

DISTRICT ATTORNEY FOR THE 37TH JUDICIAL DISTRICT



INVESTIGATIVE AUDIT
ISSUED MAY 23, 2018

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

DIRECTOR OF INVESTIGATIVE AUDIT
ROGER W. HARRIS, J.D., CCEP, CFI

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report is available for public inspection at the Baton Rouge office of the Louisiana Legislative Auditor and at the office of the parish clerk of court.

This document is produced by the Louisiana Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Two copies of this public document were produced at an approximate cost of \$0.80. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's website at www.la.la.gov. When contacting the office, you may refer to Agency ID No. 1339 or Report ID No. 50170025 for additional information.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Elizabeth Coxe, Chief Administrative Officer, at 225-339-3800.



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

May 23, 2018

THE HONORABLE BRIAN FRAZIER
DISTRICT ATTORNEY
37TH JUDICIAL DISTRICT
Columbia, Louisiana

We have audited certain transactions of the District Attorney for the 37th Judicial District. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of a complaint we received.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations, as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the 37th Judicial District of Louisiana and others, as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

37TH DA

TABLE OF CONTENTS

	Page
Executive Summary	2
Background and Methodology.....	3
Finding and Recommendations:	
Worthless Check Revenue Not Deposited	4
Recommendations	6
Attachment A.....	7
Legal Provisions.....	8
Management’s Response	Appendix A

EXECUTIVE SUMMARY

Worthless Check Revenue Not Deposited

A former employee of the 37th Judicial District Attorney (District Attorney), Ms. Sharon Lovett, received at least \$17,238 in cash and money orders payable to, or intended for, the District Attorney's office that was not deposited into the District Attorney's bank account between January 2015 and September 2017. Ms. Lovett acknowledged taking cash and money orders and using the funds for her personal use. She also told us she discarded the receipt books to conceal the amounts taken.

BACKGROUND AND METHODOLOGY

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 37th Judicial District encompasses the parish of Caldwell.

On September 14, 2017, we received a complaint that an employee of the District Attorney for the 37th Judicial District (District Attorney) may have taken public funds from the District Attorney's office. This audit was initiated to determine the validity of that complaint. 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

Worthless Check Revenue Not Deposited

A former employee of the 37th Judicial District Attorney (District Attorney), Ms. Sharon Lovett, received at least \$17,238 in cash and money orders payable to, or intended for, the District Attorney's office that was not deposited into the District Attorney's bank account between January 2015 and September 2017. Ms. Lovett acknowledged taking cash and money orders and using the funds for her personal use. She also told us she discarded the receipt books to conceal the amounts taken. By taking funds she collected on the District Attorney's behalf and destroying receipt books to conceal amounts taken, Ms. Lovett may have violated state and federal law.²

Ms. Sharon Lovett was employed as the Worthless Check Division (WCD) coordinator for the District Attorney from January 2015 through September 2017. Ms. Lovett's duties included maintaining case files and accepting payments made to the District Attorney for worthless checks written to local vendors. 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.

According to Ms. Lovett, vendors who receive worthless checks in Caldwell Parish can submit them to the District Attorney's office for collection. As WCD coordinator, Ms. Lovett received copies of worthless checks from vendors and documented these cases in CRIMES^A (the District Attorney's case management software).

Ms. Lovett said she mailed "demand letters" to persons who issued the worthless checks she received from vendors, which required them to pay the District Attorney the original worthless check amount, plus a merchant service charge of \$25 per check and a statutory fee of \$35 per check, by a specified date. According to the demand letter, if the person failed to pay the total amount due by the date specified, the District Attorney would file formal charges against the person for issuing a worthless check.¹ The demand letter also notified the person of the arraignment date if payment was not made timely.

As WCD coordinator, Ms. Lovett collected the payments, service charges, and statutory fees for worthless checks; issued receipts for payments; recorded payments into CRIMES; and prepared the deposit for another District Attorney employee to take to the bank. Ms. Lovett also produced court dockets^B to include persons with delinquent balances due for up to six weeks past their assigned due dates. Persons could have balances due if individuals did not pay the amounts owed to the District Attorney or if payments were not correctly entered into CRIMES.

^A CRIMES (Criminal Research Information Management Evaluation System); is a comprehensive electronic records management system for smaller law enforcement agencies used by the District Attorney to record account balances and payments received.

^B Court dockets, as used herein, refer to a roster or listing of criminal cases that the court will hear on a given day.

Payments Received but Not Deposited

Ms. Lovett told us that she took cash and money orders received by the District Attorney for her own personal use since at least September 2015. She also told us that she destroyed all but the current receipt book to hide the funds she had taken.

Ms. Lovett reviewed the only remaining receipt book with us and identified 11 payments she said she took for her own personal use. Ms. Lovett identified 16 WCD case files she said were paid in full, from which she had taken the money. In total, Ms. Lovett identified \$12,028 in payments (both cash and money orders) she collected for the District Attorney's WCD and used for her personal benefit between March 2015 and September 2017. She also provided us with a \$75.00 money order (see Attachment A) she changed from *Pay to the order of* "CPSO" (Caldwell Parish Sheriff's Office) to "CASH."

During our subsequent review of the District Attorney's records, we determined that \$4,015 in payments Ms. Lovett said she took for her own personal benefit were, in fact, deposited into the District Attorney's bank account. The remaining \$8,013 Ms. Lovett identified was not deposited to a District Attorney's bank account.

Ms. Lovett was terminated by the District Attorney on September 18, 2017. After her termination, several persons who had written worthless checks to local vendors provided affidavits and, in some cases, documentation concerning amounts paid to Ms. Lovett to satisfy their worthless checks. We reviewed the affidavits that included evidence of payment and found that an additional \$1,455 paid to the District Attorney had not been deposited to the District Attorney's bank account.

Payments Recorded but Not Deposited

From January 2015 to August 2017, it appears Ms. Lovett entered an additional 45 payments totaling \$7,770 into CRIMES as "paid," but bank records show these payments were never deposited into a District Attorney bank account. The balances for these accounts were reduced in CRIMES as if the payments were collected.

Conclusion

From January 2015 through September 2017, it appears Ms. Lovett received at least \$9,468 in cash and money orders payable to, or intended for, the District Attorney's office for her own personal use. Additionally, from January 2015 through August 2017, Ms. Lovett recorded an additional \$7,770 in CRIMES that do not appear to have been deposited. In total, it appears Ms. Lovett received and/or recorded at least \$17,238 in payments intended for the District Attorney's office that was never deposited. By taking cash and money orders payable to or intended for the District Attorney's office, using the proceeds for personal expenses, recording payments that do not appear to have been deposited, and destroying public records, Ms. Lovett may have violated state and federal laws.²

Recommendations

We recommend that the District Attorney:

- (1) ensure that employees are not accepting cash payments;
- (2) assign responsibility for receiving payments, depositing payments, and recording the receipt of payments to separate employees;
- (3) reconcile the receipts to deposits and the CRIMES database monthly to ensure all collected funds were deposited and posted to the database;
- (4) identify and resolve past-due worthless check charges and fees; and
- (5) seek legal advice as to the appropriate actions to be taken regarding the recovery of the worthless check amounts, service charges, and fees.

ATTACHMENT A

THE FACE OF THIS DOCUMENT HAS A MULTI TONE GREEN AND GOLD BACKGROUND

NA NORTH AMERICAN MONEY ORDER COMPANY **MONEY ORDER**

SECURITY FEATURES ON THIS DOCUMENT INCLUDES MICRO-PRINT SIGNATURE LINES FRONT AND BACK AND SECURITY SCREEN ON THE BACK PRINTED IN GREEN INK. ABSENCE OF THESE FEATURES MAY INDICATE COPIES OR ALTERATIONS

86 490 1031 NOT VALID UNLESS MONEY ORDER IS MACHINE IMPRINTED

Payable Through BancFirst Stratford, Oklahoma

09/01/2017

****SEVENTY-FIVE AND 00/100 DOLLARS****

NOT VALID OVER THREE HUNDRED U.S. DOLLARS

CASH ONLY WHEN PAYEE IS FILLED IN AND FULL RECOURSE FOR ENDORSER IS ASSURED.

PAY TO THE ORDER OF CASA

SIGNATURE [Redacted]

Address Columbia, LA 71418

THE BACK OF THIS DOCUMENT HAS A SECURITY SCREEN AND MICRO-PRINT LINE

[Redacted]

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 14:71(A)(1)(a)** states, “Issuing worthless checks is the issuing, in exchange for anything of value, whether the exchange is contemporaneous or not, with intent to defraud, of any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time of the issuing that the offender has not sufficient credit with the bank, or other depository for the payment of such check, draft, or order in full upon its presentation.”

² **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. 14:72.2(A) states, in part “Monetary instrument abuse is ... whoever makes, issues, possesses, sells, or otherwise transfers a counterfeit or forged monetary instrument of the United States, a state, or a political subdivision thereof, or of an organization, with the intent to deceive another person ...”

La R.S. 14:132(B) states, “Second degree injuring public records is the intentional removal, mutilation, destruction, alteration, falsification, or concealment of any record, document, or other thing, defined as a public record pursuant to R.S. 44:1 *et seq.* and required to be preserved in any public office or by any person or public officer pursuant to R.S. 44:36.”

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. 42:1111(A)(1)(a) states, “Payments for services to the governmental entity. (1)(a) No public servant shall receive anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position.”

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...”

18 U.S.C.A 1956 states, in part, “(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity– (A)(i) with the intent to promote the carrying on of specified unlawful activity; or ... (B) knowing that the transaction is designed in whole or in part– (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity...”

APPENDIX A

Management's Response



BRIAN E. FRAZIER
DISTRICT ATTORNEY
PO 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
FAX (318) 649-5985

CHARLES L. "CHUCK" COOK
ASSISTANT DISTRICT ATTORNEY

THOMAS W. "WES" BURNS
ASSISTANT DISTRICT ATTORNEY

May 17, 2018

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. I personally spoke to Auditor Kevin Kelly on Thursday, September 14, 2017 to report this matter. The investigators were in my office the following Monday, September 18, 2017.

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

This agency is committed to performing all legally designated functions in a lawful professional, and efficient manner. The beginning of my term was used in becoming educated in the daily processes, an identifying potential areas of improvement.

The indiscretions disclosed in this investigative report surfaced during our own internal review of the financial areas of this agency. It was determined that it was necessary to add Administrative duties to existing staff to perform accounting functions and implement proper internal controls. These legal processes include worthless checks.

All of the recommendations outlined on page 3 , paragraphs 1-5. have been implemented . Specifically, no cash is accepted by my office. Only cashier`s checks and money orders are accepted to create a paper trail for funds accepted by his office. Finally, polices and procedures are being written as processes are reviewed and improved.

This agency will continue to move forward, evaluating and improving processes. while serving the citizens by the highest standards. We appreciate all of the assistance provided to us by the Legislative Auditors Office and the Louisiana State Police in performance of this investigation.