreement between the Rutherford County Sheriff's Office (RCSO) and Telmate, LLC, to provide, implement, maintain, and derive revenue from the use of electronic tablets and services available on the tablets for use by county inmates. Telmate provides handheld secure wireless tablet devices to correctional facilities for inmates to purchase movies, videos, games, etc. The initial contract was for seven months, and RCSO could extend the contract for three more years. Telmate would pay RCSO a monthly commission of 25 percent of the net income received from inmates' use of the tablets.
- D. Sheriff Arnold amended the RCSO commissary contract without the approval of the county mayor or soliciting competitive bids. On January 1, 2013, Sheriff Arnold signed an amended contract with Keefe Commissary Network, LLC, a subsidiary of the Keefe Group, for inmate commissary online purchasing. At the request of RCSO, Keefe would fund a video visitation equipment expansion through an adjustment in service fees paid over a five-year term.
- E. Sheriff Arnold and Chief Deputy Russell circumvented the county's budgetary and purchasing processes by not accounting properly for revenues received from the commissary contract. On January 1, 2013, Sheriff Arnold signed an amended contract with Keefe Commissary Services, LLC, for inmate commissary operations with the vendor establishing a "Friends and Family Inmate Ordering Site." Keefe would maintain a customized website specifically designed for the Rutherford County Jail, allowing friends and family of inmates to order products online to be delivered to the inmates. Keefe would place a percentage of each order, equal to 25 percent of adjusted gross sales, into a technology fund for the RCSO to purchase computer and other electronic equipment as requested by the RCSO. During the period examined, instead of depositing the county's fees and commissions earned with the county trustee, the Keefe Group expended \$31,998.10 from this technology fund to purchase Tasers and holsters for RCSO from a third-party vendor, thus bypassing the county's budgetary and purchasing procedures.

Section 8-24-103, *Tennessee Code Annotated*, requires all fees earned by RCSO to be remitted to the county on a monthly basis. According to documentation obtained from the Rutherford County Finance Office, the Keefe Group paid the remaining balance of the technology fund totaling \$28,708.39 to Rutherford County on June 14, 2016. See Table C below.

Table C

Month	TN-Rutherford County					Comments
	# of orders	Sales	Commission Amount	Checks Paid	Balance Due	
Apr-12	0	\$ -	\$0.00			
May-12	265	\$ 1,973.19	\$434.10	\$434.10		Check #25281 paid to Rutherford County Adult Detention
Jun-12	207	\$ 6,509.72	\$1,432.14	\$1,432.14		Check #27840 paid to Rutherford County Adult Detention
Jul-12	184	\$ 5,675.41	\$1,248.59	\$1,248.59		Check #29853 paid to Rutherford County Adult Detention
Aug-12	240	\$ 7,644.88	\$1,681.87			
Sep-12	211	\$ 6,694.92	\$1,472.88			
Oct-12	205	\$ 6,615.10	\$1,455.32			
Nov-12	236	\$ 7,977.35	\$1,755.02	-\$1,248.59		Check #29853 returned and voided
Dec-12	183	\$ 6,043.50	\$1,329.57	\$7,602.10		Paid to Gulf State Distributors, Check #40448
Jan-13	133	\$ 4,162.24	\$915.69			
Feb-13	98	\$ 3,386.61	\$745.05			
Mar-13	182	\$ 5,975.83	\$1,314.68			
Apr-13	125	\$ 3,959.67	\$871.13			
May-13	168	\$ 5,528.21	\$1,216.21			
Jun-13	134	\$ 4,748.40	\$1,044.65			
Jul-13	168	\$ 5,124.24	\$1,127.33			
Aug-13	150	\$ 4,521.30	\$994.69			
Sep-13	112	\$ 3,283.49	\$722.37			
10/21/2013				\$ 8,250.00		Paid to Watch Systems, Check #18474
Oct-13	122	\$ 3,752.63	\$825.58			
Nov-13	137	\$ 4,280.56	\$941.72			
Dec-13	130	\$ 4,058.60	\$892.89			
Jan-14	114	\$ 3,499.39	\$769.87			
Feb-14	134	\$ 4,643.68	\$1,021.61			
Mar-14	145	\$ 4,677.93	\$1,029.14			
Apr-14	119	\$ 3,751.81	\$825.40			
May-14	170	\$ 5,268.21	\$1,159.01			
Jun-14	148	\$ 4,547.27	\$1,000.40			
Jul-14	148	\$ 4,884.31	\$1,074.55			
Aug-14	172	\$ 5,490.30	\$1,207.87			
Sep-14	166	\$ 5,554.76	\$1,222.05			
Oct-14	208	\$ 6,974.39	\$1,534.37			
Nov-14	123	\$ 3,784.37	\$832.56			
Dec-14	234	\$ 7,585.43	\$1,668.79			
Jan-15	166	\$ 5,662.55	\$1,245.76			
Feb-15	205	\$ 7,205.66	\$1,585.25			
3/6/2015				\$16,146.00		Paid to Gulf State Distributors, Check #16589
Mar-15	198	\$ 6,890.48	\$1,515.91			
Apr-15	164	\$ 5,738.98	\$1,262.58			
May-15	201	\$ 6,901.26	\$1,518.28			
Jun-15	175	\$ 5,963.18	\$1,311.90			
Jul-15	24	\$ 8,293.05	\$1,824.47			
Aug-15	179	\$ 5,952.87	\$1,309.63			
Sep-15	169	\$ 6,314.38	\$1,389.16			
Oct-15	235	\$ 8,130.09	\$1,788.62			
Nov-15	197	\$ 6,639.11	\$1,460.60			
Dec-15	305	\$ 2,494.77	\$548.85			
Jan-16	204	\$ 7,658.55	\$1,684.88			
Feb-16	277	\$ 10,259.22	\$2,257.03			
Mar-16	310	\$ 10,984.66	\$2,416.63			
Apr-16	240	\$ 8,929.40	\$1,964.47			
May-16	209	\$ 7,825.58	\$1,721.63			
BALANCE	8,729	\$284,421.49	\$62,572.73	\$33,864.34	\$28,708.39	Balance of technology credit to be used by Rutherford County

RECOMMENDATION

The Rutherford County Sheriff's Office should follow state and local laws, policies, and procedures regarding purchases, contracts, and commissions. All documentation related to purchases, contracts and commissions should be maintained, and all commissions earned should be remitted to the county trustee monthly.

FINDING 3 **SHERIFF ELECT ROBERT ARNOLD VIOLATED STATE LAW WHEN HE PERFORMED AN OFFICIAL ACT ON AUGUST 31, 2010, PRIOR TO HIS TERM AS SHERIFF OFFICIALLY BEGINNING ON SEPTEMBER 1, 2010**

Sheriff elect Robert Arnold violated state law when he performed the official act of giving the oath of office to an individual before Mr. Arnold's term as sheriff began on September 1, 2010, and before Mr. Arnold took his own oath of office as sheriff. On August 31, 2010, the individual sworn in was not an employee of the Sheriff's Department and did not apply for employment until September 2, 2010. Mr. Arnold took his oath of office on September 1, 2010; therefore, Mr. Arnold performed an official act before he was officially the sheriff. Both the Tennessee Constitution in Article X, Section 1, and Section 8-8-104, *Tennessee Code Annotated (TCA)*, require a sheriff to take an oath of office before performing any duties of the office. Section 8-18-113, *TCA*, provides that "Any officer or deputy required by law to take and file such oaths, who enters upon the duties of the office without first taking and filing the same as prescribed, commits a Class C misdemeanor."

RECOMMENDATION

Newly elected officials should follow state law and not perform any acts of their office prior to their official start date and before taking their oath of office.

FINDING 4 **A DEPUTY MADE FALSE STATEMENTS ON FEDERAL, STATE, AND LOCAL GOVERNMENT FORMS**

We discovered that a deputy made false statements on federal and state forms regarding his citizenship status. When questioned by investigative auditors, the deputy continued to make false statements. We later determined the deputy also made false statements on his local government forms as noted below:

- A. The deputy made false statements on his federal Form I-9, *Employment Eligibility Verification under the Department of Homeland Security, U.S. Citizenship, and Immigration Services*, for 2010 and 2012. We noted that on his Form I-9, dated September 2, 2010, the employee had marked "yes", attesting under penalty of perjury that he was a United States citizen. Sheriff Arnold also signed the form as to having verified documents given. The deputy filled out another Form I-9 on May 21, 2012, again asserting he was a citizen of the United States. However, he was not a

U.S. citizen, and did not become a U.S. citizen until February 24, 2016, after investigators questioned him.

Title 18 of the *United States Code*, section 1001, provides:

- (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully –
 - (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
 - (2) makes any materially false, fictitious, or fraudulent statement or representation; or
 - (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than five years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than eight years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than eight years.

Regarding qualifications for admission of aliens, the United States *Immigration and Nationality Act*, Title 2, Chapter 2, Act 212 (a)(6)(C)(I) makes inadmissible any alien who “falsely represents” or “has falsely represented” that he or she is a U.S. citizen for “any purpose or benefit” under the Act or any state or federal law.

- B. The deputy made false statements on his Tennessee Peace Officer Standards and Training (POST) application when he claimed he was a United States citizen. On the application dated December 16, 2010, the deputy stated he was a citizen of the United States, which is a requirement of qualifying to receive training. When questioned on February 17, 2016, by investigative auditors, the deputy, who has received multiple promotions and now holds the rank of major, stated he was a U.S. citizen. He asserted that the documents were accurate. He refused to say when he received his citizenship, but stated that he received it sometime between 2008 when the RCSO originally terminated him and 2010¹ when Sheriff Arnold rehired him. He did acknowledge that he came to the United States from Ireland with his parents when he was 14 years old. He also acknowledged that he receives the \$600 yearly supplemental pay for being POST certified (\$2,400 total supplement received during period). When asked for documentation of his U.S. citizenship, the deputy said he would provide it to auditors, but he never did.

¹ RCSO first hired the deputy on December 13, 1999, and terminated him for cause on January 23, 2008. Sheriff Arnold rehired him on September 7, 2010.

Section 38-8-106, *Tennessee Code Annotated (TCA)*, states that any person employed as a full-time police officer, and any person employed or utilized as a part-time, temporary, reserve or auxiliary police officer or as a special deputy, shall:

- (1) Be at least eighteen years of age;
- (2) *Be a citizen of the United States, or a permanent legal resident of the United States who is an honorably discharged veteran of the United States armed forces pursuant to § 38-8-105(d) (emphasis added);*

The rules of the Tennessee Peace Officer Standards and Training Commission, Chapter 1110-02-.02, *Certification*, state the following:

FAILURE TO COMPLY. Any person who shall appoint any applicant who to the knowledge of the appointor fails to meet the minimum standards as set forth herein or required by the Commission, and any person who signs the warrant or check for the payment of the salary of any person who to the knowledge of the signer fails to meet the qualifications as a police officer as provided herein or required by the Commission, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding \$1,000.

- C. The deputy made false statements on his employment application dated September 2, 2010, when he failed to disclose his previous termination from RCSO, in violation of Section 39-16-504, *TCA*. RCSO terminated the deputy on January 23, 2008, yet on his application for employment dated September 2, 2010, he marked “NO” to the following question:

Exhibit 1

33. EMPLOYMENT: A. HAVE YOU EVER BEEN DISCHARGED, ASKED TO RESIGN, LAID -OFF, OR PUT ON INACTIVE STATUS FOR CAUSE, OR SUBJECTED TO DISCIPLINARY ACTION WHILE IN ANY POSITION (EXCEPT MILITARY)? YES _____ NO <input checked="" type="checkbox"/>
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Source: *Rutherford County Sheriff's Office Employment Application, Page 9, Question 33.*

Section 39-16-504, *TCA*, states:

- (a) It is unlawful for any person to:
 - (1) Knowingly make a false entry in, or false alteration of, a governmental record;
 - (2) Make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or ...

(b) A violation of this section is a Class A misdemeanor.

RECOMMENDATION

The Sheriff's Office should ensure all employees meet the qualifications necessary for their jobs and verify applications for employment. Any supplemental pay that an unqualified employee received should be paid back to the county.

FINDING 5 **A DEPUTY MADE FALSE STATEMENTS TO INVESTIGATIVE AUDITORS REGARDING HIS CITIZENSHIP STATUS**

As noted in Finding 4 above, a deputy concealed his lack of citizenship status from investigative auditors while continually asserting he was a U.S. citizen. The deputy even stated he had evidence that he was a citizen; however, he failed to produce the evidence. When we later requested the deputy's original personnel file, we noted that Sheriff Arnold added a new E-Verify Form showing employment eligibility and citizenship status dated March 21, 2016; however, the file did not include previous E-Verify forms from the date of hire that would have shown citizenship status. We did note that Sheriff Arnold is related to the deputy by marriage.

Section 39-16-503, *Tennessee Code Annotated*, provides:

- (a) It is unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to:
 - (1) Alter, destroy, or conceal any record, document or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or
 - (2) Make, present, or use any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding.

(b) A violation of this section is a Class C felony.

RECOMMENDATION

The Sheriff's Office and its employees should cooperate with investigators and provide complete and accurate information and documentation.

FINDING 6 THE SHERIFF’S OFFICE DID NOT MAINTAIN ADEQUATE TIME AND ATTENDANCE RECORDS FOR EXEMPT EMPLOYEES

The Sheriff’s Office did not require or maintain adequate time and attendance records to support payroll disbursements for exempt employees. Our review of time sheets and interviews with employees confirmed exempt employees were only required to submit time sheets when taking vacation, holidays, or were absent due to illness. The office Employee Handbook provides that employees are required to fill out a weekly time sheet. In addition, several exempt employees stated they were only required to be at work for a couple of hours to receive compensation for a full eight-hour day. The Employee Handbook provides that county employees who generally work in executive, administrative, or professional positions are typically considered exempt employees. Exempt employees are paid on a salary basis. Sheriff Arnold stated, “If they (employee) step foot in the building, it counts here for the day. But they need to be here between 8:00 am and 9:00 am.”

The Employee Handbook states all Sheriff’s Office employees shall work a minimum of 37.5 hours per week depending on office scheduling needs. It also states, “Employees identified as exempt will be paid on a salary basis; however, when absent for personal reasons, holiday, vacation, sickness/disability, or unpaid disciplinary suspensions occur, exempt employees must use the appropriate leave to be reflected on their time sheet.”

RECOMMENDATION

Management should require weekly time sheets for all employees and document actual hours worked for exempt employees for purposes authorized by office policy.

FINDING 7 SEVERAL EMPLOYEES OF THE SHERIFF’S OFFICE, INCLUDING THE SHERIFF AND THE CHIEF DEPUTY OF ADMINISTRATION, VIOLATED THE OFFICE ELECTRONIC MAIL POLICY

Several employees of the Sheriff’s Office, including Sheriff Arnold and Chief Deputy Russell, violated the office electronic mail policy by using the county’s email for their personal business. The Sheriff’s Office Employee Handbook prohibits employees from using electronic mail through office systems for any other business or profit-making activities.

RECOMMENDATION

All Sheriff’s Office employees should comply with the office electronic mail policy.

FINDING 8

**SEVERAL EMPLOYEES OF THE SHERIFF'S OFFICE,
INCLUDING THE SHERIFF AND THE CHIEF DEPUTY OF
ADMINISTRATION, VIOLATED THE OFFICE OUTSIDE
EMPLOYMENT POLICY**

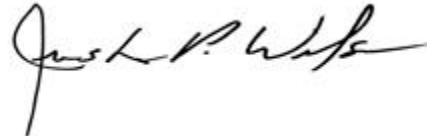
Several employees of the Sheriff's Office, including Sheriff Arnold and Chief Deputy Russell, violated the office outside employment policy by failing to submit an "outside employment form". The Sheriff's Office Employee Handbook states any employee who engages in any activity for pay must have the "outside employment form" approved by the sheriff or his designee and must submit the form to the Supervisor of the Office of Professional Responsibility.

RECOMMENDATION

All Sheriff's Office employees should comply with the office outside employment policy.

If you have any questions concerning the above, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin P. Wilson". The signature is fluid and cursive, with a long vertical stroke at the end.

Justin P. Wilson
Comptroller of the Treasury

JPW/kbh