

DISTRICT ATTORNEY FOR THE 37<sup>TH</sup> JUDICIAL DISTRICT



INVESTIGATIVE AUDIT  
ISSUED JULY 8, 2020

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LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

July 8, 2020

**THE HONORABLE BRIAN FRAZIER**  
**DISTRICT ATTORNEY**  
**37<sup>TH</sup> JUDICIAL DISTRICT**  
Columbia, Louisiana

We are providing this report for your information and use. This investigative audit was performed in accordance with Louisiana Revised Statutes 24:513, *et seq.* to determine the validity of complaints we received.

At the request of the District Attorney for the 37th Judicial District (Caldwell Parish), we investigated a complaint about missing funds.

We found that, between January 2017 and December 2019, the now former office manager collected at least \$116,017 in funds that belonged to the office, but did not deposit the money. The missing funds consisted of \$115,545 from the Pre-Trial Diversion program and \$472 from the office's worthless checks fund.

The former office manager admitted to a Louisiana State Police detective that she took the Pre-Trial Diversion funds and probably used the money to pay her bills.

The procedures we performed primarily consisted of making inquiries and examining selected financial records and other documents and were not an examination or review in accordance with generally accepted auditing or attestation standards. Consequently, we provide no opinion, attestation or other form of assurance with respect to the information upon which our work was based.

The accompanying report presents our finding and recommendations, as well as management's response. This is a public report. Copies of this report were provided to the District Attorney for the 37th Judicial District of Louisiana, the Attorney General for the State of Louisiana, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE  
Legislative Auditor

DGP/aa

37DA



## TABLE OF CONTENTS

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	Page
Executive Summary .....	2
Background and Methodology.....	3
Finding and Recommendations:	
Pre-Trial Diversion Program Revenue Not Deposited .....	4
Legal Provisions.....	6
Management's Response .....	Appendix A



## EXECUTIVE SUMMARY

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### **Pre-Trial Diversion Program Revenue Not Deposited**

A now former employee of the District Attorney for the 37th Judicial District, Ms. Bonnie McGrew, received at least \$116,017 in public funds that belonged to the District Attorney's office between January 2017 and December 2019 but did not deposit them. Ms. McGrew acknowledged to a Louisiana State Police detective that she took money from the District Attorney's office while handling Pre-Trial Diversion funds and believes she used it to pay personal bills. By taking District Attorney funds and using them for her personal benefit, Ms. McGrew may have violated state and federal law.





## BACKGROUND AND METHODOLOGY

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Article V, Section 26 of the Louisiana Constitution of 1974 provides that the District Attorney has charge of every state criminal prosecution in his district, is the representative of the state before the grand jury in the district, and is the legal advisor to the grand jury. The District Attorney also performs other duties, as provided by law, and is elected by the qualified electors of the judicial district for a term of six years. The 37<sup>th</sup> Judicial District encompasses the parish of Caldwell.

In Fall 2019, the District Attorney for the 37<sup>th</sup> Judicial District, Brian Frazier (District Attorney or DA), notified the Louisiana Legislative Auditor that he suspected one of his employees may have taken public funds from the District Attorney's office and that Louisiana State Police (LSP) was investigating. DA Frazier told us he hired a contractor earlier in 2019 to convert his office from paper accounting records to a computer-based system. The contractor found that funds were collected, but not deposited, for the DA's Pre-Trial Diversion (PTD) program.

LSP interviewed Ms. Bonnie McGrew, the employee responsible for handling the PTD program funds. Ms. McGrew told LSP she was responsible for the missing deposits and had used the money to pay bills. LSP arrested Ms. McGrew in January 2020, and her employment with the DA was terminated. After LSP finished its work, DA Frazier requested assistance from the Louisiana Legislative Auditor to determine the amount of loss.

The procedures performed during this audit consisted of:

- (1) Interviewing employees of the District Attorney's office and other persons, as appropriate;
- (2) Examining District Attorney's office documents and records;
- (3) Gathering and examining external parties' documents and records; and
- (4) Reviewing applicable federal and state laws and regulations.



## FINDING AND RECOMMENDATIONS

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### Pre-Trial Diversion Program Revenue Not Deposited

**A now former employee of the District Attorney for the 37th Judicial District, Ms. Bonnie McGrew, received at least \$116,017 in public funds that belonged to the District Attorney's office between January 2017 and December 2019 but did not deposit them. Ms. McGrew acknowledged to a Louisiana State Police (LSP) detective that she took money from the District Attorney's office while handling Pre-Trial Diversion funds and believes she used it to pay personal bills. By taking District Attorney funds and using them for her personal benefit, Ms. McGrew may have violated state and federal law.<sup>1</sup>**

Ms. Bonnie McGrew was employed by the District Attorney for the 37<sup>th</sup> Judicial District (District Attorney or DA) from January 1997 through January 2020 and served as the Office Manager and bookkeeper since 2014. According to DA Brian Frazier, Ms. McGrew's duties included maintaining case files, accepting payments made to the District Attorney's office (primarily for the District Attorney's Pre-Trial Diversion Program), preparing deposits for accounts, and physically taking them to the bank.

The Pre-Trial Diversion Program (PTD) is an alternative to the traditional criminal justice process that occurs when the prosecution diverts certain offenders into a program of supervision and services overseen by a district attorney. PTD typically occurs before an offender is charged and may be used to divert any offense within the district attorney's jurisdiction. The program allows a person to keep alleged violations, including traffic citations, off his or her record by participating in programs geared to deter future offenses. If a person chooses to enroll in a PTD program, state law<sup>2</sup> authorizes the district attorney to collect a "reasonable fee" from program recipients.

According to DA Frazier, individuals paid this PTD fee to his office (through mail or in-person payments of cash or money orders) to participate in the PTD program. DA Frazier said he implemented a "no cash" policy in May 2018 after a recommendation resulting from an audit by the Legislative Auditor. DA Frazier also said Ms. McGrew approached him regarding the "no cash" policy and claimed she received complaints from individuals who did not want to obtain a money order. As a result, Mr. Frazier told her she could accept cash from local residents she knew.

DA Frazier said Ms. McGrew handled all PTD fees<sup>A</sup> paid by mail and in person. She was responsible for receiving the payment, issuing a receipt, updating the person's file, preparing the deposit, and taking the deposit to the bank. She also received some payments for the Issuing Worthless Checks program when the regular employee responsible for the program was unavailable.

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<sup>A</sup> If Ms. McGrew was not in the office, other DA employees accepted PTD payments.

We reviewed the receipt books and deposit records for the PTD program from January 2017 to December 2019. Each of the receipts Ms. McGrew issued included the date, name of the person paying the citation, amount, citation number (usually), and Ms. McGrew's initials; however, in most instances, she did not indicate the form of payment received. The deposit records listed the name of the individual that paid the citation and the amount. We matched the names and amounts from the receipt book to the names and amounts on the deposit slip and found \$115,545 of PTD funds collected that were not deposited. In addition, there were some names and amounts deposited to the bank for which we could not find a corresponding receipt. The accounting contractor told us that Ms. McGrew typically did not write receipts for payments received in the mail. In addition, Ms. McGrew did not keep payment records of each PTD case, so there were no other records to determine if the deposited funds were due to the PTD program. Also, there were no copies of traffic citations in the PTD program. Since the traffic citations appear to be discarded, the DA's office may have violated state law.<sup>3</sup>

Starting in September 2017, Ms. McGrew also collected funds and prepared deposits for the District Attorney's worthless checks fund when the regular employee responsible for the program was unavailable. In general terms, "worthless checks" are checks issued to purchase goods or services where the person writing the check knows the account does not exist or has insufficient funds to cover the check amount, or that the person writing the check is not authorized to issue a check drawn on that account. We compared the receipts to the bank deposits from September 2017 to December 2019 and found Ms. McGrew collected \$472 for which we could find no corresponding deposits.

From January 2017 to December 2019, it appears that Ms. McGrew collected \$116,017 in public funds that she did not deposit into the District Attorney's office bank account. Ms. McGrew was responsible for making deposits and told LSP she took money she received for the District Attorney's office and probably used it to pay her bills. By taking District Attorney's office funds for her personal use, Ms. McGrew may have violated state and federal law.<sup>1</sup>

### **Recommendations**

We recommend that the District Attorney:

- (1) ensure that employees are not accepting cash payments;
- (2) assign separate employees responsibility for receiving payments and issuing receipts, depositing payments, and recording the receipt of payments to the accounting records;
- (3) assign an independent employee to reconcile receipts to deposits at least monthly to ensure all collected funds were deposited;
- (4) seek legal advice as to the appropriate actions to be taken regarding the recovery of funds; and
- (5) develop and implement a written policy to address record retention in accordance with state law.

## LEGAL PROVISIONS

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<sup>1</sup> **Louisiana Revised Statute (La. R.S.) 14:67(A)** states, “Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.”

**La. R.S. 14:134(A)** states, in part, “Malfeasance in office is committed when any public officer or public employee shall: (1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or (2) Intentionally perform any such duty in an unlawful manner...”

**La. R.S. 14:230(B)** states, “It is unlawful for any person knowingly to do any of the following: (1) Conduct, supervise, or facilitate a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of the proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law. (2) Give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering the commission of any criminal activity. (3) Direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of criminal activity. (4) Receive or acquire proceeds derived from any violation of criminal activity, or knowingly or intentionally engage in any transaction that the person knows involves proceeds from any such violations. (5) Acquire or maintain an interest in, receive, conceal, possess, transfer, or transport the proceeds of criminal activity. (6) Invest, expend, or receive, or offer to invest, expend, or receive, the proceeds of criminal activity.”

**La. R.S. 42:1461(A)** states, “Officials, whether elected or appointed and whether compensated or not, and employees of any ‘public entity,’ which, for purposes of this Section shall mean and include any department, division, office, board, agency, commission, or other organizational unit of any of the three branches of state government or of any parish, municipality, school board or district, court of limited jurisdiction, or other political subdivision or district, or the office of any sheriff, district attorney, coroner, or clerk of court, by the act of accepting such office or employment assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other thing of value belonging to or under the custody or control of the public entity in which they hold office or are employed.”

**18 United States Code Annotated (U.S.C.A) §666** states, in part, “Whoever, if the circumstance described in subsection (b) of this section exists – (1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof – (A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that– (i) is valued at \$5,000 or more, and (ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or... shall be fined under this title, imprisoned not more than 10 years, or both. (b) The circumstances referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one-year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance...”

<sup>2</sup> **La. R.S. 16:17 (E)** states, “The district attorney may assess and collect a reasonable fee from participants in pretrial diversion or pretrial intervention programs to support and maintain victims assistance and/or diversionary programs.”

<sup>3</sup> **La. R.S. 44:36(A)** states, in part, “All persons and public bodies having custody or control of any public record...shall exercise diligence and care in preserving the public record for the period or periods of time specified for such public records in formal records retention schedules developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State. However, in all instances in which a formal retention schedule has not been executed, such public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made...”



## APPENDIX A

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### Management's Response







BRIAN E. FRAZIER  
DISTRICT ATTORNEY  
P.O. BOX 839  
COLUMBIA, LOUISIANA 71418

State of Louisiana  
THIRTY-SEVENTH JUDICIAL DISTRICT  
OFFICE OF  
**District Attorney**

MAIN OFFICE (318) 649-7410  
CHILD SUPPORT (318) 649-5188  
CRIME STOPPERS (318) 649-3700  
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CHARLES L. "CHUCK" COOK  
ASSISTANT DISTRICT ATTORNEY

THOMAS W. "WES" BURNS  
ASSISTANT DISTRICT ATTORNEY

June 25, 2020

Daryl G. Purpera, CPA, CFE  
Louisiana Legislative Auditor  
Post Office Box 94397  
Baton Rouge, Louisiana 70804-9397

Dear Mr. Purpera:

Enclosed please find my written response to the investigative audit report provided by your agency to be included in the final official report.

I would like to thank the Louisiana Legislative Auditor's office for their prompt, effective and efficient handling of this matter. It was a pleasure working with your staff. All tasks were performed in a professional and discreet manner in cooperation with my staff and daily business functions.

Sincerely,

Brian Frazier  
District Attorney

## **DISTRICT ATTORNEY AUDIT RESPONSE**

### **PROCEDURAL HISTORY:**

The Caldwell Parish District Attorney's Office has manually reported for the purposes of its annual independent audit since the creation of the Office of District Attorney for Caldwell Parish. Requests for electronic audit reporting has been advanced during previous administrations and requests for electronic audit reporting persisted during my administration. The advantages of electronic audit reporting, i.e.: more accurate results, audits would become less time consuming, costs of audits would decrease, etc, outweighed the costs associated with the conversion process. Accordingly, I decided it was time to invest in a conversion project that would allow the Caldwell Parish District Attorney's Office to electronically report and over time, save the taxpayers of Caldwell Parish money. So, as District Attorney, I hired a bookkeeping consultant to convert all my funds to QuickBooks. During the conversion process, the bookkeeping consultant brought to my attention that money was unaccounted for once the receipts were reconciled with the bank statements. Immediately, I instructed the bookkeeping consult to do a sample audit for the year 2018. The findings of the sample audit were presented to me and after reviewing the bookkeeper's findings, I immediately contacted the Louisiana State Auditor's Office and the Louisiana State Police. After approximately a three-month investigation, a statement was taken from Bonnie McGrew, then office manager, who confessed to misappropriation of public monies for a period that preceded my administration but did in fact, continue during my administration. As of the date of her confession, January 23, 2020, I terminated her employment with the Caldwell Parish District Attorney's Office. Mrs. McGrew was ultimately arrested for the alleged violation of La.R.S. 14:67 (Theft: Felony Grade) and La.R.S. 14:134 (Malfeasance).

The Louisiana Legislative Auditor's Office assigned a team of investigators who conducted a thorough audit of all funds held in the name of Caldwell Parish District Attorney's Office and determined that Mrs. McGrew misappropriated \$116,017.00.

On June 16, 2020, Mrs. McGrew plead guilty to the offense of La.R.S. 14:67 (Theft) and received a probated sentence with a condition that restitution be paid to Caldwell Parish District Attorney's Office as follows:

A Civil Money Judgment shall be filed into the Mortgage Records of Caldwell Parish, Louisiana granting a judicial mortgage in favor of the Caldwell Parish District Attorney's Office in the amount of \$116,017.00 plus legal interest.

Mrs. McGrew shall surrender her Deferred Retirement Option Plan (DROP) to the Caldwell Parish District Attorney's Office.

Mrs. McGrew shall pay a monthly fee of \$500.00 per month during her natural life to the Caldwell Parish District Attorney's Office.

Any unpaid restitution shall attach to any assets of the Estate of Bonnie McGrew.

**AUDIT RECOMMENDATION RESPONSE:**

Recommendation #1: ensure that employees are not accepting cash payments.

Response:

Immediately upon termination of Mrs. McGrew, I modified my employee handbook and specifically amended the same to reflect that any employee that took any cash whatsoever concerning any matter pertaining to the Caldwell Parish District Attorney's Office would be terminated immediately. I then had each member of my staff review the modified employee manual and sign an acknowledgment that each understood the modification.

Recommendation #2: assign separate employees responsible for receiving payments and issuing receipts, depositing payments, and recording the receipt of payments to the accounting records.

Response:

I have implemented an Office policy that complies with recommendation #2 to the extent that compliance is feasible. My policy requires that my office manager take a money order or cashier's check and make a receipt for said payment. Immediately, a deposit slip is completed and the payment and deposit are taken directly to the bank and deposited by a separate employee. The deposit slip is returned to the office manager who enters the payment into the office database.

Since January 23, 2020, no money whatsoever has been kept overnight at the Caldwell Parish District Attorney's Office. In the event that money may need to be kept in this Office for any given period of time, I have a lock box that is kept in drawer and the drawer is secured by lock and key. Only one person has access to both.

Full compliance with Recommendation #2 would require hiring two more employees at the Caldwell Parish District Attorney's Office. Full compliance would require a separate employee for the following tasks: 1) receiving payments, 2) issuing receipts, 3) depositing payments and 4) imputing payments into office database. Unfortunately, the Caldwell Parish District Attorney's Office does not have sufficient resources to hire additional staff for compliance purposes. I am fully confident that sufficient protective measures have been implemented to ensure a future misappropriation is highly unlikely.

**NOTE:** Any audits, internal or external, will now be conducted by reconciling the receipt book with the office database with the bank statements.

Recommendation #3: assign an independent employee to reconcile receipts to deposits at least monthly to ensure all funds were deposited.

Response:

Full compliance with Recommendation #3 is not feasible. Compliance would require an additional employee to independently reconcile receipts with deposits. The Caldwell Parish District Attorney's Office has an administrative assistant and office manager. The only other support staff is the administrator of the Child Support Division. However, as stated above in the response to recommendation #2, preventative measures currently in place create oversight. This oversight together with the policy of NO CASH WHATSOEVER will make a future misappropriation highly unlikely.

**NOTE:** The Caldwell Parish District Attorney's Office is set up to receive electronic payments and encourage this practice to anyone seeking to make a payment.

Recommendation #4: seek legal advice as to the appropriate actions to be taken regarding the recovery of funds.

Response:

As set forth hereinabove, Mrs. McGrew has entered a plea of guilty and restitution is a condition of probation. The payment of restitution shall be monitored by the Caldwell Parish District Attorney's Office and noncompliance, if any, will be reported to the Department of Corrections, Office of Probation and Parole.

Recommendation #5: develop and implement a written policy to address record retention in accordance with state law.

Response:

The Caldwell Parish District Attorney's Office is currently developing a records retention policy in accordance with La.R.S. 44:36(A).