

CATAHOULA PARISH SHERIFF'S OFFICE



INVESTIGATIVE AUDIT
ISSUED MAY 7, 2014

**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
AND ADVISORY SERVICES**
ROGER W. HARRIS, J.D., CCEP

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. Three copies of this public document were produced at an approximate cost of \$1.20. 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. 3077 or Report ID No. 50140010 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 7, 2014

THE HONORABLE JAMES G. KELLY, SHERIFF
CATAHOULA PARISH
Harrisonburg, Louisiana

We have audited certain transactions of the Catahoula Parish Sheriff's Office. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of allegations 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 Seventh Judicial District of Louisiana, the Louisiana Board of Ethics, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

CATAHOULA SHERIFF 2014

TABLE OF CONTENTS

	Page
Executive Summary	2
Background and Methodology.....	3
Findings and Recommendations:	
Former Chief Financial Officer Paid Himself Excess Wages	4
Prohibited Contractual Arrangement with Former Chief Financial Officer	6
Legal Provisions.....	7
Management’s Response	Appendix A

EXECUTIVE SUMMARY

Former Chief Financial Officer Paid Himself Excess Wages

From August 2, 2009 to November 16, 2013, George Tosson, former Chief Financial Officer (CFO) of the Catahoula Parish Sheriff's Office (CPSO), appears to have paid himself excess wages totaling \$22,534. These excess wages were paid through two unauthorized pay rate increases and one extra paycheck. By paying himself excess wages, Mr. Tosson may have violated state law.

Prohibited Contractual Arrangement with Former CFO

CPSO contracted with former CFO George Tosson immediately following the termination of his employment in possible violation of the state's ethics law.

BACKGROUND AND METHODOLOGY

As provided by Article V, Section 27 of the Louisiana Constitution of 1974, the Catahoula Parish Sheriff (Sheriff) serves a four-year term as the chief executive officer of the law enforcement district and ex-officio tax collector of the parish. As the ex-officio tax collector of the parish, the Sheriff is responsible for collecting and distributing ad valorem property taxes; parish occupational licenses; state revenue sharing funds; sporting licenses; and fines, costs, and bond forfeitures imposed by the district court. The Sheriff also administers the parish jail system and exercises duties required by the parish court system, such as providing bailiffs, executing orders of the court, and serving subpoenas.

The Louisiana Legislative Auditor (LLA) received information from Sheriff James Kelly indicating that his former Chief Financial Officer (CFO) George Tosspon increased his own pay rate without authorization.

The procedures performed during this audit included:

- (1) interviewing CPSO employees;
- (2) interviewing other persons as appropriate;
- (3) examining selected CPSO documents and records;
- (4) gathering and examining external parties' documents and records; and
- (5) reviewing applicable state laws and regulations.

FINDINGS AND RECOMMENDATIONS

Former Chief Financial Officer Paid Himself Excess Wages

From August 2, 2009 to November 16, 2013, George Tosspon, former Chief Financial Officer (CFO) of the Catahoula Parish Sheriff's Office (CPSO), appears to have paid himself excess wages totaling \$22,534. These excess wages were paid through two unauthorized pay rate increases and one extra paycheck. By paying himself excess wages, Mr. Tosspon may have violated state law.^{1,2,3,4}

According to Catahoula Parish Sheriff James Kelly and Mr. Tosspon, all employees' salaries and pay increases are authorized by Sheriff Kelly. Mr. Tosspon was the sole individual responsible for processing payroll and implementing and documenting authorized pay changes. According to Mr. Tosspon, he documented these pay changes in the employee notes section of the CPSO's electronic accounting system.

Unauthorized Pay Increases

Mr. Tosspon increased his pay rate without authorization in August 2009 and July 2013. These unauthorized pay increases resulted in Mr. Tosspon receiving excess wages totaling \$20,626.

According to CPSO payroll records, Mr. Tosspon increased his salary 13% from \$76,800 to \$86,700 in August 2009 without authorization or documentation to support the increase. Records indicate that on September 30, 2009, Sheriff Kelly awarded Mr. Tosspon a salary increase of \$250 per pay period (8%). However, Mr. Tosspon's salary increased 13%, causing Mr. Tosspon to receive excess wages totaling \$16,474 from August 2009 to November 16, 2013. Although Sheriff Kelly could not recall the 2009 pay increase, he was confident that he only authorized the 8% increase listed in Mr. Tosspon's employee notes. Mr. Tosspon could not recall the 13% pay increase, but stated that if he received the pay increase, then it had to have been approved.

According to CPSO payroll records, Mr. Tosspon increased his salary approximately 12% from \$103,936 to \$115,936 in July 2013 without authorization. Mr. Tosspon's CPSO employee notes indicate that Sheriff Kelly awarded the increase on August 1, 2013. However, Sheriff Kelly stated that he did not authorize this pay increase. This increase resulted in Mr. Tosspon receiving excess wages totaling \$4,152 from July 14, 2013 to November 16, 2013. Sheriff Kelly further stated that when he questioned Mr. Tosspon about the increase, Mr. Tosspon indicated (to Sheriff Kelly and another CPSO employee) that he awarded himself a pay increase without Sheriff Kelly's knowledge or approval. However, Mr. Tosspon later stated that during a casual conversation in August 2013, the Sheriff awarded him a pay increase without indicating a specific amount for the increase.

Sheriff Kelly stated that he signed paychecks issued to Mr. Tosspon, but did not notice the excess wages. It should be noted that the net amount of Mr. Tosspon's checks regularly fluctuated because of frequent changes in the amount Mr. Tosspon was withholding for deposit to his credit union account.

Extra Paycheck

On September 4, 2009, Mr. Tosspon issued himself an extra paycheck in the amount of \$1,908 for work he performed to prepare the CPSO's application to the Federal Emergency Management Agency (FEMA) for reimbursements associated with Hurricane Gustav. Because Mr. Tosspon performed this work during his normal work hours and was paid for this work through his normal wages, this check resulted in Mr. Tosspon paying himself twice for the same hours worked.

Records indicate that the CPSO applied for and received FEMA funds (in August 2009) to reimburse the CPSO for disaster-related costs incurred because of Hurricane Gustav. These funds included amounts to reimburse the CPSO for costs incurred to compile data and complete paper work for the FEMA application. Mr. Tosspon performed these functions during his normal working hours and, as such, was paid his normal salary (wages and benefits totaling \$1,908) for the work he performed. However, after the FEMA funds were received by the CPSO, Mr. Tosspon improperly issued himself an additional CPSO check in the amount of \$1,908 for the administrative functions he performed for the FEMA application. This payment was improper because these funds were a reimbursement to the CPSO for the costs it had already incurred (through the payment of wages to Mr. Tosspon) for completing the FEMA application. As such, Mr. Tosspon appears to have been paid twice for the same hours he worked to complete the FEMA application. Mr. Tosspon stated that he understood that administrative employees were due the amounts received by the CPSO from FEMA.

Because Mr. Tosspon was not authorized to increase his own pay and should not have been paid twice for the same hours worked, Mr. Tosspon appears to have received excess wages and may have violated state law.^{1,2,3,4}

Recommendations

We recommend that CPSO management develop and implement policies and procedures to ensure that amounts paid to employees are appropriately earned and approved. These policies should require that CPSO:

- (1) consult legal counsel to seek recovery of excess amounts improperly paid to the former CFO;
- (2) adopt policies and procedures that address the awarding of pay increases and require appropriate documentation; and
- (3) require that time and attendance records are maintained for all employees and approved by an immediate supervisor.

Prohibited Contractual Arrangement with Former CFO

CPSO contracted with former CFO George Tosson immediately following the termination of his employment in possible violation of the state's ethics law.⁵ Mr. Tosson resigned from CPSO, effective December 31, 2013. On January 1, 2014, CPSO entered into a contract with Tosson Investment Properties, LLC, of which Mr. Tosson is the sole member. According to the contract, Mr. Tosson was to be paid at a rate of \$70 per hour to train his replacement, Robert Swayze. As such, the CPSO issued checks to Tosson Investment Properties totaling \$7,105 from January 17, 2014 to February 19, 2014.

According to CPSO records, Mr. Tosson began billing for hours before Mr. Swayze began employment with the CPSO. According to CPSO staff, Mr. Tosson performed his normal (former) job functions during this time. Mr. Swayze's first day of employment with CPSO was January 7, 2014. Once Mr. Swayze began, Mr. Tosson performed his normal (former) job functions while Mr. Swayze took notes. Louisiana Revised Statute (La. R.S.) 42:1121(B)(1) provides, in part, that no former public employee should, for a period of two years following termination of his public employment, render any service which such former public employee had rendered to the agency during the term of his public employment on a contractual basis. Because Mr. Tosson was paid by the CPSO to perform services that he provided during his public employment, this arrangement may have violated state law.⁵

It should be noted that Sheriff Kelly terminated the agreement after he was informed that contracting with a former employee may be a violation of state law.

Recommendations

We recommend that Sheriff Kelly consult with legal counsel and the Louisiana Board of Ethics on the legality of this contractual arrangement. We further recommend that CPSO management develop and implement policies and procedures to ensure that the CPSO does not enter into prohibited contractual arrangements. These policies should require that all CPSO employees undergo required ethics training.

LEGAL PROVISIONS

¹ **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.”

² **La. R.S. 14:133(A)** states, “Filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, of any of the following: (1) Any forged document. (2) Any wrongfully altered document. (3) Any document containing a false statement or false representation of a material fact.”

³ **La. R.S. 14:134(A)** states, “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; or (3) Knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner.”

⁴ **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.”

⁵ **La. R.S. 42:1121(B)(1)** states, in part, that “No former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or for a period of two years following termination of his public employment, render, any service which such former public employee had rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed.”

APPENDIX A

Management's Response

Re: Response to Legislative Audit Dated April 22, 2014

From: James G. Kelly, Catahoula Parish Sheriff

On Feb. 11, 2014 I contacted Gary Bennett with the La. Sheriff's Association, telling him of the situation involving George Tosspon, Chief Financial Officer at the Catahoula Parish Sheriff's Office. It appeared that Tosspon had increased his salary without my approval or knowledge. Feeling that this was a serious breach of ethics, as well as the trust I had in him, I contacted Sheriff Bennett for advice as to how to begin the process of a Legislative Audit.

The following day I was contacted by Mr. Roger Harris with the Legislative Auditor's Office, who said he had been instructed by Mr. Daryl Purpera to contact me and begin the audit process.

My first meeting with the auditors was on Feb. 25, 2014, at which time they began to gather information for the audit. The final meeting with the Auditors was on April 22, where they revealed their findings and recommendations. The recommendations are stated in the enclosed report.

As of this writing each recommendation is agreed upon by me and each one has been acted upon and corrections have been made. I am satisfied that the corrections and other changes made satisfy the Auditors recommendations.

Recommendation 1- On March 17, 2014 I met with our District Attorney, Brad Burget, briefing him on the situation. Mr. Burget advised at that time to wait until the audit complete and forward the final Auditor's Report to him. After he receives the report, he will determine further action. The Auditors report that they will meet personally with the District Attorney to brief him on the findings. I have also consulted with our La. Sheriff's Association attorneys (Usry, Weeks and Matthews) as to how to proceed regarding Mr. Tosspon's unauthorized pay increases.

Recommendation 2- This recommendation has already been put into place, with any raise for employees signed and approved by me (Sheriff) and put into employee's personnel file. Thus, any pay increase will be approved by me and documented.

Recommendation 3- Although most all personnel have been required to fill out a time sheet for a number of years, due to the recommendations by the Auditors, now the Civil staff, Detectives and Financial Officer fill out a time sheet.

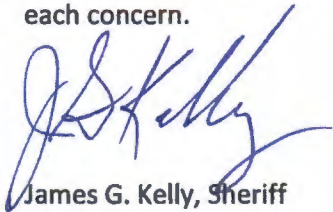
Recommendation 4- (explanation of why #4 was issued) On Jan. 1, 2014, after having informed Mr. Tosspon that he could no longer work here on a permanent basis, I entered into an agreement with him that he could be allowed to assist his replacement, being paid on an hourly basis. At that time, I was not sure if any crime had been committed by Tosspon or if any ethics violation had occurred. What I did know was that he had violated the trust I had in him, had violated public trust and had greatly disappointed me and my entire staff. Admitting to me that he had given himself a raise without my knowledge, I knew some action had to be taken immediately. I also knew that it would be very difficult to replace Tosspon (who was in his 17th year in that position) immediately, and due to the complexities of his job, I felt it would not be fair to his replacement to thrust him into that position with no idea of what the job required or how to perform his or her duties. I felt, unfortunately, it was necessary to keep Tosspon available for consultation so his former duties would not go undone and the business of operating this Sheriff's Office would be taken care of. I had no hint that this agreement could be a

possible Ethics violation. On Feb. 25, 2014, I was informed by the Auditors that someone who had been relieved of their duties at the Sheriff's Office, as Tosspon had, could not enter into any sort of working agreement for a two year period. Based upon the Auditor's advice, I sent Tosspon a certified letter dated Feb. 28, wherein I stated that our agreement was terminated. Tosspon has not been affiliated with the Catahoula Parish Sheriff's Office since that time. Any concerned party can be assured there will be no further contractual agreements with Tosspon nor any other current or former employee who has been dismissed.

Regarding ethics training, to my knowledge, each Deputy already goes through ethics training annually.

After meeting with the Legislative Auditors on 4-22-14 and viewing their four recommendations, I am satisfied that each recommendation has been addressed and corrections have been made. Their understanding of the situation and advice on how to make needed corrections is greatly appreciated. I now await legal opinions from our local District Attorney and L.S.A. attorneys as to how to proceed with any criminal or civil filings.

I am truly grateful for your quick response to my request for this Audit. I am especially grateful to the Auditors themselves for their professionalism and taking the time to answer my questions and discuss each concern.

A handwritten signature in blue ink, appearing to read "J. Kelly", is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James G. Kelly, Sheriff

LAW OFFICE OF
CHARLES G. GRAVEL

Post Office Box 1792
Alexandria, Louisiana 71309-1792
Email: cgglaw10@aol.com

711 Washington Street
Alexandria, Louisiana 71301

Telephone (318) 487-4501
Facsimile (318) 443-2625

May 2, 2014

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

REGULAR MAIL & FACSIMILE (225)339-3870

RE: Investigative Audit Report / Catahoula Parish Sheriff's Office

Dear Mr. Purpera:

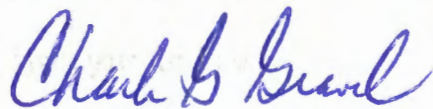
Please be advised that I represent Mr. George Tosson. We have reviewed the draft of the Investigative Audit Report on the Catahoula Parish Sheriff's Office by the Louisiana Legislative Auditor. As you know, Mr. Tosson has cooperated in this investigation and was previously interviewed by your office in connection with this matter. His response is noted in the draft report.

If there was a misunderstanding or misinterpretation regarding the pay increases noted in your report, Mr. Tosson stands ready to reimburse any excess amounts paid to him in error. It was never Mr. Tosson's intent to violate any law in any way, shape or form while employed by the Catahoula Parish Sheriff's Office.

Please accept this letter as Mr. Tosson's written response to be included as part of the published report pursuant to the April 22, 2014 letter to him by Mr. Roger W. Harris.

With kind regards, I remain

Very truly yours,



Charles G. Gravel

CGG;tj