

County Attorney Traffic Safety Programs



Legislative Oversight And Investigations Committee

November 10, 2021

County Attorney Traffic Safety Program (CATS)



- 2012 Regular Session, House Bill 480
 - County attorneys "may operate a traffic safety program for traffic offenders prior to the adjudication of the offense."
- Diversionary traffic safety program
 - Avoid receiving points on license or increases in insurance premiums
- Operates differently from state traffic school

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Counties Operating Traffic Programs And Completions



	Fiscal Year				
	2016	2017	2018	2019	2020
Counties with traffic programs	90	92	94	97	102
Participant completions	35,936	34,164	33,723	37,603	36,951

Source: Staff analysis of Kentucky. Office of the Attorney General, Prosecutors Advisory Council. *Traffic Safety Program Report*, FY 2013 to FY 2020.

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KRS 186.574(6) Requirements



- County attorneys may charge a "reasonable fee," used for office operating expenses.
- \$25 fee to Administrative Office of Courts
- \$30 fee to Finance and Administration Cabinet
- Annual report to Prosecutors Advisory Panel, per KRS 15.720

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Report To Legislative Research Commission



- KRS 15.720 requires an annual report to LRC
 - Number of traffic offenders diverted
 - Fee charged by each program
- Sent to legislature leadership and chairs of Judiciary Committees

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KRS 186.574(6) Eligibility Restrictions



- Driving under the influence
- Driving without insurance
- Those holding a commercial driver's license (CDL)
- Offense with penalty of mandatory revocation or suspension
- Offender did not have a license, had a suspended license, or was subject to revocation.

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Program Administration



- Self-operated or provided by a vendor
 - Vendors are AdventFS and Drive Safe
- Vendors do not use written agreements
- In FY 2020, 102 counties operated a program
 - 40 counties used AdventFS
 - 35 counties used Drive Safe
 - 3 counties used AdventFS and Drive Safe
 - 24 counties self operated

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Internal Controls Could Be Improved



- Statute does not address need for internal control framework
 - Internal control: Provides reasonable assurance that statutory objectives are achieved
- However, Kentucky County Attorneys Association (KCAA) provides formal guidance on payment of office operating expenses

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Relevant Agencies (Statutory Roles)



- Three agencies with statutory roles but no direct oversight
 - Auditor of Public Accounts (APA)
 - Prosecutors Advisory Council (PAC)
 - Department for Local Government (DLG)

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Recommendation 3.1 (Page 29)



The Auditor of Public Accounts and the Kentucky County Attorneys Association should continue moving forward with the establishment of Agreed Upon Procedures. Findings related to the procedures should be used as a basis from which to expand Agreed Upon Procedures cycles to include reporting requirements, fee distributions, and ineligible offenders.

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Recommendation 3.2 (Page 30)



The Auditor of Public Accounts, Kentucky County Attorneys Association, Prosecutors Advisory Council, and Department for Local Government should work together to draft and propose for the legislature a more permanent internal control framework, once the Agreed Upon Procedures cycle concludes. Discussions should also include the findings and recommendations from this Legislative Oversight and Investigations report.

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Traffic Safety Program Controls Could Be Improved



- Lack of internal control creates risks related to four statutory objectives
 1. Reporting
 2. Ineligible offender participation
 3. Use of fee revenue
 4. Distribution of fee revenue

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1. Reporting

- No process to verify information reported to PAC or to LRC
- County attorneys generally do not verify reported information
- Most FY 2020 reported fees were above a KCAA estimate of average fee
 - FY 2020 reported average: \$126

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1. Reporting: Ambiguous PAC Form

Current: Fee charged per offender (Total Cost Less \$25 AOC Fee) \$

Suggested:

Vendor fee	\$_____ +
County attorney fee	_____ +
AOC fee	25.00 +
FAC fee	30.00 =
Total fee charge	\$_____

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Recommendation 3.3 (Page 33)

The Prosecutors Advisory Council should consider formally reviewing the County Attorney Traffic Safety Program Report form to determine whether changes are necessary. At a minimum, it should consider whether to disaggregate the total fee charged per offender by vendor fee, county attorney fee, Administrative Office of the Courts fee, and Finance and Administration Cabinet fee.

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Recommendation 3.4 (Page 33)



The Prosecutors Advisory Council should consider whether to request that PAC staff develop processes to more formally follow up on incomplete or apparently inaccurate information from county attorney offices. For example, staff could on a quarterly basis review a sample of the *County Attorney Traffic Safety Program Report* forms to ensure that submitted data is consistent and accurate.

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2. Ineligible Offender Participation



- No formal process for determining if ineligible offenders are participating
- In FY 2014 CATS report, there were 17 instances of ineligible offenders participating
- Transportation Cabinet documented 281 instances of offenders with CDLs participating in 2007, 2010, and 2014 to 2021

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2. Ineligible Offender Participation: Apply Existing Control to CATS



- Existing statutory control
 - KRS 186.574 (5) (e) provides guidance for ineligible participation in state traffic school
 - Similar process could be used for ineligible CATS participants

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Recommendation 3.5 **(Page 36)**



Transportation Cabinet staff should continue to document cases where offenders with commercial driver's licenses (CDLs) are participating in or have participated in a county attorney traffic safety program. They should also ensure that CDL offenders have not had convictions expunged from their records.

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Recommendation 3.6 **(Page 36)**



The Kentucky County Attorneys Association should work with the Transportation Cabinet to draft guidance for county attorneys to ensure that cabinet officials receive notice whenever an offender attends a county attorney safety program.

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Recommendation 3.7 **(Page 36)**



The legislature may wish to consider amending KRS 186.574(5)(e) to include county attorney traffic safety programs for notification of ineligible offenders.

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3. Use Of Fee Revenue: Office Operating Expenses



- CATS revenues may only be used for "office operating expenses," but the term is not defined in statute
- KCAA technical bulletin provides some clarification
- KCAA working with APA on Agreed Upon Procedures review

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Vendor Agreements



- Officials do not use formal agreements with vendors
 - Drive Safe has drafted a written agreement but it is not used
- Formal agreements would be a control that could prevent waste, abuse, and inefficiencies

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Recommendation 3.8 (Page 40)



The Kentucky County Attorneys Association should consider working with the state local finance officer and Prosecutors Advisory Council to draft an agreement template for county attorney offices to use that outlines the responsibilities of the vendor and county attorney offices.

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Recommendation 3.9 (Page 40)



The Kentucky Attorney General's Office should consider promulgating regulations establishing additional parameters for the term *operating expenses* and a requirement for the use of agreements by county attorney offices when conducting business with traffic safety program vendors.

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4. Fee Distribution



- Staff analyzed the distribution of the \$25 AOC fee and the \$30 FAC fee and confirmed statutory compliance
- AOC has not been using the appropriate revenue source code for CATS revenue (R467), however AOC has begun using the code

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Recommendation 3.10 (Page 43)



The Administrative Office of the Courts should continue to use the R467 revenue source code in the future.

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Questions



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