VIRGINIA SHERIFFS' ACCOUNTING MANUAL

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INTRODUCTION

SHERIFF'S FISCAL RESPONSIBILITES

The Sheriff is a public official, who is essentially always "on-duty." Therefore, any funds the Sheriff handles carry the presumption that they are public funds. Further, any money coming into the Sheriff's custody, other than a paycheck or personal funds, carries with it the overriding assumption that the Sheriff is the fiduciary custodian and is holding the money for someone else.

Purpose of the Manual

This publication represents a revision of the Virginia Sheriffs Accounting Manual issued by the Auditor of Public Accounts in March 2009. There are primarily only minor revisions due to changes in applicable state laws and clarification of related procedures.

This manual recommends and provides guidance on the accounting procedures for funds collected by Sheriffs throughout the Commonwealth of Virginia. While the manual includes detailed accounting procedures, we realize that Sheriffs may face staffing constraints that could limit implementation. Computer-based accounting systems will also require some procedural changes.

Sheriffs should remember that regardless of their offices' size or activity level, they are responsible for having sufficient controls and procedures in place to satisfy statutory requirements and prevent fraud, misuse, or loss of funds and assets. These accounting procedures should serve as a guide for developing individual facility accounting systems. Because this manual addresses the fund accountability issues for jail operations, we believe regional jail administrators should consider this manual a source book as well.

We would like to thank the Sheriffs' Offices, and regional and local jail facilities that allowed us to visit and review their operations. We used the results of these visits, previous questions about the old manual, and other information to develop the procedures in this manual.

Organization of the Manual

Generally there are three major accounting areas in a Sheriff's office: jail operations, law enforcement, and court support services. The chapters in this manual outline the accounting procedures for the various functions listed in the table below. We provide the relevant statutory requirements as well as the best practices for achieving accounting objectives. We also include a chapter that addresses Internal Controls, Petty Cash, Credit Cards and Employee Funds. Finally, the manual provides sample forms that Sheriffs may use or adapt to their operational needs.

Jail Operations	Canteen Operations/Proceeds; Inmate Trust Funds; Medical Co-payments; Work Release/Work Force/Home Incarceration; Prisoner Reimbursements; Telephone Commissions; and Administrative Fees.
Law Enforcement Operations	Forfeiture Proceeds; Confidential Funds; and Crime Prevention Funds.
Court Support Services	Civil Process and Sheriff Sales/Levies.

Each Sheriff's operation is slightly different and may not be fully compatible with the manual's procedures. Not all Sheriffs perform all of the noted functions nor do all of the offices use the same accounting methods. Sheriffs and their staffs should review this manual and decide how they will place these internal control procedures into effect. This manual should serve as a means of orienting accounting personnel to the Sheriff's accounting system and as a reference manual for resolving questions about the system.

Relationship with Local Treasurer

Section 15.2-1615 of the Code of Virginia requires Sheriffs to promptly deposit all collections with the local Treasurer or Director of Finance. The only exceptions to this requirement are service fees and commissions, which the Sheriff must send to the Treasurer monthly; the remittance of proceeds from sales and levies to the parties involved; inmate trust funds and canteen funds. Also, Sections 15.2-2506 and 15.2-1203 require an appropriation of all expenses by the local governing body, before payment by the local Treasurer.

The Sheriff should work closely with the local Treasurer to set up accounts on the locality's ledgers for any special collections, any imprest fund for confidential funds, to obtain an appropriation and payment for expenses, and many other reasons. The Treasurer can assist the Sheriff in opening any necessary bank accounts for inmate trust funds, canteen operations, official collections, and petty cash or imprest funds. Working with the Treasurer to establish these accounts should significantly reduce the banking costs for these funds and ensures the appropriate level of insurance for the funds, should the bank fail.

If the Treasurer or Director of Finance does not have established banking relations, then the Sheriffs should ask the Treasurer for a list of qualified public depositories and ensure that all funds of the Sheriff go into only those banks and savings institutions on that list. Insurance of deposits under FDIC or other insurance or collateralization does not relieve the Sheriff of the responsibility to ensure that the funds are in a qualified depository and designated as public funds.

Generally, the Treasurer or Director of Finance must hold and disburse all funds for the operation of the Sheriff's office, with the exceptions noted above. In some instances, funds received for Sheriff operations go directly to the Treasurer. However, when the Sheriff directly receives funds required to go the Treasurer, the Sheriff must send these funds to the Treasurer within two business days.

The Sheriff should deposit funds not sent to the Treasurer in a bank account by the end of the next banking day.

Relationship with Compensation Board

The Compensation Board makes several types of payments to the local Treasurer or Director of Finance for the Sheriff's office. The Compensation Board funds salaries for the Sheriff and other employees specified by the Board, funds a share of fringe benefits paid on behalf of the Sheriff and employees, and pays for the care of state prisoners held in local correctional facilities.

The Compensation Board uses its Local Inmate Data System (LIDS) to determine payments for state-responsible prisoners held in local jails. Since the Compensation Board sends the payments directly to the local Treasurer, the Sheriff should work with the Treasurer to verify the accuracy of payments since the Compensation Board has auditors who review and report on information on LIDS.

Funds Not Related to Official Operations

The Sheriff is a public official, who is essentially always "on-duty." Therefore, any funds the Sheriff handles carry the presumption, they are public funds. Any money coming into the Sheriff's custody, other than a paycheck or personal funds, carries with it the overriding assumption that the Sheriff is the fiduciary custodian and is holding the money for someone else.

Some Sheriffs receive funds not related to their official operations. Examples of this include employee funds (a fund to benefit employee activities either contributed by the employee or as a result of employee fund raising activities), vending machine proceeds, and donations from individuals or corporations for community crime prevention programs.

We strongly discourage the Sheriff from personally handling or directing the disbursements of any funds of this type. The Sheriff's employees should exclusively handle any employee fund. The Sheriff should not have check signing capacities or have his name on the account. Depending on the nature of the vending machine profits, the Sheriff needs to exercise care in following the proper accounting procedures. For example, if vending machines are primarily for use by inmates, the profits should go to the canteen fund. Employee vending machine profits should go to the employee fund. The Sheriff should remember that should he direct disbursements from these types of funds even if his name is not on the check or account, someone could consider these public funds requiring deposit with the Treasurer and appropriation before disbursement.

This manual is not discouraging the Sheriff from participating in privately funded community crime prevention programs. We are however, strongly discouraging the Sheriff from handling these funds or signing checks disbursing these funds. The Sheriff's direct involvement could make these programs locality functions, which could require the group to deposit the funds with the Treasurer and require an appropriation.

Audits

Section 15.2-2511 of the Code of Virginia requires all local governments have their accounts and records audited annually by an independent certified public accountant. This audit should include the Sheriff's accounting records for all funds.

The Auditor of Public Accounts annually audits the Sheriff's collection of state funds that go to the local Treasurer. This audit may include other office funds when necessary. In addition, the Auditor of Public Accounts may audit the Sheriff's accounts when there is a suspected fraud or other irregular handling of funds. There is no statutory requirement for the Sheriff to obtain a separate independent audit of the accounting records, however, some Sheriffs do arrange for separate audits or have special work done by the locality's auditing firm to review accounts and funds in more detail.

Statutory References

In addition to area-specific provisions detailed in other chapters of this manual, the Sheriff should be aware of the following general provisions of Virginia law. [Note: this list is not all inclusive.]

§ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies.
A. No other officer or employee of any governmental agency of local government shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.

B. No officer or employee of any governmental agency of local government shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as defined in § 2.2-4301 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivisions 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:
1. An employee's personal interest in additional contracts for goods or services, or contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over (i) the employment or the employment activities of the member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services;
2. An officer's or employee's personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;
3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;
4. Members of local governing bodies who are subject to § 2.2-3107;
5. Members of local school boards who are subject to § 2.2-3108; or
6. Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § 22.1-212.8.

§ 2.2-3110. Further exceptions. [State and Local Government Conflict of Interests Act]

A. 1-9 omitted from this document

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is $35,000 or more.

§ 2.2-4407. Deposit of public funds in qualified public depository mandatory.

Public deposits required to be secured pursuant to this chapter shall be deposited in a qualified public depository.

§ 15.2-1203. Governing body may require treasurer to pay claims.

The governing body of any county may require the treasurer of the county to pay all claims or other obligations for which the governing body has appropriated funds. The treasurer of the county shall, before paying any funds as authorized by this section, first comply with 58.1-3132.

§ 15.2-1609.3. Fees and mileage allowances.

A. Every sheriff, and every sheriff's deputy, shall collect all fees and mileage allowances provided by law for the services of such officer, other than those he is entitled to receive from the Commonwealth or from the county or city for which he is elected or appointed and fees and mileage allowances provided for services in connection with the prosecution of any criminal matter in the circuit courts. However, no fee shall be charged for serving any public orders, for summoning or impaneling grand juries, or for services in elections except as provided under Title 24.2.

B. All fees and mileage allowances accruing in connection with any civil or criminal matter shall be collected by the clerk of the court in which the case is heard and paid by him into the treasury of the county or city in which the case is heard. All fees collected by or for every sheriff and deputy shall be paid into the treasury of the county or city for which he is elected or appointed, on or before the tenth day of the month next succeeding that in which the fees are collected. The treasurer of each county and city shall credit such amounts in excess of such fees received in fiscal year 1994 to the account of the Commonwealth to be remitted to the State Treasurer along with other funds due to the Commonwealth.

C. In any case in which a sheriff makes a levy and advertises property for sale and by reason of a settlement between the parties to the claim or suit he is not permitted to sell under the levy, the sheriff is not entitled to any commissions, but in addition to his fees for making the levy and return, he shall be entitled to recover from the party for whom the services were performed the expenses incurred for advertisement of the proposed sale of the property.

D. When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the $1 for a bond, if one was taken, a fee of $12. If the fee is more than one-half of what his commission would have amounted to if he had received payment, he

shall, whether a bond was taken or not, receive a fee of at least $1 and so much more as is necessary to equal the one-half.

§ 15.2-1613. Operation of sheriff's office.
Any county or city may appropriate funds for the operation of the sheriff's office.

§ 15.2-1613.1. Processing fee may be imposed on certain individuals.
Any county or city may by ordinance authorize a processing fee not to exceed $25 on any individual admitted to a county, city, or regional jail following conviction. The fee shall be ordered as a part of court costs collected by the clerk, deposited into the account of the treasurer of the county or city and shall be used by the local sheriff's office to defray the costs of processing arrested persons into local or regional jails. If processing costs are incurred by a regional jail rather than a local sheriff's office, the fees collected pursuant to such ordinance may be used by the regional jail to defray the costs of processing arrested persons. Where costs are incurred by a sheriff's office and a regional jail the fees collected pursuant to such ordinance may be divided proportionately as determined by the local governing body or bodies, between the sheriff's office and the regional jail.

§ 15.2-1614. Destruction of receipts.
Every sheriff shall maintain in his office all official receipt books showing receipt of any funds in his custody or that of the court, all cancelled checks showing payments from any such funds, and all statements of bank accounts in which funds of the sheriff's office are deposited. Such books, checks, receipt books and statements shall be maintained for a period of three years after they are audited by any individual or entity authorized by § 15.2-1615 to inspect them and thereafter may be destroyed in accordance with retention regulations established pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

§ 15.2-1615. Sheriff to deposit funds, keep account of receipts and disbursements, keep books open for inspection.
A. All money received by the sheriff shall be deposited intact and promptly with the county or city treasurer or Director of Finance, except that the sheriff shall maintain an official account for (i) funds collected for or on account of the Commonwealth or any locality or person pursuant to an order of the court and fees as provided by law and (ii) funds held in trust for prisoners held in local correctional facilities, in accordance with procedures established by the Board of Corrections pursuant to § 53.1-68.
The sheriff's official accounts shall be secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).
B. The sheriff shall keep the books, papers, receipt books and statements pertaining to the receipts and disbursements of his office at all times ready for inspection by the Auditor of Public Accounts or any other certified public accountant authorized by the governing body.
Furthermore, the accounts and books of the sheriff shall be included in the audit of the local government conducted pursuant to § 15.2-2511.

§ 15.2-2506. Publication and notice; public hearing; adjournment; moneys not to be paid out until appropriated.

A brief synopsis of the budget which, except in the case of the school division budget, shall be for informative and fiscal planning purposes only, shall be published once in a newspaper having general circulation in the locality affected, and notice given of one or more public hearings, at least seven days prior to the date set for hearing, at which any citizen of the locality shall have the right to attend and state his views thereon. Any locality not having a newspaper of general circulation may in lieu of the foregoing notice provide for notice by written or printed handbills, posted at such places as it may direct. The hearing shall be held at least seven days prior to the approval of the budget as prescribed in § 15.2-2503. With respect to the school division budget, which shall include the estimated required local match, such hearing shall be held at least seven days prior to the approval of that budget as prescribed in § 22.1-93. The governing body may adjourn such hearing from time to time. The fact of such notice and hearing shall be entered of record in the minute book.

In no event, including school division budgets, shall such preparation, publication and approval be deemed to be an appropriation. No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made an annual, semiannual, quarterly or monthly appropriation for such contemplated expenditure by the governing body, except funds appropriated in a county having adopted the county executive form of government, outstanding grants may be carried over for one year without being reappropriated.

§ 15.2-2511. Audit of local government records, etc.; Auditor of Public Accounts; audit of shortages.

A. Localities shall have all their accounts and records, including all accounts and records of their constitutional officers, audited annually as of June 30 by an independent certified public accountant in accordance with the specifications furnished by the Auditor of Public Accounts. The certified public accountant shall present a detailed written report to the local governing body at a public session by the following December 31. Every locality shall contract for the performance of the annual audit not later than April 1 of each fiscal year and such contract shall incorporate the provisions of this section relating to audit specifications and report date. The report shall be preserved by the clerk of the local governing body, and shall be open to public inspection at all times by any qualified voter.

The accounts and records of any county or city officer listed in Article VII, Section 4 of the Constitution of Virginia, hereinafter referred to as “constitutional officers,” shall be subject to the provisions of this section.

In the event a locality fails to obtain the annual audit prescribed by this subsection, the Auditor of Public Accounts may undertake the audit or may employ the services of certified public accountants and charge the full cost of such services to the locality. However, no part of the cost and expense of such audit shall be paid by any locality whose governing body has its accounts audited for the fiscal years in question as prescribed above and furnishes the Auditor of Public Accounts with a copy of such audit.

B. The Auditor of Public Accounts shall audit the accounts of local governments and constitutional officers only when (i) special circumstances require an audit, or (ii) there is suspected fraud or inappropriate handling of funds which may affect the financial interests of the

Commonwealth. In all instances, such audits shall be carried out with the approval of the Joint Legislative Audit and Review Commission.

Any shortage existing in the accounts of the locality or constitutional officer, as ascertained by the audit, shall be made public within thirty days after the shortage is discovered, and a brief statement thereof shall be sent by the Auditor of Public Accounts to the members and clerk of the local governing body and to the circuit court for the locality, and shall be filed in the clerk's office of such court.

C. The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population.

§ 30-138. State agencies, courts, and local constitutional officers to report certain fraudulent transactions; penalty.

A. Upon the discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has occurred involving funds or property under the control of any state department, court, officer, board, commission, institution or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, as to which one or more officers or employees of state or local government may be party thereto, the state agency head, court clerk or local official in charge of such entity shall promptly report such information to the Auditor of Public Accounts ("Auditor") and the Superintendent of State Police ("Superintendent").

B. The Auditor or the Superintendent shall review the information reported pursuant to subsection A and individually determine the most appropriate method to investigate the information. In the event that the Auditor or the Superintendent determines to conduct an investigation, he shall notify the other of the commencement of the investigation as soon as practicable, unless the information involves the Auditor or the Superintendent.

C. No state department, court, officer, board, commission, institution or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, shall employ or contract with any person, firm, corporation, or other legal entity to conduct an investigation or audit of information reported pursuant to subsection A without obtaining the prior written approval from the Auditor and the Superintendent. Pending acknowledgement of the report and receipt of the written approval from the Auditor and the Superintendent, the state department, court, officer, board, commission, institution, or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, may use their employees to audit the circumstances reported in subsection A to prevent the loss of assets.

D. All state departments, courts, officers, boards, commissions, institutions or other agencies of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers and their employees, shall cooperate to the fullest extent in any investigation or audit which may occur at the direction of the Auditor or the Superintendent or both as a result of information reported pursuant to subsection A.

E. The willful failure to make the report as required by this section shall constitute a Class 3 misdemeanor.

F. Nothing herein shall affect the requirements of § 52-8.2.

§ 53.1-26. Confiscation of prohibited articles.

Any item of personal property which a prisoner in any state correctional facility is prohibited from possessing by the Code of Virginia or by the rules of the Director shall, when found in the

possession of a prisoner, be confiscated and sold or destroyed as the Director may direct. Any funds from the sale of such property shall be invested and used as provided in § 53.1-44.

§ 53.1-68. Minimum standards for local correctional facilities, lock-ups and personnel, health inspections.

A. The Board shall establish minimum standards for the construction, equipment, administration and operation of local correctional facilities, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards. The Board or its agents shall conduct at least one unannounced inspection of each local facility annually. However, in those years in which a certification audit of a facility is performed and the facility is in compliance with all the standards, the Board may elect to suspend the unannounced inspection based upon that certification audit and the history of compliance of the facility with the standards promulgated in accordance with this section, except in any year in which there is a change in the administration of a local or regional jail. The Board shall also establish minimum standards for the construction, equipment and operation of lock-ups, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards.

B. Standards concerning sanitation in local correctional facilities and procedures for enforcing these standards shall be promulgated by the Board with the advice and guidance of the State Health Commissioner. The Board, in conjunction with the Board of Health, shall establish a procedure for the conduct of at least one unannounced annual health inspection by the State Health Commissioner or his agents of each local correctional facility. The Board and the State Health Commissioner may authorize such other announced or unannounced inspections as they consider appropriate.

C. The Department of Criminal Justice Services, in accordance with § 9.1-102, shall establish minimum training standards for persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120 and for persons employed as jail officers or custodial officers under the provisions of this title. The sheriff shall establish minimum performance standards and management practices to govern the employees for whom the sheriff is responsible.

D. The superintendent of a regional jail or jail farm shall establish minimum performance standards and management practices to govern the employees for whom the superintendent is responsible.

THE INTERNAL CONTROL ENVIRONMENT

This chapter discusses internal controls and those factors that should be considered when setting up the controls for the Sheriff's office. This chapter also discusses the handling and safeguarding of petty cash, charge cards and employee funds.

The Sheriff should remember that internal controls help to reduce the risk that someone will take or misuse monies or assets. No system of internal controls will replace a Sheriff's active participation in understanding and reviewing the fiscal activities of the office. Internal controls will not stop a determined thief from taking money, however, they do reduce the personal risk of the loss to the Sheriff and will reduce the time in finding the person who is taking funds.

Regrettably, internal controls do have limited effectiveness - especially when the assignment of personnel to the accounting process is restricted by the size of an office. However, the Auditor of Public Accounts has never investigated a fraud where there were good internal controls; where the supervisor did not trust one person to do everything because they had always done a good job; or where a supervisor continued to review work of all employees regardless of how good a job they did.

Internal Controls

Strong internal control is a system of checks and balances with four fundamental parts; division of work, the use of accounting records, the rotation of personnel, and strong and thorough supervisory review. A strong control system will also coordinate procedures such that one employee, working independently, will check the work of another employee and no single employee will have absolute control of any critical procedure.

The office's control environment comes from the Sheriff's tone for the organization and influences the control consciousness of its people. The Sheriff and the managers should provide a structured foundation with clearly detailed policies and procedures. Identifying risk areas, determining and installing appropriate controls, and monitoring performance will provide reasonable assurance that the Sheriff's Office will meet its objectives and employees will carry out management's directives.

Practical internal controls for any office should include having written policies and procedures for all accounting areas, the use of reports and checklists to ensure there are complete reconciliation procedures, periodic supervisory reviews, a separation of duties, and security over financial transactions and information. Good internal controls do not restrict the flow of information and resources, but aid the efficiency and accountability of the office by showing and documenting who has responsibility for assets. Good controls protect not only the organization but the individual employee as well.

When determining the needs of the particular office, the Sheriff needs to consider the following:

1. Are the collection, control, and deposit of funds separated from the accounting records/bookkeeping function?
2. Are responsibilities for entries in the collection records separate from those for general ledger entries?
3. Does someone restrictively endorse checks as soon as received?
4. Is there a record of all collections properly showing account, amount, and period?

5. Do the separate collection areas tell the general accounting department or bookkeeper of cash collections in a timely manner?
6. If a person makes payments, does the collection point prepare a receipt for payment and at the end of a shift, balance the collections to the receipts for deposit?
7. Are cash receipts deposited intact and timely following authoritative requirements?
8. Do controls exist providing reasonable assurance that restricted revenues are expended only for restricted purposes? This may include federal, local or state funds.
9. Does someone independent of the collection points and bookkeeping reconcile recorded receipts to the general ledger?

Not every Sheriff's office can implement all of the issues and controls discussed here, because excessive or unnecessary controls may prove a deterrent to productivity. It is important that each office evaluate its overall objectives, day-to-day operations, staffing, and available accounting systems in order to design an acceptable system of internal controls that will safeguard assets and provide reliability of reporting information.

Any system of internal controls should include the following seven components to the maximum extent possible

Policies and Procedures

Establishing and enforcing procedures is an essential element of management's control, especially if they reflect the needs of each operation in an office. Staff members are more likely to understand and use specific and detailed procedures. Written policies document the flow of work and are available for employees to use for reference and training. Well written policies and procedures will clearly state an objective (or policy), provide definitions and examples of forms used or files maintained, list detailed procedures, and state the supervisory authority, review procedures, and related standards.

Safeguarding Physical Assets

In most offices physical assets refer to the petty cash fund and incoming monies. Sheriffs should store all monies in a safe, or at least in a locked repository. In many cases this may be a desk drawer, file cabinet, or locked closet. Further, only a limited number of people should have access to these funds and someone should have the ability to monitor who has access. Ideally, there should be only one place to keep cash assets, although this may be difficult when there is a need to keep the petty cash fund in the administrative offices and the jail receives monies from incoming inmates and family members. The use of log books and daily reconciliations are necessary to ensure the security of these physical assets.

Separation of Duties

Ideally, there should be complete separation between staff handling incoming monies, staff handling the recording of those monies and staff assigned to deposit those monies. Separating these functions ensures that there is a system of checks and balances between the operations. Also, employees know that there is accountability for errors. There is also the need for separation of duties when disbursing monies. The staff member responsible for maintaining the checkbook should not be the authorized check signer. This separation will ensure that someone other than the preparer reviews checks, thus safeguarding the organization and the employees. Smaller offices will have difficulty in providing all the separation of duties, however,

when separation is not possible, the office will need to increase other compensating controls (such as regular supervisory review.)

Maintaining Accounting Records

Accounting records may take many forms such as manual ledgers and logbooks, an automated system, or some combination of both. Regardless of what form, the accuracy of the accounting records is very important especially when dealing with public funds. Entries must be accurate, timely, and supported by other means of documentation. There must be accountability and supervisory review.

In many instances it is more feasible, and may be mandatory, to have separate accounts for various types of funds. Although this will require additional maintenance, it may provide a more efficient method of tracking activity. Generally, the Sheriff's should retain accounting records for a period of three years after audit.

Reconciliation

Reconciliation refers to the process of agreeing information from different sources to the accounting records to ensure that the accounting records properly include all transactions. The most familiar process is the monthly reconciliation done between the checkbook and the bank statement. However there may be daily reconciliations to agree daily collections to the deposit, to agree expenses to invoices, and to justify the use of petty cash. In some offices additional reconciliations may be needed to ensure that automated system balances agree to manual balances. These automated system reconciliations should be done at least monthly.

Information Security

With automated systems there is also the need to consider information security over both the information and the equipment. With automated systems it is essential that the system allow for the review and approval of data entry and other means of changing existing information. System users should have access only to areas and information essential to their duties.

Supervisory Review

Supervisory review is the most effective control. By establishing a regular schedule for review, the staff becomes aware of managements commitment to control and security. In addition, timely reviews will identify problems before they become more complex through the passage of time. It is easier to fix an error in the subsequent month than it is to wait until year-end. Management should consider monthly reviews of all bank reconciliations, annual reviews of financial summaries and security reports, and periodic reviews of daily reconciliations. Sheriffs should require that supervisors provide evidence of their (the supervisor's) review. Evidence should include the supervisor's initials and date of the review.

Controls for Petty Cash

Many operations of the Sheriff's office may require the use of a petty cash fund – sometimes referred to as an imprest fund. Because of the diversity between the various operations, it may not always be feasible to have a single petty cash account. Although a single account provides stricter control, the Sheriff should evaluate operational needs to determine if

separate accounts would be more efficient. The Sheriff should ensure that procedures result in accurate record keeping, accountability, reconciliation, and review of each petty cash account used.

General controls for petty cash include:

1. Limiting the fund to an amount that is reasonable for the activity level. The Sheriff should re-evaluate the threshold periodically to allow for changes in activity or needs.
2. Limiting the number of staff with access to the fund.
3. Securing the cash in a safe or other secure storage area.
4. Using a log or journal to record all activity promptly and maintain a running balance of funds available.
5. Requiring supporting documentation (receipts) for all expenditures.
6. Requesting reimbursements timely.
7. Performing a supervisory review of the log on a monthly basis.

Law Enforcement Operations

Law Enforcement operations often demand cash for certain activities such as drug buys or informant considerations. We discuss these funds, referred to as "Confidential Funds" in a later chapter of this manual.

Jail Operations

Jail operations may need petty cash funds for deputies on transport details, paying minimal account balances when releasing prisoners, making change when relatives leave money for inmates, and retail purchases for needed equipment. This petty cash account may need a higher threshold and see more daily activity than the petty cash funds needed in other areas. Daily reconciliations of cash and receipts, accurate record keeping, and reviews of the daily running balance are imperative. The petty cash fund should be a part of the jail's operating fund and included in the detailed monthly reconciliation of the operating checking account.

Administrative Operations

This area includes the daily operational and administrative duties of the Sheriffs office. Examples of these types of expenses might include postage, fuel needs, small retail purchases, and other miscellaneous expenses. As with all petty cash accounts, controls need to be in place to ensure accountability.

Controls for Charge Cards

The Sheriff may determine that charge cards are more efficient than petty cash for buying many of the small dollar items typically encountered in everyday operations. If so, using credit cards could conceivably eliminate the need for some petty cash accounts. For example, when using petty cash for transportation expenses (i.e. gasoline, meals and lodging, etc.), the receipt tracking and reimbursement procedures require aggressive bookkeeping. Using a charge card on the other hand, may reduce the need for such detailed record keeping. Also, charge card monthly statements allow for centralization and consolidation of information.

If the Sheriff elects to use charge cards, we recommend the Sheriff adopt and follow the locality's small purchase charge card policies and procedures whenever possible. However, any procedure used should incorporate the following controls.

1. Charge cards should be issued in the name of the Sheriff's Office or Sheriff's Name, with Locality Name. A card should never be issued in just the individual Sheriff's name.
2. Limit the number of cards and strictly control and safeguard cards when not in use.
3. Limit the number of users.
4. Cleary define what is an approved purchase or use.
5. Limit transaction amounts.
6. Perform monthly supervisory reviews of activity.
7. Have a supervisor review the credit card statements and maintain the statements for audit.

Controls for Employee Funds

Employee funds are those funds that have income strictly from employee contributions or efforts. Many offices refer to these funds as "the flower and cup fund," the "social fund," or even perhaps the "employee special fund." These monies typically come from monthly employee contributions, the profits from vending machines available to the staff and public, or from staff revenue generating activities such as bake sales. These monies most often benefit the staff for such activities as holiday parties or flower remembrances.

Because these funds are truly "employee funds," the Sheriff should not hold these funds in any of his official accounts or have any authority over the receipting or disbursing of these monies. As mentioned in the Introduction Chapter, all monies handled by the Sheriff have the preponderance of being "public funds" and must meet the requirements of the Code of Virginia, such as deposit of all public funds with the local Treasurer and appropriation before use. Employee funds do not meet the "public fund" criteria as long as the Sheriff has no responsibility for them. An employee should manage the bank account for these funds. The Sheriff's name should not appear on the checks nor should the Sheriff be an authorized signer.

CANTEEN OPERATIONS

Most local correctional facilities, including jails, offer canteen services to their inmates. The State Board of Corrections' Minimum Standards for Local Jails and Lockups (6VAC15-40-310) provides that a facility make available to inmates commissary (canteen) services where they may purchase from an approved list of items. Traditionally, these items have included snacks, toiletries, and the like. In some facilities, there is an elaborate list of food items and care packages. The means facilities use to sell these items to inmates can vary, depending on the size of the facility and the number of times each week canteen services are offered. In some facilities, the inmates' family and friends can go on line and purchase items for delivery to the inmate. Many facilities have elected to contract with an outside vendor to provide canteen services. In those instances, some of the controls and procedures listed in this chapter will not apply.

With all canteen service methods, the Sheriff should remember that the net profits from canteen operations must benefit the inmates within the facility. For example some purchases the net profits may be used for include: education services; recreation services; library services; indigent inmate care; inmate hygiene and medical equipment; and counseling and pastoral care services. Social club memberships, charitable donations, employee awards, and staff and personal use items do not directly benefit inmates and, therefore, are not appropriate uses of these profits.

Some Sheriffs receive funds from other sources directly related to jail operations. These include commissions on inmate collect telephone calls, derived from the jail facility's contract with a telephone service provider; and administrative or service fees assessed by the Sheriff on inmate trust fund accounts. The fee may be a one-time assessment to an individual inmate's account to cover any future disbursements, or a smaller amount assessed each time the inmate requests a check. (Chapter 4 discusses Inmate Trust Funds.)

The Sheriff may include telephone commissions and administrative fees in the canteen proceeds account and use these funds to support inmate educational or recreational programs. Alternatively, telephone commissions may be sent to the local Treasurer or Director of Finance to help defray the cost of jail operations.

Statutory Requirements

The following sections of the Code of Virginia apply to canteen operations by Sheriffs and/or Jail Operations in local correctional facilities:

§ 2.2-4300 et seq. Virginia Public Procurement Act
A. This chapter may be cited as the Virginia Public Procurement Act.

B. The purpose of this chapter is to enunciate the public policies pertaining to governmental procurement from nongovernmental sources, to include governmental procurement that may or may not result in monetary consideration for either party. This chapter shall apply whether the consideration is monetary or nonmonetary and regardless of whether the public body, the contractor, or some third party is providing the consideration.
C. To the end that public bodies in the Commonwealth obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access

to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered. Public bodies may consider best value concepts when procuring goods and nonprofessional services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

§ 2.2-4303. Methods of procurement. (Extract)

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed $50,000; however, such small purchase procedures shall provide for competition wherever practicable. Purchases under this subsection that are expected to exceed $30,000 shall require the written informal solicitation of a minimum of four bidders or offerors.

H. A public body may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed $50,000; however such small purchase procedures shall provide for competition wherever practicable.

§ 2.2-4407. Virginia Security for Public Deposits Act.

Public deposits required to be secured pursuant to this chapter shall be deposited in a qualified public depository.

§ 53.1-127.1. Establishment of stores in local correctional facilities.

Each sheriff who operates a correctional facility is authorized to provide for the establishment and operation of a store or commissary to deal in such articles as he deems proper. The net profits from the operation of such store shall be used within the facility for educational, recreational or other purposes for the benefit of the inmates as may be prescribed by the sheriff. The sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates. The funds from such operation of a store or commissary and from the inmate telephone services account shall be considered public funds.

The State Board of Corrections has established the following standard for local correctional facilities relating to inmate money and property control and is contained in the Minimum Standards for Local Jails and Lockups:

6VAC15-40-800. Accounting of inmate expenditures and receipts of money.

Inmates' personal funds held by the facility are controlled by accepted accounting procedures. The facility shall provide the inmate with a copy of his/her itemized account upon reasonable request.

PROCUREMENT FOR CANTEEN OPERATIONS

Section 53.1-127.1 of the Code of Virginia designates the Sheriff as the purchasing agent for the commissary and nonappropriated funds received from inmates. As a public official, the Sheriff must follow the Virginia Public Procurement Act. Section 2.2-4303 of the Code of Virginia requires that "All public contracts with non-governmental contractors for the purchase of lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law." Paragraph G. of the same section would allow the Sheriff, either independently or by adopting the locality's procurement procedures, to develop alternate procedures for procurements not exceeding $50,000.

It is very important for the Sheriff to have written procurement policies and procedures. These procedures will not only aid the Sheriff and staff in following procurement rules and provide for the maximum competitiveness, but will also help in answering questions from unsuccessful vendors. We strongly recommend that the Sheriff adopt, in writing, the locality's policies and procedures and use the locality's procurement specialist(s) as much as possible in guiding the procurement process.

As an alternative, the Sheriff must develop policies and procedures, making certain that these policies meet the minimum standards of the Virginia Public Procurement Act. In determining which procurements the Sheriff would expect to exceed $50,000, the Sheriff needs to review the length of the contract, the goods provided, and the totals by vendor.

For many items in the canteen, the Sheriff may want to buy from one vendor for an extended period, up to one year. In considering the value of such a "blanket purchase agreement," the Sheriff should consider the total value of the purchases under the contract for the entire period. For example, a contract to purchase an item from one vendor for a year would be valued at the amount expected each week ($1,000) multiplied by the number of weeks in a year (52) for a total of $52,000. Where the Sheriff can reasonably expect that one vendor may provide multiple goods even under different procurements, the Sheriff should combine the expected annual purchases of all items to determine whether the purchase will meet the $50,000 threshold.

The Sheriff can obtain additional assistance in developing procurement policies and procedures from the locality's procurement specialists and a review of the Virginia Public Procurement Act.

BEST ACCOUNTING PRACTICES – CANTEEN OPERATIONS

The following procedures are considered best practices in accounting for canteen operations and should be followed regardless of the size of the facility.

A. Purchasing

1. The facility director or his designee should approve all items purchased. Vendor selection should consider promoting competition in procurement and any purchases in excess of $50,000 should meet the requirements of the Virginia Public Procurement Act.

2. When goods come in, someone should immediately complete a receiving report - preferably not the check writer or payment approver.

3. The accountant should compare the vendor invoices with the receiving reports and approve the invoice by either signing or initialing it. In lieu of a separate receiving report, canteen personnel may write the quantity on the vendor's invoice. They should sign the invoice before sending it to the Sheriff's office for payment.

4. The facility director or other approved person should review the vendor invoice with the receiving report. The facility director or his designee should approve the invoice by either signing or initialing it before paying the vendor.

5. Make all vendor payments by check or electronic transfer.

6. Cancel all vendor invoices by writing the check number and date on the invoice and attaching the receiving report. This helps prevent duplicate payments.

7. Keep all canteen inventories in locked areas not accessible to those facility employees or inmates who do not require access.

8. Count and record the canteen inventory twice a year at December 31 and June 30.

B. Sales to Inmates

1. Inmates should sign a form, list, or register receipt for canteen. Keep these receipts as part of the inmate record as required by 6VAC15-40-90 of the Minimum Standards for Local Jails and Lockups.

2. Keep a daily total of all inmate sales on either a cash register, adding machine tape, or log. Reconcile the daily sales total to charges to inmate accounts.

3. Record the total inmate and employee sales in the sales journal daily. Each month total the daily sales in the sales journal and agree the total to the charges to inmate accounts and the bank account deposits.

4. Deposit all cash and checks collected no later than the next business day.

C. Administration

1. There should be a separate checking account for canteen operations. Ensure that the bank is a qualified public depository. Deposit all canteen funds directly into the checking account and make no disbursements before making a deposit. Pay all canteen expenses by check.

2. Reconcile the canteen bank account each month. The facility director or his designee and the person preparing the reconciliation should review and sign it.

3. Prepare semiannual (December 31 and June 30) canteen financial statements. The facility director should review and approve the statements.

4. Disburse canteen profits only for educational, recreational, or other inmate beneficial purposes. The facility director should approve all disbursements. Effective July 1, 2002, canteen or commissary funds are designated by law as public funds.

INMATE TRUST FUND ACCOUNTS

This chapter applies to any money held by the Sheriff for inmates. Sheriffs should hold inmate trust funds separate and apart from all other funds received and disbursed by the facility. Inmate trust funds may include any money taken from an inmate at the time of incarceration, funds deposited with the Sheriff by others for an inmate, and wages and salaries paid to an inmate. Some facilities have a kiosk, generally in the lobby, where visitors can deposit funds into the inmate's account using either cash or credit/debit card. Disbursements from an inmate account may include canteen purchases, other approved purchases, remittances to family or for fines and costs, fees for medical treatment or work release and any other miscellaneous administrative fees.

The authority for local correctional facilities to handle work release prisoners' funds comes from Section 53.1-131 of the Code of Virginia. Chapter 5, of this manual, discusses work release and work force accounting procedures.

In its 2002 session, the General Assembly amended Section 53.1-93 of the Code of Virginia to allow Sheriff's to charge reasonable fees for the security, supervision, and transportation provided to inmates taken to funeral services. Any fees collected for these services should be deposited with the local treasurer of the locality and made available for appropriation.

Statutory Requirements

The following sections of the Code of Virginia provide authority for the maintenance of inmate funds by state correctional facilities:

§ 53.1-42. Allowance for work and disposition thereof

Every prisoner committed and transferred to the Department and thereafter confined for the sentence for which he was committed in a state or local correctional facility shall be allowed an amount to be established by the Board for each day of labor satisfactory to the superintendent or sheriff in whose charge he is. The allowance so made shall accumulate and be paid over to the prisoner upon discharge, except that an amount thereof to be determined by the Board may be drawn upon by the prisoner for such purposes as may be authorized by the regulations of the Board.

For the purposes of this section only, the phrase "transferred to the Department" means (i) the actual physical receipt by the Department of a prisoner in a state correctional facility or (ii) the complete processing by the Department of a prisoner for the purposes of classifying the person as a state prisoner whether or not the person is physically received into a state correctional facility.

§ 53.1-44. Investment of funds belonging to prisoners; use of income.

Portions of the funds held by the Director or by any state correctional facility, which belong to prisoners may, in the discretion of the Director, be invested in bonds of the Commonwealth of Virginia or of the United States or in federally insured investments. In determining how to invest the funds, the Director shall balance any long-term investments with those which permit ready accessibility to the funds. Any income or increment of increase received from the bonds or investments may be used by the Director for the benefit of the prisoners under his care.

§ 53.1-93. When sheriffs to summon or employ guards and other persons; allowances therefor.
Whenever in the discretion of the court it is necessary for the safekeeping of a prisoner under charge of or sentence for a crime, whether the prisoner be in jail, hospital, court or elsewhere, the court may order the sheriff to summon a sufficient guard. Whenever ordered by the court to do so, the sheriff shall summon or employ temporarily such persons as may be needed to preserve proper order or otherwise to aid the court in its proper operation and functioning. For such guard or other service the court may allow so much as it deems proper, not exceeding the hourly equivalent of the minimum annual salary paid a full-time deputy sheriff who performs like services in the same county or city. In addition, mileage and other expenses for rendering the services shall be paid for each such person. A prisoner may be charged reasonable fees for providing him a security escort, supervision and transportation to and from a funeral or graveside service.

§ 53.1-123. Other accounts, information and records as required by Department.
Sheriffs and jail superintendents shall keep such other accounts and records and furnish to the Department such information and reports as may be required by the Department.

§ 53.1-228. Disposal of unclaimed personal property of prisoner.
If any prisoner in a state, local or community correctional facility, upon being transferred to another facility, leaves personal property valued at less than $100 in the custody of such facility for 30 days after his transfer without making a claim therefore, or if any prisoner, upon being released or having escaped, leaves such property at the time of his release or escape, the Director or the sheriff, as the case may be, may sell such property at public sale or may otherwise dispose of the property. The proceeds of such sale shall escheat to the Commonwealth and shall be paid into the state treasury and credited to the Literary Fund.

The following standards established by the State Board of Corrections for local correctional facilities, relate to inmate money and property control and are contained in the manual Minimum Standards for Local Jails and Lockups, Part V Jail Operations:

6VAC15-40-780. Items inmates may retain.
Written policy and procedures shall state what items the inmate may retain in his possession.

6VAC15-40-790. Inventory of cash and personal property.
A written itemized inventory of cash and personal property of each inmate shall be made at the time of initial booking. A copy signed by both staff and inmate shall be furnished the inmate.

6VAC15-40-800. Accounting of inmate expenditures and receipts of money.
Inmates' personal funds held by the facility are controlled by accepted accounting procedures. The facility shall provide the inmate with a copy of his/her itemized account upon reasonable request.

6VAC15-40-810. Return of inmate property and funds.
Inmate's property and funds shall be returned to him upon his release or transfer and receipted for by the inmate in writing, when practical.

BEST ACCOUNTING PRACTICES – INMATE TRUST FUNDS

The following procedures are best practices in accounting for inmate trust funds. Certain procedures may not apply to all Sheriffs offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

1. Prepare an official receipt for all funds collected and provide a copy of each receipt to the inmate whose account is being credited.

2. Deposit all collections into an official bank account no later than the next business day. Someone other than the employee who prepared the receipt should make the deposit.

3. If the jail releases an inmate before the next deposit, return his money intact without deposit. The inmate should sign a withdrawal slip acknowledging return of the money.

4. The accounting records should consist of a cash control ledger and the individual inmate account records for daily posting. Someone without access to cash collections or authorized to sign checks should keep these records.

5. Add the individual inmate account record balances and agree the total to the cash control ledger weekly. Analyze any differences and make corrections to balance the individual accounts to the control ledger.

6. Make all disbursements from an inmate's account by check. For disbursements of $25 or less, consider using a petty cash fund. If an inmate needs cash immediately, consider limiting cash disbursements to a maximum of $25 and use a check for the remainder. In all instances when disbursing cash, have the inmate sign a receipt for the cash.

7. The inmate and a jail supervisor should sign a form indicating the amount and reason for any disbursement from the inmate's account and the form provides documentation of any disbursements. The inmate does not need to sign for disbursements made by check payable to him when he is released or transferred to another correctional facility.

8. Daily, post disbursements to the cash control ledger and the individual inmate account records.

9. A jail supervisor or facility director should sign checks. This signer should be an individual who does not post inmate accounts or reconcile the bank account.

10. Monthly, reconcile the official inmate bank account to the checkbook balance. The checkbook balance plus the petty cash change fund (if used) should equal the cash control ledger.

11. The Sheriff should review and approve the monthly reconciliations.

12. When inmate is released, determine the individual account balance. Provide the inmate with a final copy of the account statement.

a. If there is a credit balance, write a check to the inmate or provide debit card, if applicable. Have the inmate sign a receipt for the payout of the account balance.

b. If there is a debit balance, provide the inmate with instructions on how to remit payment for this debt.

13. Credit the collections received for a released inmate's debt to their account and deposit or disburse these funds to the Treasurer for normal operations.

WORK OR EDUCATIONAL RELEASE / WORK FORCE / HOME INCARCERATION

The Sheriff of any jail may place inmates that meet the criteria set forth in Sections 53.1-131 and 53.1-131.2 of the Code of Virginia on a work release, education release, or home/electronic incarceration Program. Inmates on work/educational release go to a full time job and/or participate in vocational training programs during scheduled work hours and return to the jail when not working. Home/electronic incarceration allows the confinement and electronic monitoring of inmates in their homes and at work. Monitoring inmates can occur on a drive-by basis while they work and electronically by computer when they return to their homes after work.

Work release and the home/electronic incarceration require the Sheriff or administrator to collect fees from participants. Inmates on work release must pay for their care and custody and inmates on home/electronic incarceration must pay for the cost of renting the monitoring equipment.

Each week the work release and home/electronic incarceration program administrators determine the amount of money that the inmates on these programs must pay to the Sheriff or program administrator. Work release participants pay the fees in cash or have the fee deducted from their inmates' trust account. The home/electronic incarceration participant normally pays with cash or check once each week.

The Sheriff **must always deposit with the local Treasurer or Director of Finance** the fees collected for work release inmate care and custody and the home/electronic incarceration program to cover the cost of equipment rental. The Sheriff should never deposit these fees into the Sheriff's official bank account.

Sheriffs and Jail Administrators, who offer Work Force or Trustee positions whereby inmates earn credit on their sentence for work performed, should account for these hours as directed by the Board of Corrections.

Statutory Requirements

The following sections of the Code of Virginia apply to Sheriffs generally and are detailed in the Introduction to this Manual:

§ 15.2-1614. Destruction of receipts.

§ 15.2-1615. Sheriff to deposit funds, keep account of receipts and disbursements, keep books open for inspection.

§ 15.2-2511. Audit of local government records, etc.; Auditor of Public Accounts; audit of shortages.

The following sections of the Code of Virginia apply specifically to work release, work force, and home/electronic incarceration programs:

§ 53.1-42. Allowance for work and disposition thereof.

Every prisoner committed and transferred to the Department and thereafter confined for the sentence for which he was committed in a state or local correctional facility shall be allowed an amount to be established by the Board for each day of labor satisfactory to the superintendent or sheriff in whose charge he is. The allowance so made shall accumulate and be paid over to the prisoner upon discharge, except that an amount thereof to be determined by the Board may be drawn upon by the prisoner for such purposes as may be authorized by the regulations of the Board.

For the purposes of this section only, the phrase "transferred to the Department" means (i) the actual physical receipt by the Department of a prisoner in a state correctional facility or (ii) the complete processing by the Department of a prisoner for the purposes of classifying the person as a state prisoner whether or not the person is physically received into a state correctional facility.

§ 53.1-128. Work forces.

The local governing body of any county, city or town may establish workforces in the county, city or town under such conditions as it may prescribe. Such workforces are authorized to work on public property or works owned, leased or operated by the Commonwealth or the county, city or town; on a privately operated national park on federal land; r on any property owned by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501 (c) (3) or (c) (4) and that is organized and operated exclusively for charitable or social welfare purposes whether the same is located within such county, city or town, or elsewhere; or on private property owned or occupied by an elderly or indigent person or persons where such property has been identified by a citizens housing advisory committee as needing rehabilitation or repair and the property owner has consented to such work. Every person 18 years of age or older who is convicted and confined for any violation of a local ordinance and who is confined as a punishment or for failure to pay a required fine, shall be liable to work in such workforce. Every person 18 years of age or older who is confined pending disposition of a nonviolent criminal offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may work in such workforce on a voluntary basis with the approval of and under the supervision of the sheriff.

§ 53.1-130. Sheriffs, jail superintendents, etc., not to be interested in property where work performed; penalty.

No sheriff, jail superintendent, deputy or other jail officer shall have any prisoner work on property owned by him or by his relative, or on projects in which he is interested, nor shall any such prisoner be used for the personal gain or convenience of any sheriff or of any other individual. Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor.

§ 53.1-131. Provision for release of prisoner from confinement for employment, educational or other rehabilitative programs; escape; penalty; disposition of earnings.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense or charged with an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and (i) sentenced to confinement in jail or (ii) being held in jail pending completion of a presentence report pursuant to § 19.2-299, and if it appears to the court that such offender is a suitable candidate for work release, assign the offender to a work release program under the supervision of a probation officer, the sheriff or the administrator of a local or regional jail or a program designated by the court. The court further may authorize the offender to participate in educational or other rehabilitative programs designed to supplement his work release

employment. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of employment and the location of any educational or rehabilitative program in which the offender participates.

Any person who has been sentenced to confinement in jail or who has been convicted of a felony but is confined in jail pursuant to § 53.1-20, in the discretion of the sheriff may be assigned by the sheriff to a work release program under the supervision of the sheriff or the administrator of a local or regional jail. The sheriff may further authorize the offender to participate in educational or other rehabilitative programs as defined in this section designed to supplement his work release employment. The court that sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of any such assignment and of the offender's place of employment or other rehabilitative program. The court, in its discretion, may thereafter revoke the authority for such an offender to participate in a work release program.

The sheriff and the Director may enter into agreements whereby persons who are committed to the Department, whether such persons are housed in a state or local correctional facility, and who have met all standards for such release, may participate in a local work release program or in educational or other rehabilitative programs as defined in this section. The administrator of a regional jail and the Director may also enter into such agreements where such agreements are approved in advance by a majority of the sheriffs on the regional jail board. All persons accepted in accordance with this section shall be governed by all regulations applying to local work release, notwithstanding the provisions of any other section of the Code. Local jails shall qualify for compensation for cost of incarceration of such persons pursuant to § 53.1-20.1, less any payment for room and board collected from the inmate.

If an offender who has been assigned to such a program by the court is in violation of the rules of the jail pursuant to § 53.1-117, the sheriff or jail administrator may remove the offender from the work release program, either temporarily or for the duration of the offender's confinement. Upon removing an offender from the work release program, the sheriff or jail administrator shall notify in writing the court that sentenced the offender and indicate the specific violations that led to the decision.

Any offender assigned to such a program by the court or sheriff who, without proper authority or just cause, leaves the area to which he has been assigned to work or attend educational or other rehabilitative programs, or leaves the vehicle or route of travel involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. In the event such offender leaves the Commonwealth, the offender may be found guilty of an escape as provided in § 18.2-477. An offender who is found guilty of a Class 1 misdemeanor in accordance with this section shall be ineligible for further participation in a work release program during his current term of confinement.

The Board shall prescribe regulations to govern the work release, educational and other rehabilitative programs authorized by this section.

Any wages earned pursuant to this section by an offender may, upon order of the court, be paid to the director or administrator of the program after standard payroll deductions required by law. Distribution of such wages shall be made for the following purposes:

1. To pay an amount to defray the cost of his keep;
2. To pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program;

3. To provide support and maintenance for his dependents or to make payments to the local department of social services or the Commissioner of Social Services, as appropriate, on behalf of dependents who are receiving public assistance or social services as defined in § 63.2-100; or
4. To pay any fines, restitution or costs as ordered by the court.

Any balance at the end of his sentence shall be paid to the offender upon his release.

B. For the purposes of this section:
"Educational program" means a program of learning recognized by the State Council of Higher Education, the State Board of Education or the State Board of Corrections.
"Rehabilitative program" includes an alcohol and drug treatment program, mental health program, family counseling, community service or other community program approved by the court having jurisdiction over the offender.
"Sheriff" means the sheriff of the jurisdiction where the person charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate a deputy sheriff or regional jail administrator to assign offenders to work release programs under this section.
"Work release" means full-time employment or participation in suitable career and technical education programs.

§ 53.1-131.1. Provision for sentencing of person to nonconsecutive days in jail; payment to defray costs; penalty.
Any court having jurisdiction for the trial of a person charged with a misdemeanor or traffic offense or charged with any offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and sentenced to confinement in jail, impose the time to be served on weekends or nonconsecutive days to permit the convicted defendant to retain gainful employment. A person sentenced pursuant to this section shall pay an amount to defray the cost of his keep, which amount shall be the actual cost of incarceration but shall not exceed that amount charged to the Compensation Board for purposes of reimbursement as provided in the general appropriation act. Such amount shall be collected by the sheriff, if he is responsible for operating a jail, or by the regional jail superintendent, and remitted by the sheriff to the treasurer of the appropriate county or city, or by the regional jail superintendent to the regional jail board or authority, solely for the purposes of defraying the costs of such weekend or nonconsecutive incarceration. The funds collected pursuant to this section shall not be used for purposes other than those provided for in this section. The assessment provided for herein shall be in addition to any other fees prescribed by law. If the defendant willfully fails to report at times specified by the court, the sentence imposed pursuant to this section shall be revoked and a straight jail sentence imposed.

If an offender who has been sentenced to nonconsecutive days by the court is in violation of the rules of the jail pursuant to § 53.1-117, the sheriff or jail administrator may require the offender to serve out a portion or the entirety of the remainder of his sentence in consecutive days. Upon revoking the offender's ability to serve his sentence on nonconsecutive days, the sheriff or jail administrator shall notify in writing the court that sentenced the offender and indicate the specific violations that led to the decision.

The time served by a person sentenced for violation of state law in a local jail, regional jail, or local jail farm pursuant to this section shall be included in the count of prisoner days reported by the Department for the purpose of apportioning state funds to local correctional facilities for operating costs in accordance with § 53.1-84.

§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant to a court order may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program as a condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established pursuant to § 53.1-141. However, any offender who is convicted of any of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic incarceration program: (i) first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii) mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery under § 18.2-58.1; or (vi) any criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's participation in work release employment or educational or other rehabilitative programs as defined in § 53.1-131 or, as appropriate in a court-ordered intensive case monitoring program for child support. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of home/electronic incarceration, place of employment, and the location of any educational or rehabilitative program in which the offender participates.

B. In any city or county in which a home/electronic incarceration program established pursuant to this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local or regional jail, may assign the accused to such a program pending trial if it appears to the court that the accused is a suitable candidate for home/electronic incarceration.

C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole office established pursuant to § 53.1-141. However, if the offender violates any provision of the terms of the home/electronic incarceration agreement, the offender may have the assignment revoked and, if revoked, shall be held in the jail facility to which he was originally sentenced. Such person shall be eligible if his term of confinement does not include a sentence for a conviction of a felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving, distributing or possessing with the intent to manufacture, sell, give or distribute a Schedule I or Schedule II controlled substance. The court shall retain authority to remove the offender from such home/electronic incarceration program. The court which sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of the offender's place of home/electronic incarceration and place of employment or other rehabilitative program.

D. The Board may prescribe regulations to govern home/electronic incarceration programs.

E. Any offender or accused assigned to such a program by the court or sheriff who, without proper authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been assigned to work or attend educational or other rehabilitative programs, including a court-ordered intensive case monitoring program for child support, or the vehicle or route of

travel involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. An offender or accused who is found guilty of a violation of this section shall be ineligible for further participation in a home/electronic incarceration program during his current term of confinement.

F. The director or administrator of a home/electronic incarceration program who also operates a residential program may remove an offender from a home/electronic incarceration program and place him in such residential program if the offender commits a noncriminal program violation. The court shall be notified of the violation and of the placement of the offender in the residential program.

G. The director or administrator of a home/electronic incarceration program shall charge the offender or accused a fee for participating in the program to pay for the cost of home/electronic incarceration equipment. The offender or accused shall be required to pay the program for any damage to the equipment which is in his possession or for failure to return the equipment to the program.

H. Any wages earned by an offender or accused assigned to a home/electronic incarceration program and participating in work release shall be paid to the director or administrator after standard payroll deductions required by law. Distribution of the money collected shall be made in the following order of priority to:
1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any fines, restitution or costs as ordered by the court;
3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
4. Defray the offender's keep.
The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.
The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

I. For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate a deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration programs pursuant to this section.

BEST ACCOUNTING PRACTICES
WORK OR EDUCATIONAL RELEASE / WORK FORCE / HOME INCARCERATION

The following procedures are best practices in accounting for work or educational release funds and home/electronic incarceration equipment rental fees. Certain procedures may not apply to all Sheriff's offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

Collection of Fees

1. Prepare an official pre-numbered receipt for all funds collected by the Sheriff and his employees. Indicate the date of receipt, the name of the payer, the amount received, and the type of payment (cash, check, or money order.)

2. Restrictively endorse all checks immediately. (For example: "For Deposit Only - Treasurer of County of ----") and physically safeguard all collections in a safe or cash box.

3. Verify the total amount of the receipts and compare to the total collections. Resolve any differences before forwarding the collections to the Treasurer or Director of Finance for deposit.

4. Indicate any coding necessary for posting the transaction to the county or city's general ledger system and take all collections to the Treasurer or Director of Finance for deposit intact. Forward all collections to the Treasurer or Director of Finance by the next business day. In no case should the Sheriff deposit these collections into the Sheriff's official bank account.

Deduction of Fees from Inmate Accounts

1. At least weekly, calculate the amount of fees due from each inmate participating in work release. Deduct the amount from the inmate's account following procedures outlined in this manual for Accounting for Inmate Trust Funds. Accumulate a total of the amounts deducted.

2. Prepare a check from the Inmate Trust Fund bank account for this total amount and send it to the Treasurer or Director of Finance. Indicate any coding necessary for posting the transaction to the county or city's general ledger system. As mentioned previously, in no case deposit these withholdings into the Sheriff's official bank account.

Deposit of Wages to Inmate Accounts (see Accounting for Inmate Trust Funds)

1. Prepare an official pre-numbered receipt for all funds collected by the Sheriff and his employees. Indicate the date of receipt, the payor, the amount, and the type of payment.

2. Deposit all collections into an official bank account, usually the Inmate Trust Fund bank account within one business day. Ideally, someone other than the employee who prepared the receipt should make this deposit.

PRISONER REIMBURSEMENTS

The Sheriff of any jail having excess capacity may agree to house prisoners from the United States, other localities, or other states. The local government should receive a reimbursement for housing these prisoners based on a daily rate established and approved by the local governing body.

The Sheriff generally negotiates contracts regarding prisoner reimbursements, however, the Code of Virginia requires the governing body of the locality in which the jail resides to be involved in the determination of the amounts charged for prisoner reimbursement. Contracts for housing prisoners and reimbursements should always be written.

In most instances, the Sheriff prepares bills for the care of prisoners. Payments may go directly to the local Treasurer or may come to the Sheriff. The Code of Virginia requires payments received by the Sheriff for housing prisoners to promptly go into the locality's treasury. The Sheriff cannot use these funds without an appropriation from the local governing body.

Statutory Requirements

The following sections of the Code of Virginia apply to the receipt of funds for housing prisoners.

§ 53.1-79. Jails for United States prisoners; payment by United States–
The sheriff of any county or city or jail superintendent of any regional jail may receive into his jail any person committed thereto under the authority of the United States, and keep him safely according to the warrant or precept of commitment, until he shall be discharged under the laws of the United States. But no person arrested on civil process shall, under this section, be committed to any jail other than that of the county or city within which such person resides or is found.
The county or city or regional jail authority or, if none, the body responsible for the fiscal management of the regional jail shall be paid by the United States for the support of any such prisoner.

§ 53.1-79.1. Agreements to transfer, transport, and confine prisoners.
The sheriff or superintendent of any jail may enter into an agreement with the sheriff or superintendent of any other jail in the Commonwealth to transfer and transport prisoners between the respective facilities, and to confine such prisoners, unless such transfer is otherwise prohibited by law.

§ 53.1-90. Pay for United States prisoners.
Each sheriff or jail superintendent shall collect from the United States, for prisoners of the United States confined in the jail of his county, city, or region, such amounts as shall be agreed upon by the governing body of the county, or city or, in the case of a regional jail, the regional jail authority or, if none, the body responsible for the fiscal management of the regional jails and the appropriate authorities of the Government of the United States, which amounts shall not be less than the actual cost of feeding, clothing, caring for and furnishing medicine and medical attention for such prisoners.

§ 53.1-91. Pay for prisoners from other counties, cities or towns.
Each sheriff or jail superintendent shall collect from the counties, cities and towns of the Commonwealth, other than the county, city or region for which he is elected or appointed, and from any other state or country for which any prisoner is held in such jail, the reasonable costs of guarding, feeding, clothing, caring for and furnishing medicine and medical attention for prisoners held for such county, city, town, state or country, to be determined by agreement with the governmental unit involved, or in the absence or such agreement, as shall be determined by the governing body of his county, city, or regional jail. The term "reasonable costs" as used in this section, means an amount not to exceed actual costs, including depreciation, less such amounts as may be paid by the Commonwealth pursuant to §§ 14.1-82 and 53.1-85.

§ 53.1-92. Disposition of money collected from United States or other counties, cities or towns.
All moneys so collected by such sheriff from the United States or from any such county, city, town, state or country shall be promptly paid into the treasury of his county or city. The total amount so collected shall be retained by such county or city. All moneys so collected by jail superintendents shall be promptly paid into the treasury of the regional jail authority or, if none, the body responsible for the fiscal management of the regional jail.

BEST ACCOUNTING PRACTICES – PRISONER REIMBURSEMENTS

The following procedures are best practices in accounting for funds of locality prisoner housing reimbursements. Certain procedures may not apply to all Sheriffs' offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

A. Billing

1. Have contracts for housing prisoners. Although not required, we recommend that the contracts specify that checks are payable to the locality's Treasurer or Director of Finance. Ensure that the locality's governing body agrees with all such contracts.

2. Prepare billings for housing prisoners as set forth in the contract. Copies of the bills should go the governing body (or other responsible party) for review and monitoring.

B. Collections

1. Prepare an official pre-numbered receipt for all funds collected by the Sheriff and his employees. Indicate the date of the receipt, payer, amount, and type of payment. Also indicate any coding necessary for posting the transaction to the locality's general ledger system. When payment comes by mail, maintain the original receipt in the receipt book with the carbon copies.

2. Mark all voided receipts "VOID." Maintain the original and all copies of voided receipts in the receipt book.

3. Restrictively endorse all checks immediately. (Example: "For deposit only - Treasurer of XXXX")

4. Physically safeguard funds collected (such as in a safe, locked cash box, locked drawer, etc.). This will protect these funds against unauthorized access.

5. Send all collections to the Treasurer for deposit intact into an official bank account of the locality by the next business day. The collections should have supporting documentation: a copy of the pre-numbered receipt(s) or a transaction summary report.

6. Reconcile collections to amounts reported in the locality's general ledger monthly.

C. Reporting

The governing body or its designee is responsible for monitoring contracts for housing prisoners. The sheriff shall prepare such reports as required by the governing body or its designee to accomplish its monitoring function. This may include records of amounts billed, received, prisoner days, etc.

MEDICAL CO-PAYMENTS AND OTHER MEDICAL ACCOUNTING

This chapter applies to those jails that have established a medical treatment program in which inmates contribute to the costs. Inmate co-payments for medical services are a set fee that covers only a portion of the costs of the services. The sheriff or superintendent should establish a detailed fee schedule that explains application for various situations such as, follow-up visits, multiple medical needs, routine monitoring procedures, and chronic care. As with other fees collected by the Sheriff, medical co-payments should go directly to the locality's Treasurer or Director of Finance to help defray the locality's costs for medical programs.

Statutory Requirements

The following sections of the Code of Virginia pertain to medical treatment for inmates and provide authority for the maintenance of inmate funds for this purpose by state correctional facilities:

§ 53.1-133. Treatment of prisoner with contagious disease.
Upon application of the person in charge of a local correctional facility, if that application is affirmed by the physician serving such facility, a judge of a circuit court is authorized to have removed from any correctional facility within his jurisdiction any person confined therein who has contracted any contagious or infectious disease dangerous to the public health. Such persons shall be removed to some other place designated by the judge. When any person is so removed, he shall be safely kept and receive proper care and attention including medical treatment. As soon as he recovers his health, he shall be returned to the correctional facility from which he was moved, unless the term of his imprisonment has expired, in which event he shall be discharged, but not until all danger of his spreading contagion has passed. Expenses incurred under and by reason of this section shall be paid as provided by law.

§ 53.1-133.01. Medical treatment for prisoners.
Any sheriff or superintendent may establish a medical treatment program for prisoners in which prisoners participate and pay towards a portion of the costs thereof. The Board of Corrections shall develop a model plan and promulgate regulations for such program, and shall provide assistance, if requested, to the sheriff or superintendent in the implementation of a program.

§ 53.1-133.01:1. Payment for bodily injury.
Each jail superintendent or sheriff who operates a correctional facility is authorized to establish administrative procedures according to regulations promulgated by the Board for recovering from an inmate the cost for medical treatment of a physical injury that is inflicted intentionally on any person, including the inmate himself, by the inmate. Such administrative procedures shall ensure that the inmate is afforded due process.

The State Board of Corrections has established procedures for local correctional facilities for medical treatment programs where inmates pay a portion of the costs. These standards are contained in the manual Minimum Standards for Local Jails and Lockups.

6VAC15-40-460. Applicability of medical treatment program standards

6VAC15-40-470. Medical copayment

6VAC15-40-480. Set fees required.

6VAC15-40-490. Policy and procedure information

6VAC15-40-500. Inmates advised of procedures.

6VAC15-40-510. Ability to pay

6VAC15-40-520. Acknowledgment in writing

6VAC15-40-530. Accounting process

BEST ACCOUNTING PRACTICES – MEDICAL CO-PAYMENTS

The following procedures are best practices in accounting for inmate medical co-payments. Certain procedures may not apply to all Sheriffs' offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

1. The jail must perform an initial medical screening upon inmates to determine if they have any pre-existing medical conditions. This examination will have no cost to the inmate. Also, upon admission, the jail staff will inform the inmate of the medical services provided and any co-payment requirements.

2. At sick call, the staff will inform the inmate of the charges for the visit. The inmate shall sign a Medical Charge Sheet, acknowledging the visit fee and approving the deduction from his trust fund account. A health administrator shall sign the sheet, indicating the medical services provided.

3. One copy of the Medical Charge Sheet goes into the inmate's medical file, one copy goes to the inmate, and the third copy goes to the individual responsible for inmate trust fund accounts.

4. The individual responsible for inmate trust fund accounts shall collect the copies of the Medical Charge Sheets and post charges to the individual inmate accounts on a daily basis. Refer to Inmate Trust Fund procedures. Accumulate a total of the amounts deducted.

5. If an inmate does not have funds available in his account, the inmate's account shall go into a negative balance and when funds become available there will be a deduction for the medical co-payments.

6. Prepare a check from the Inmate Trust Fund bank account for the total amount and send it to the Treasurer or Director of Finance. Indicate any coding necessary for posting the transaction to the county or city's general ledger system. In no case deposit these withholdings into the Sheriff's official bank account.

7. Sheriff should develop a policy regarding uncollectible accounts.

FORFEITED PROPERTY

This chapter applies to all moneys received by the Sheriff from the sale of seized and forfeited property.

The Executive Office for Asset Forfeiture of the U.S. Department of Justice handles the receipt and sale of seized and forfeited assets through the Department of Justice Forfeiture Program. The Federal Bureau of Investigation, Drug Enforcement Agency, U.S. Postal Inspection Service, and U.S. Bureau of Alcohol, Tobacco and Firearms participate in this program. Local law enforcement agencies can request equitable sharing payments for investigations or prosecutions when they participate and there is forfeited property. The U.S. Marshals Service issues the proceeds derived from these sales to the applicable localities within the Commonwealth.

The Virginia Department of Criminal Justice Services (DCJS) handles the receipt and distribution of forfeited property for the Commonwealth's state and local law enforcement agencies through its Forfeited Asset Sharing Program. Law enforcement agencies must report assets to DCJS within 21 days of seizure. Once the court orders the assets forfeited, the Sheriff should forward the forfeited property, or proceeds from its sale to DCJS within 21 days. DCJS remits each agency and locality's share of the proceeds directly to the locality's Treasurer or Director of Finance. The Sheriff should not deposit any remittance from DCJS in his official bank account.

U.S. Department of Justice

The U.S. Department of Justice in its manual The Attorney General's Guidelines on Seized and Forfeited Property will only transfer property to state or local agencies that directly participated in the seizure or forfeiture. Additionally, the local and state agency must receive credit in their budget for the amount of the transfer and the government may not use this transfer to reduce funding. Use of proceeds to pay for basic operational expenses is discouraged.

The U.S. Department of Justice has issued a Guide to Equitable Sharing for State and Local Law Enforcement Agencies. This guide lists bookkeeping procedures and internal controls for Sheriffs and Treasurers for accounting for the receipt and disbursement of proceeds from the disposition of forfeited assets. The Department of Justice reserves the right to request information on the use of assets transferred to any agency participating in the sharing program.

Virginia Department of Criminal Justice Services

The Forfeited Asset Sharing Manual issued by the Department of Criminal Justice Services (DCJS) lists procedures for Sheriffs to follow in seizing assets, working with the Commonwealth Attorney to forfeit the assets, sending the proceeds to DCJS for distribution, and sharing the proceeds with other participating law-enforcement agencies. Sheriffs do not report seizures under federal statute with federal participating agencies to DCJS.

Sheriff will need to sell forfeited property other than cash and then send the proceeds to DCJS. However, the Sheriff can petition DCJS to have certain assets (for example, vehicles) returned to the agency for law-enforcement purposes. When selling assets, the Sheriff can deduct

the costs incurred during the management of the seized property (towing, storage, sales commissions) from the proceeds. This procedure is similar to other Sheriff's sales, except that there is no commission allowed.

Statutory Requirements

The following sections of the Code of Virginia generally apply to the receipt of funds from forfeited and seized property and are detailed in the Introduction of this Manual:

§ 15.2-2506. Publication and notice; public hearing; recess; adjournment from day to day; moneys not to be paid out until appropriated.

§ 15.2-1203. Governing body to appropriate or set aside funds to pay claims; warrants.

Additionally, the following section of the Code of Virginia specifically applies to the receipt of funds from forfeited and seized property:

§ 19.2-386.14. Sharing of forfeited drug assets.
A. All cash, negotiable instruments and proceeds from a sale conducted pursuant to § 19.2-386.7 or § 19.2-386.12, after deduction of expenses, fees and costs as provided in § 19.2-386.12, shall, as soon after entry of the forfeiture as is practicable, be paid over to the state treasury into a special fund of the Department of Criminal Justice Services for distribution in accordance with this section. The forfeited property and proceeds, less ten percent, shall be made available to federal, state and local agencies to promote law enforcement in accordance with this section and regulations adopted by the Criminal Justice Services Board to implement the asset-sharing program.
The ten percent retained by the Department shall be held in a nonreverting fund, known as the Asset Sharing Administrative Fund. Administrative costs incurred by the Department to manage and operate the asset-sharing program shall be paid from the Fund. Any amounts remaining in the Fund after payment of these costs shall be used to promote state or local law-enforcement activities. Distributions from the Fund for these activities shall be based upon need and shall be made from time to time in accordance with regulations promulgated by the Board.

B. Any federal, state or local agency or office that directly participated in the investigation or other law-enforcement activity which led, directly or indirectly, to the seizure and forfeiture shall be eligible for, and may petition the Department for, return of the forfeited asset or an equitable share of the net proceeds, based upon the degree of participation in the law-enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law-enforcement effort with respect to the violation of law on which the forfeiture is based. Upon finding that the petitioning agency is eligible for distribution and that all participating agencies agree on the equitable share of each, the Department shall distribute each share directly to the appropriate treasury of the participating agency.
If all eligible participating agencies cannot agree on the equitable shares of the net proceeds, the shares shall be determined by the Criminal Justice Services Board in accordance with regulations which shall specify the criteria to be used by the Board in assessing the degree of participation in the law-enforcement effort resulting in the forfeiture.

C. After the order of forfeiture is entered, any seizing agency may petition the Department for return of any forfeited motor vehicle, boat or aircraft or other tangible personal property which is not subject to a grant or pending petition for remission. Where all the participating agencies

agree upon the equitable distribution of the tangible personal property, the Department shall return the property to those agencies upon finding that (i) the agency meets the criteria for distribution as set forth in subsection B and (ii) the agency has a clear and reasonable law-enforcement need for the forfeited property.

If all eligible participating agencies cannot agree on the distribution of the property, distribution shall be determined by the Criminal Justice Services Board as in subsection B, taking into consideration the clear and reasonable law-enforcement needs for the property which the agencies may have. In order to equitably distribute tangible personal property, the Criminal Justice Services Board may require the agency receiving the property to reimburse the Department in cash for the difference between the fair market value of the forfeited property and the agency's equitable share as determined by the Criminal Justice Services Board.

D. All forfeited property, including its proceeds or cash equivalent, received by a participating state or local agency pursuant to this section shall be used to promote law enforcement but shall not be used to supplant existing programs or funds. The Board shall promulgate regulations establishing an audit procedure to ensure compliance with this section.

BEST ACCOUNTING PRACTICES – PROCEEDS FROM FORFEITED PROPERTY

The following procedures are best practices in accounting for the proceeds from forfeited property. Certain procedures may not apply to all Sheriffs' offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

1. Establish a separate revenue account with the County Administrator or City Manager for the proceeds from the disposition of forfeited assets. Use this account solely for the record of forfeited assets and do not include other funds in the account.

2. Maintain a log and copies of requests for participation in forfeited assets sent to the U.S. Department of Justice or Virginia Department of Criminal Justice Services. This log should include the type of property received, amount requested, amount received and date received.

3. Prepare an official prenumbered receipt for all collections by the Sheriff and his employees. Indicate the date of receipt, payor, amount, type of payment, and identification of program.

4. Restrictively endorse all checks immediately (I.e: "For Deposit Only - Treasurer of ") and update the log.

5. Physically safeguard collections (such as in a safe, locked cash box, locked drawer, etc.). This will protect these funds against unauthorized access.

6. Send all collections to the local Treasurer or Director of Finance for deposit intact into an official bank account of the locality by the next business day. Also, indicate coding necessary for posting the transaction to the appropriate revenue account in the locality's general ledger system.

7. Establish an internal procedure to request appropriations and expenses from the forfeited property account in coordination with the County Administrator or City Manager.

> Before spending any proceeds from the sale of seized and forfeited property, the Sheriff or other law enforcement official must obtain an appropriation from the local governing body in accordance with Section 15.2-2506 of the Code of Virginia. (**As noted above in the statutory requirements, the sharing agency cannot use these payments for decreasing future appropriations to the Sheriff or agency.**)

8. Make purchases in a manner consistent with the county/city purchasing and payment procedures.

9. Maintain a record of all expenses from the revenue account. These expenses may be restricted based on the Attorney General's Guidelines on Seized and Forfeited Property, the intended use of the funds on the application for forfeited property, or other agreements.

CONFIDENTIAL FUNDS

This chapter applies to confidential fund expenses made by the Sheriff as a part of an investigation. Confidential funds may include drug buy money, informant payments, investigator expenses made to maintain cover, and similar investigative expenses of a confidential nature. The source for these funds may be the locality's general fund or special sources such as asset forfeiture proceeds.

Regardless of the funding source, the Sheriff must have an appropriation from the locality's governing body to spend these monies in accordance with Section 15.2-2506 of the Code of Virginia. Some localities may include a fixed amount as part of the Sheriff's appropriated operating budget, while others may appropriate any forfeited property proceeds to this function.

Often the need for these expenses arises quickly and requires confidentiality. This may preclude obtaining a check from the local Treasurer or Director of Finance every time a drug buy arises. Since any expense of locality funds requires an appropriation and approval for each payment, the Sheriff may use an imprest (or petty cash) fund to expedite these types of transactions. Using petty cash funds provides for readily available funds with an appropriate level of oversight for expenses and uses. Users should refer to the accounting procedures for petty cash funds, which are included in Chapter 2.

Statutory Requirements

The following sections of the Code of Virginia apply to expenditures from confidential funds and are detailed in the Introduction to this Manual:

§15.2-2506. Publication and notice; public hearing; recess; adjournment from day to day; moneys not to be paid out until appropriated.

§15.2-1203. Governing body to appropriate or set aside funds to pay claims; warrants.

§15.2-1613. Operation of sheriff's department.

Attorney General's Opinion

The Auditor of Public Accounts received an informal opinion from the Office of the Attorney General dated September 15, 1989, stating that all expenditures of local funds (which would include drug buy money and confidential funds) require an appropriation by the local governing body. (See §15.2-2506.) A separate appropriation is not needed for individual drug buys. In addition, the Assistant Attorney General indicated no authority allows drug buy money or money appropriated by the locality pursuant to §15.2-1613 to be handled by the Treasurer in a different manner than other funds the Treasurer handles.

BEST ACCOUNTING PRACTICES - CONFIDENTIAL FUNDS

The following procedures are best practices in accounting for the expenses from confidential funds for investigations. Certain procedures may not apply to all Sheriffs' offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

1. Before making any expenses from confidential funds for investigations, the Sheriff must obtain an appropriation from the local governing body in accordance with Section 15.2-2506 of the Code of Virginia.

2. The following outlines the process for cash payments (i.e., to an informer or for a drug purchase).

   A. The Sheriff may establish and maintain a petty cash fund to make cash payments. When necessary, the Treasurer or Director of Finance should reimburse this fund upon presentation by the Sheriff of a list of disbursements made from the fund. The Sheriff should request reimbursement at least quarterly. This list does not need to contain sufficient detail to identify the nature or subject of any investigation, informant payment, or confidential contact. The Sheriff and the Commonwealth's Attorney or another official should sign and certify that the listed expenses were part of a legitimate investigation. Other officials who may certify investigative expenses may include Assistant Attorneys General, U. S. Attorneys, federal law enforcement officers, or other law enforcement officers with whom the Sheriff or deputies are working with on the investigation. The Treasurer or Director of Finance would replenish this petty cash fund in the amount of certified expenses up to the amounts available and appropriated. The Treasurer or Director of Finance should maintain a checking account for the Sheriff for amounts in excess of emergency cash needs. (Preferred method)

   - OR -

   B. The Treasurer may prepare a check made payable to the Sheriff or other law enforcement official upon the written request of the Sheriff or other law enforcement official and the Commonwealth's Attorney or another official. Other officials who may certify investigative expenses may include Assistant Attorneys General, U. S. Attorneys, federal law enforcement officers, or other law enforcement officers with whom the Sheriff or deputies are working with on the investigation. The Sheriff will take responsibility for converting this check to cash to make the required cash payments.

   Whichever of the above methods is selected, the Sheriff and the Commonwealth's Attorney should have the documentation supporting the purpose of each cash payment.

3. The Sheriff should require any officer or deputy receiving confidential funds to sign a receipt for these funds and prepare a report for any funds not returned within 48 hours of the advance.

4. For security purposes, there should be a 48-hour limit on the time law enforcement officers may hold funds advanced for confidential expenses as outstanding. If it becomes apparent at any point that the expenses will not materialize, then the law enforcement officer should return the funds to the petty cash fund or Treasurer as soon as possible. The Sheriff may grant an extension to this limit, but should limit the extension to one additional 48-hour period.

COMMUNITY CRIME PREVENTION PROGRAMS AND DONATED FUNDS

Community crime prevention programs are widespread and diverse in their scope and purpose, and may include education as well as community participation programs. Program support may come from federal, state and/or local funds, as well as private and corporate donations. Examples of these types of programs include Neighborhood Watch, DARE, McGruff, and CrimeStoppers.

State and federal program funds should go directly to the local Treasurer and require the local government to appropriate the funding, including any local matching funds. Since most of these programs have specific accounting and other record keeping requirements, the Sheriff or other law enforcement agency must keep the funds in the custody of the local Treasurer.

Private or corporate donations may go to the Treasurer or, in some cases, directly to the Sheriff. When the Sheriff accepts these funds, they become public funds and are subject to state law. Therefore, funds received by the Sheriff from private donations or corporate sponsorships must also go to the Treasurer for deposit and investment on behalf of the program.

Programs funded entirely from a private source may or may not require appropriation by the governing body. While the Sheriff may wish to participate in privately-funded community crime prevention programs, we strongly discourage the Sheriff from handling these funds or signing checks disbursing these funds. This type of direct involvement could make these programs a locality function, which would require their deposit with the Treasurer.

The Virginia Department of Criminal Justice Services (DCJS) offers both informational and financial assistance with regards to crime prevention programs. Often, programs involving federal and/or state funding require periodic financial and program reports. This manual does not address reporting requirements established by DCJS or other granting agency.

Statutory Requirements

The following sections of the Code of Virginia generally apply to community crime prevention programs and are detailed in the Introduction to this Manual.

§ 15.2-1615. Sheriff to deposit funds, keep account of receipts and disbursements, keep books open for inspection.

§ 15.2-2506. Publication and notice; public hearing; recess; adjournment from day to day; moneys not to be paid out until appropriated.

§ 15.2-1203. Governing body to appropriate or set aside funds to pay claims; warrants.

§ 15.2-1613. Operation of sheriff's department.

BEST ACCOUNTING PRACTICES
COMMUNITY CRIME PREVENTION PROGRAMS AND DONATED FUNDS

The following procedures are best practices in accounting for funds relating to community crime prevention programs. Certain procedures may not apply to all Sheriffs' offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

1. Establish separate revenue accounts for each crime prevention program with the County Administrator or City Manager. Use these accounts solely for each program and do not include funds for other operations of the Sheriff's Office.

2. Maintain a log and copies of requests for federal and state grant funds sent to applicable state and federal agencies. This log should clearly identify the program(s) involved and include the date and amount of the requests as well as detailed information on any subsequent receipts.

3. Establish an internal procedure to request appropriations and expenses from the program account in coordination with the County Administrator or City Manager.

4. Make purchases in a manner consistent with the locality's purchasing and payment procedures.

5. Maintain a record of expenses for each program in a Cash Disbursements Journal. The Sheriff or official in charge of these funds should know if the program restricts the type of expenses either by grant agreement, donor restrictions, or other agreements.

6. Reconcile records on a monthly basis. Ensure that ledger balances are accurate.

In addition to the above, the Sheriff should use following procedures when the Sheriff gets donations directly.

1. Prepare an official pre-numbered receipt for all funds collected. Indicate the date of receipt, payor, amount, type of payment, and identification of program. Use the Cash Receipts Journal to record all activity.

2. Restrictively endorse all checks immediately. (For example: "For Deposit Only - Treasurer of XXXX".)

3. Physically safeguard funds collected (such as in a safe, locked cash box, locked drawer, etc.) to protect from unauthorized access.

4. Send all collections to the Treasurer for deposit intact into an official bank account of the locality no later than the next business day. Also, indicate coding necessary for posting the transaction to the appropriate revenue account in the locality's general ledger system. Record this disbursement in the Cash Disbursement Journal.

COURT SUPPORT SERVICES

This chapter applies to the collections by the Sheriff for serving civil process and for conducting Sheriff's sales.

Civil Process

Civil process service provides the legal means by which a person required to appear in court or a defendant receives notice of a legal action against them. The court clerk's office prepares the service of process for delivery or mailing to the appropriate Sheriff of the locality for service where the party or parties reside. This notice may take the form of a variety of legal documents and requires service in accordance with the law pertaining to the particular document. Additionally, the Sheriff may serve summons issued by the state Worker's Compensation Commission for claim hearings.

The types of civil process may include:

1. Executions - actual recovery of property or money after judgment rendered in plaintiff's favor:

   A. Writ of Fieri Facias - judgment for money, also known as a "levy."

   B. Writ of Possession - judgment for recovery of specific property, or eviction notices.

2. Attachment - a civil suit in which a plaintiff is suing to seize specific property in which the defendant has an interest.

3. Warrant of Distress - levy on tenant's personal property.

4. Service of Subpoena or Summons for Witness.

5. Summons for Worker's Compensation Commission claim hearings.

Sheriff's Sales and Levies

A Sheriff's sale and levy is an auction sale of property held by the Sheriff pursuant to a court order to seize and sell the property (writ of execution) to satisfy a judgment, after notice to the public. The Sheriff or other official makes the levy at the request of the winner in the lawsuit. The property is sold at a Sheriff's sale to provide money to satisfy the unpaid judgment. The types of sheriff sales and levies may include:

1. Executions - actual recovery of property or money after judgment rendered in plaintiff's favor such as a Writ of Fieri Facias or levy.

2. Warrant of Distress - levy on tenant's personal property.

March 2009 Revision
Commissions on Sheriff's fees are calculated by using the following formula based on Section 8.01-499 of the Code of Virginia:

Gross Sale Total
Minus Costs of the Auction
Minus 10% commission fee (Calculated on gross sale total; remitted to local Treasurer)
Equals Proceeds of Sale to Plaintiff

Statutory Requirements

The following sections of the Code of Virginia generally apply to the receipt of funds and are detailed in the Introduction to this Manual:

§ 15.2-1614. Destruction of receipts

§ 15.2-1615. Sheriff to deposit funds, keep account of receipts and disbursements, keep books open for inspection.

Additionally, the following sections of the Code of Virginia specifically apply to the receipt of funds for court support services:

§ 8.01-373. When property sells for more than claim, how surplus paid.
When property, the sale of which is indemnified, sells for more than enough to satisfy the execution, attachment, or distress warrant under which it is taken, the surplus shall be paid by the officer into the court where the indemnifying bond is required to be returned, or as such court may direct. The court wherein the surplus is held may make such order for the disposition thereof, either temporarily until the question as to the title of the property sold is determined, or absolutely, as in respect to the rights of those interested may seem to it proper.

§ 8.01-499. Officer receiving money to make return thereof and pay net proceeds; commission, etc.
An officer receiving money under this chapter shall make return thereof forthwith to the court or the clerk's office of the court in which the judgment is entered. For failing to do so, the officer shall be liable as if he had acted under an order of such court. After deducting from such money a commission of 10 percent and his necessary expenses and costs, including reasonable fees to sheriff's counsel, he shall pay the net proceeds, and he and his sureties and their representatives shall be liable therefor, in like manner as if the same had been made under a writ of fieri facias on the judgment.

§ 8.01-500. Officer receiving money to notify person entitled to receive it.
Every officer collecting or receiving money to be applied on any execution or other legal process, or on any claim, whether judgment has been rendered thereon or not, shall notify in writing by mail or otherwise, within thirty days after such money is received, the person entitled to receive such money, if known. Any officer failing without good cause to comply with this section within the time prescribed shall be fined not less than twenty dollars nor more than fifty dollars for each offense.

§ 15.2-1609.3. Fees and mileage allowances.

A. Every sheriff, and every sheriff's deputy, shall collect all fees and mileage allowances provided by law for the services of such officer, other than those he is entitled to receive from the Commonwealth or from the county or city for which he is elected or appointed and fees and mileage allowances provided for services in connection with the prosecution of any criminal matter in the circuit courts. However, no fee shall be charged for serving any public orders, for summoning or impaneling grand juries, or for services in elections except as provided under Title 24.2.

B. All fees and mileage allowances accruing in connection with any civil or criminal matter shall be collected by the clerk of the court in which the case is heard and paid by him into the treasury of the county or city in which the case is heard. All fees collected by or for every sheriff and deputy shall be paid into the treasury of the county or city for which he is elected or appointed, on or before the tenth day of the month next succeeding that in which the fees are collected. The treasurer of each county and city shall credit such amounts in excess of such fees received in fiscal year 1994 to the account of the Commonwealth to be remitted to the State Treasurer along with other funds due to the Commonwealth.

C. In any case in which a sheriff makes a levy and advertises property for sale and by reason of a settlement between the parties to the claim or suit he is not permitted to sell under the levy, the sheriff is not entitled to any commissions, but in addition to his fees for making the levy and return, he shall be entitled to recover from the party for whom the services were performed the expenses incurred for advertisement of the proposed sale of the property.

D. When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the $1 for a bond, if one was taken, a fee of $12. If the fee is more than one-half of what his commission would have amounted to if he had received payment, he shall, whether a bond was taken or not, receive a fee of at least $1 and so much more as is necessary to equal the one-half.

§ 15.2-1621. Receipts to be given by officers.

Every officer shall deliver to each person who pays him, or from whose property he makes taxes, levies, militia fines or officers' fees, a receipt for all that is so paid or made, with a statement showing how much thereof is for taxes, how much for levies, how much for militia fines and how much for officers' fees, and also the bills for such fees. Any officer failing herein shall forfeit to such person four dollars.

§15.2-1719. Disposal of unclaimed property in possession of sheriff or police.

Any locality may provide by ordinance for (i) the public sale in accordance with the provisions of this section or (ii) the retention for use by the law-enforcement agency of any unclaimed personal property which has been in the possession of its law-enforcement agencies and unclaimed for a period of more than *60* days, *after payment of a reasonable storage fee to the sheriff or other agency storing such property. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the sheriff's office or other law-enforcement agency*. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.). Unclaimed bicycles and mopeds may also be

disposed of in accordance with § 15.2-1720. Unclaimed firearms may also be disposed of in accordance with § 15.2-1721.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, sheriff or their duly authorized agents shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the law-enforcement agency, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, sheriff or their duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the law-enforcement agency shall become the property of the locality served by the agency and shall be retained only if, in the opinion of the chief law-enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the general fund of the locality and the retained property may be placed into use by the law-enforcement agency. Any such owner shall be entitled to apply to the locality within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the locality shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

Attorney General Official Opinion

The following provides additional information on sheriff fees in specific situations.

03-030- Attorney General Opinion to Newhart dated June 26, 2003

OP. NO. 03-030

TAXATION: REVIEW OF LOCAL TAXES – COLLECTION BY DISTRESS, SUIT, LIEN, ETC.

CIVIL REMEDIES AND PROCEDURE: EXECUTIONS AND OTHER MEANS OF RECOVERY.

COUNTIES, CITIES AND TOWNS: LOCAL CONSTITUTIONAL OFFICERS, ETC.

Sheriff is not entitled to statutorily authorized 5% commission for serving distress warrant on behalf of local treasurer for collection of delinquent taxes, which subsequently are paid to treasurer's office.

The Honorable John R. Newhart Sheriff for the City of Chesapeake June 26, 2003

Issue Presented

You ask whether a sheriff is entitled to the five percent commission authorized under § 8.01-499 for serving a distress warrant on behalf of the treasurer for the collection of delinquent taxes pursuant to § 58.1-3934(B), which subsequently are paid to the treasurer's office.

Response

It is my opinion that a sheriff is not entitled to the five percent commission authorized under § 8.01-499 for serving a distress warrant on behalf of the local treasurer for the collection of delinquent taxes, which subsequently are paid to the treasurer's office.

Applicable Law and Discussion

Section 58.1-3919 requires a local treasurer to collect delinquent taxes "by distress or otherwise." Section 58.1-3934(B) authorizes a county or city to place local taxes in the hands of the sheriff for collection and entitles the sheriff to the powers conferred by law upon the treasurer. Section 8.01-499 provides:

An officer receiving money under [Chapter 18 of Title 8.01[1]*] shall make return thereof forthwith to the court or the clerk's office of the court* in which the judgment is entered. For failing to do so, the officer shall be liable as if he had acted under an order of such court. After deducting from such money a commission of five per centum and his necessary expenses and costs, including reasonable fees to sheriff's counsel, he shall pay the net proceeds, and he and his sureties and their representatives shall be liable therefor, in like manner as if the same had been made under a writ of fieri facias on the judgment. [Emphasis added.]

It is well-settled that, "[i]f the language of a statute is plain and unambiguous, and its meaning perfectly clear and definite, effect must be given to it."[2] The plain language of § 8.01-499 provides for payment of a commission to the sheriff when he collects the amount due. In order to "make return thereof forthwith to the court," as required by § 8.01-499, the officer must have collected the amount due. A 1962 opinion of the Attorney General determined that no fee is payable to the sheriff when a garnishee makes payment directly to the court, because no collection is made by the officer.[3] I find no authority rendering the rationale of the 1962 opinion incorrect.

Conclusion

Accordingly, it is my opinion that a sheriff is not entitled to the five percent commission authorized under § 8.01-499 for serving a distress warrant on behalf of the local treasurer for the collection of delinquent taxes, which subsequently are paid to the treasurer's office.

[1] Chapter 18 of Title 8.01 encompasses the statutes governing executions and other means of recovery.

[2] Temple v. City of Petersburg, 182 Va. 418, 423, 29 S.E.2d 357, 358 (1944), *cited in* 1995 Op. Va. Att'y Gen. 61, 62. Based on a 1995 opinion, concluding that the Commonwealth or locality represented by the sheriff is exempt from paying the sheriff's fees, I question whether a sheriff may, in any circumstance, collect a fee from proceeds due to the Commonwealth or the locality he serves. *See* 1995 Op. Va. Att'y Gen., *supra*, at 62.

[3] 1962-1963 Op. Va. Att'y Gen. 101, 102 (concluding that § 8-429, predecessor to § 8.01-499, applies only to instances where sheriff makes actual collection of amounts due); *see also* Va. Code Ann. § 15.2-1609.3(D) (LexisNexis Supp. 2002) ("When, after distraining or levying on tangible property the officer *neither sells nor receives payment* and either takes no forthcoming bond or takes one which is not forfeited, he shall … have … a fee of twelve dollars." Emphasis added.).

BEST ACCOUNTING PRACTICES – CIVIL PROCESS/SHERIFF SALES

The following procedures are best practices in accounting for civil process and Sheriff's sales. Certain procedures may not apply to all Sheriffs' offices and other procedures may require change to work effectively in certain circumstances. In any case, when adapting these procedures for a particular office, the Sheriff needs to consider the seven components of internal controls as discussed in Chapter 2.

A. Cash Collections

1. Prepare an official prenumbered receipt for all funds collected by the Sheriff and his employees. Indicate the date of receipt, payor, amount, type of payment, and style of case on the receipt. When a person makes the payment, give the original receipt to them. When the Sheriff receives payment by mail, keep the original receipt in the receipt book with the carbon copies.

2. If the Sheriff receives check/cash for seizures or executions, compute the commission in accordance with the Code of Virginia. Issue a check to the plaintiff for the balance less the commission.

3. Mark all voided receipts "VOID." Keep the original and all copies of voided receipts in the receipt book.

4. Restrictively endorse all checks immediately. (Example: "For deposit only - Sheriff of XXXX")

5. Physically safeguard funds collected (such as in a safe, locked cash box, locked drawer, etc.). This will protect these funds against unauthorized access.

6. Daily, match total cash/checks collected to the total receipts written. An employee other than the employee(s) preparing the receipts should do the matching of cash and checks to receipts written. For Sheriff's offices with one employee other than the Sheriff, that employee may perform these functions; however, it is imperative that the Sheriff reviews their work.

7. Daily, deposit all collections into the Sheriff's official bank account intact, if receipts total $200 or more. If receipts total less than $200 in a day, accumulate daily receipts until they total $200. But always deposit no less frequently than weekly. Someone other than the employee preparing the receipts should make the deposit. For Sheriff's offices with one employee other than the Sheriff, that employee may perform these functions; however, it is imperative that the Sheriff reviews their work.

8. Match the total amount deposited to the total receipts written. An employee other than the employee making the deposit should match total receipts to the deposit. For Sheriff's offices with one employee other than the Sheriff, that employee may perform these functions; however, it is imperative that the Sheriff reviews their work.

B. Disbursements

1. Make all disbursements by check.

2. Use only prenumbered checks and keep an accounting of all checks.

3. Restrict access to unused checks to authorized persons.

4. Only the Sheriff and one employee (deputy, recording clerk, or secretary) should sign checks.

5. Record all disbursements in the check register.

6. Mark all voided checks "VOID" and keep voided checks with the check register or cancelled checks.

C. Sheriff fee/commission

1. Calculate sheriff's fee/commission as dictated by the service provided.

2. Remit fee/commission to the Treasurer monthly. (See related reporting below.)

Note: It is acceptable for a lienholder who wins the bid for their own auctioned item to only pay the Sheriff for the calculated commission and they keep the remaining sale amount

D. Bank Account Reconciliations

Monthly, reconcile the bank statements to the check register as described below. An employee other than the one authorized to sign checks or make deposits should do the reconciliation. For Sheriff's offices with one employee other than the Sheriff, that employee may perform the reconciliation; however, it is imperative that the Sheriff reviews their work.

1. Obtain the month-end account balance from the bank statement.

2. Deduct checks written before month-end that have not cleared the bank and add deposits made before month-end that the bank has not received and recorded.

3. The balance of the above calculations should agree to the balance of the check register.

4. The Sheriff or someone other than the employee responsible for the receipt of cash should investigate all items rejected by the bank (e.g. uncollected checks) and properly record these amounts if appropriate.

D. Reporting

Prepare a monthly summary of activity (Form 17) from the receipt book or the cash receipts journal and send to the Treasurer with a check for the fees collected.

E. Local Sales

The Sheriff may assist the locality with the sale of local or school property. The Sheriff should contact the County Administrator or City Manager for necessary procedures for this function. When a Sheriff assists the locality, generally a Sheriff's fee/commission is not applicable.

APPENDIX - SAMPLE FORMS

This Appendix contains sample forms that may be used for recording financial transactions in the Sheriff's office. These forms may be adapted as needed for different areas within the office. Those offices that use computerized accounting systems may need to use manual forms for those areas where the automated system does not provide supporting documentation.

Receipts (sample not provided): All monies received by the Sheriff should produce receipts. Sheriffs should use receipt books that create three copies and are sequentially numbered. These types of receipts are readily available from office supply stores. Complete the receipt, giving one copy to the payee, one copy to be used for accounting purposes, and one copy to remain in the receipt book. For money received by check for which the payee does not want a receipt (such as Crime Prevention Funds, Prisoner Reimbursements), leave two copies in the book. Inmates should always be given a copy of receipts. Receipts are applicable to Canteen Operations (Chapter 3), Inmate Trust Funds (Chapter 4), Work Release and Home/Electronic Incarceration (Chapter 5), Prisoner Reimbursements (Chapter 6), Proceeds from Forfeited Property (Chapter 8), Community Crime Prevention Programs (Chapter 10), and Court Support Services (Chapter 11).

Inmate Withdrawals: Inmates may request monies from their inmate accounts for such purposes as magazine subscriptions, child support payments, court costs, or to members of their families. If the Sheriff chooses to grant these requests, payments should be made by check and the inmate should sign a withdrawal form (minimum of two copies) indicating the amount to be taken, the payee, and the date. The inmate should retain a copy and one copy should be used for accounting purposes. This form is applicable to Inmate Trust Funds (Chapter 4). See page A-3.

Inmate Account Ledger: This ledger should record all activity for an inmate account. Each individual transaction should have supporting documentation such as a receipt, withdrawal request, medical treatment form, or canteen order. Ideally, this ledger should maintain a running balance and provide an area to note monthly reconciliations and the inmate's signature upon final disbursement. This form is applicable to Canteen Operations (Chapter 3), Inmate Trust Funds (Chapter 4), Work Release and Home/Electronic Incarceration (Chapter 5), and Medical Co-payments (Chapter 7). See page A-4.

Cash Receipts Ledger: This ledger records all incoming cash transactions and is supported by the individual cash receipts. The ledger should contain sufficient information to categorize the incoming monies as to date, amount, purpose, and supervisory approval. See page A-5.

Cash Disbursements Ledger: This ledger records all outgoing cash transactions and is supported by either an inmate withdrawal, invoice, or a petty cash receipt. The ledger should contain sufficient information to categorize the outgoing money as to date, amount, payee and supervisory approval. See page A-6.

Monthly Summary-Civil Process Activity: (Form 17) This summary of civil process receipts includes all monthly activity for services as well as sales. It should be prepared at month end using the information from receipt copies and sales records. Automated systems may produce acceptable variations of this report. A copy of the report should be sent to the locality's Treasurer or Director of Finance with full remittance, prior to the tenth of the month succeeding collections. This form is applicable to Court Support Services (Chapter 11). See page A-7.

In addition to the above, Sheriffs will need to maintain records with regards to canteen operations. We recommend that canteen operations be maintained separately from other accounting functions. The Canteen Operating Fund should record transactions with regards to inventory, purchasing, billing, and inmate ordering and payment. The Canteen Proceeds Fund should represent the actually proceeds which are available for use to the benefit of the inmates. In some offices these accounts will be maintained together and will require detailed record keeping. Many offices automate the accounting for canteen operations, or have elected to contract the services to an outside vendor. This manual will not provide sample forms for this area. Offices operating with manual accounting systems should design forms in such a manner that they support the internal controls and best accounting practices discussed in each chapter of this manual.

March 2009 Addition

Remittance of Sheriff's Commissions and Report of Sales: This form is used to document the sale of goods when the Sheriff conducts a public auction. The top portion of the form is used to document the items sold, the bidder's information and the amount collected. The bottom portion of the form is used to describe remittance of sheriff commissions to the local treasurer; advertising and other auction expenses; and disbursements of net proceeds paid to the civil plaintiff as a result of the auction. The form should be signed and dated by a member of the Sheriff's office who participated in the public auction. This form is applicable to Court Support Services, Chapter 11. ***See page A-8.***

Withdrawal Form – Inmate Account

Date _____ Inmate _____

Amount $_____

Purpose _____

Payee _____

Approved _____ Inmate signature _____

Witness _____

COUNTY/CITY OF _____
SHERIFF'S OFFICE
INMATE ACCOUNT LEDGER

INMATE NAME _____

INMATE ID NUMBER _____

* Inmate initials / supervisory reconciliation

DATE	RECEIPT #	DESCRIPTION	AMOUNT RECEIVED	AMOUNT DISBURSED	BALANCE	*

COUNTY/CITY OF _____
SHERIFF'S OFFICE
CASH RECEIPTS LEDGER

* POST – initials indicate proper posting to accounts

DATE	RECEIPT #	DESCRIPTION	AMOUNT	POST *

COUNTY/CITY OF _____
SHERIFF'S OFFICE
CASH DISBURSEMENTS LEDGER

* POST – initials indicate proper posting to accounts

DATE	CHECK #	DESCRIPTION PAYEE / DOCUMENT NUMBER	AMOUNT	POST *

COUNTY/CITY OF _____
SHERIFF'S OFFICE
CIVIL PROCESS ACTIVITY REPORT

MONTH OF _____

DATE	STYLE OF CASE	DATE OF SERVICE	TYPE OF SERVICE	PLAINTIFF / DEFENDANT	AMOUNT
				TOTAL	**$**

DATE _____ Received by Treasurer _____
APPROVED _____ Date _____
CHECK NUMBER _____

Remittance of Sheriff Commissions
Report of Sale
In the Matter of

Court of Jurisdiction: Date of Sale:

Items Sold	**Bidder's Name**	**Amount**	**Total Amount**
Total Amount Collected			

Date	**Payee**	**Purpose**	**Check #**	**Amount**
Total Amount Disbursed				

This is to certify that a sale was conducted at public auction on the date indicated pursuant to any order entered in the above-style case, and that all transactions described above took place as stated.

Signature Date