

DISTRICT ATTORNEY FOR THE 15TH JUDICIAL DISTRICT AND
ACADIA PARISH SHERIFF'S OFFICE



INVESTIGATIVE AUDIT
ISSUED JANUARY 18, 2017

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

January 18, 2017

THE HONORABLE KEITH A. STUTES
DISTRICT ATTORNEY
15th JUDICIAL DISTRICT
Lafayette, Louisiana

And

THE HONORABLE K.P. GIBSON
SHERIFF, ACADIA PARISH
Crowley, Louisiana

We have audited certain transactions of the District Attorney for the 15th Judicial District and the Acadia Parish Sheriff's Office. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of complaints 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 15th Judicial District of Louisiana and others, as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

APSO 15TH DA

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EXECUTIVE SUMMARY

Seized Cash Assets Not Deposited

Records indicate that an employee of the Acadia Parish Sheriff's Office (APSO) received \$194,900 in seized cash assets from local law enforcement agencies from January 21, 2003 through February 3, 2016, that were not deposited into the District Attorney's Special Asset Forfeiture Fund, as required by state law. Former APSO Deputy Maxine Trahan was responsible for receiving cash assets seized by law enforcement agencies within Acadia Parish and depositing the funds into the District Attorney's Special Asset Forfeiture bank account. Ms. Trahan acknowledged that she failed to deposit seized cash assets and that she used the funds for personal purposes. By failing to deposit all seized cash assets, Ms. Trahan may have violated state law.

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 15th Judicial District encompasses Acadia, Lafayette, and Vermilion Parishes.

In April 2016, the District Attorney's Office determined that several cash asset seizures remitted to an employee of the Acadia Parish Sheriff's Office (APSO) had not been deposited into the District Attorney's Special Asset Forfeiture Fund. Records obtained by the District Attorney's office indicated that these cash assets were remitted to APSO Deputy Maxine Trahan. Deputy Trahan was responsible for receiving and depositing cash assets into the Special Asset Forfeiture Fund bank account. The District Attorney notified the Louisiana State Police, who further investigated the disposition of cash assets remitted to Ms. Trahan. During the course of the investigation, Ms. Trahan informed State Police detectives that she failed to deposit certain cash assets and used the funds for personal purposes. State Police detectives arrested Ms. Trahan on April 15, 2016. Ms. Trahan was charged with felony theft.

District Attorney Keith Stutes notified the Louisiana Legislative Auditor (LLA) of the possible misappropriation of funds and requested that the LLA assist the State Police in determining the amount of seized cash assets not deposited. The procedures performed during this audit included:

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

FINDINGS AND RECOMMENDATIONS

Seized Cash Assets Not Deposited

Records indicate that an employee of the Acadia Parish Sheriff's Office (APSO) received \$194,900 in seized cash assets from local law enforcement agencies from January 21, 2003 through February 3, 2016, that were not deposited into the 15th Judicial District Attorney's (District Attorney) Special Asset Forfeiture Fund, as required by state law. Former APSO Deputy Maxine Trahan was responsible for receiving cash assets seized by law enforcement agencies within Acadia Parish and depositing the funds into the District Attorney's Special Asset Forfeiture bank account. Ms. Trahan acknowledged that she failed to deposit seized cash assets and that she used the funds for personal purposes. By failing to deposit all seized cash assets, Ms. Trahan may have violated state law.^{1,2}

The Seizure and Controlled Dangerous Substances Property Forfeiture Act of 1989 (Property Forfeiture Act), found at Louisiana Revised Statute (La. R.S.) 40:2601, *et seq.*, establishes the process for handling seizures and forfeitures. La. R.S. 40:2616(A) provides that the "proceeds of any sale and any monies forfeited or obtained by judgment or settlement... shall be deposited in the Special Asset Forfeiture Fund ... until disposed of pursuant to court order." The Special Asset Forfeiture Fund is part of the Special District Attorney Asset Forfeiture Fund. La. R.S. 40:2616(B) requires that "[a] all monies obtained under the provisions of [the Property Forfeiture Act] shall be deposited" in the Special Asset Forfeiture Fund.

Cash, vehicles, weapons, and other items linked to criminal activity and seized by local law enforcement agencies are types of property subject to forfeiture. During the period covered by our audit, law enforcement officers remitted seized cash assets for forfeiture to former APSO Deputy Maxine Trahan. Ms. Trahan signed evidence forms indicating that she took possession of the seized cash assets and was responsible for depositing the seized cash assets into the District Attorney's Special Asset Forfeiture Fund (hereafter referred to as the "asset forfeiture bank account"). The District Attorney's Finance Director periodically reviewed the asset forfeiture bank account statements and the supporting deposit slips and recorded the amounts deposited as cash asset seizures in the District Attorney's accounting system.

Seized Cash Assets Not Deposited

We examined records detailing seized cash assets remitted to Ms. Trahan by local law enforcement agencies for forfeiture from January 21, 2003 through February 3, 2016, and compared these amounts to the District Attorney's asset forfeiture bank account records. We found that local law enforcement agencies remitted \$1,336,622 in cash asset seizures to Ms. Trahan; according to the District Attorney's asset forfeiture bank account records, only \$1,141,722 of cash was deposited, leaving a \$194,900 shortage. On April 15, 2016, State Police detectives interviewed Ms. Trahan, who acknowledged that she failed to deposit seized cash assets and used the funds for personal purposes. By failing to deposit all seized cash assets, Ms. Trahan may have violated state law.^{1,2}

Recommendations

We recommend the District Attorney consult with legal counsel to determine the appropriate legal actions to be taken, including recovery of the missing funds and/or restitution. In addition, the District Attorney's Office should develop and implement policies and procedures to ensure that all seized cash assets received from local law enforcement agencies are accounted for and deposited in accordance with state law. District Attorney management should:

- (1) require that all seized cash assets be remitted to the District Attorney's office for deposit in the asset forfeiture bank account;
- (2) ensure that all funds collected be adequately documented, recorded, and deposited daily in accordance with state law;
- (3) ensure that employees are properly trained on cash handling policies and procedures;
- (4) review and compare the daily total deposits to the total receipts on a regular basis and immediately investigate any differences; and
- (5) segregate the duties of collecting cash from making deposits, recording deposits in the general ledger, and performing bank reconciliations.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 40:2601(5)** states, “‘Seizure for forfeiture’ means seizure of property by a law enforcement officer designated by the district attorney accompanied by a written assertion by the seizing agency or by a district attorney that the property is seized for forfeiture.”

La. R.S. 40:2616(B) states, “Special Asset Forfeiture Fund is hereby established within the Special District Attorney Asset Forfeiture Trust Fund. All monies obtained under the provisions of this Chapter shall be deposited in the fund. The court shall ensure the equitable distribution of any forfeited property, or of monies under and subject to the provisions of this Subsection, to the appropriate local, state, or federal law enforcement agency so as to reflect generally the contribution of that agency's participation in any of the activity that led to the seizure or forfeiture of the property or deposit of monies under and subject to the provisions of this Subsection. The office of the district attorney shall administer expenditures from the fund. [...] Money in the fund shall be distributed in the following order of priority: (1) For satisfaction of any bona fide security interest or lien. (2) Thereafter, for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. (3) The remaining funds shall be allocated as follows: (a) Sixty percent thereof to the law enforcement agency or agencies making the seizure [...] (b) Twenty percent thereof to the criminal court fund. (c) Twenty percent thereof to any district attorney's office that employs the attorneys that handle the forfeiture action for the state.”

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. 14:134(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.”

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 any 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.”

APPENDIX A

Management's Response



**OFFICE OF THE DISTRICT ATTORNEY
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KEITH A. STUTES
DISTRICT ATTORNEY**

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December 14, 2016

Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
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Mr. Roger W. Harris, J.D., CCEP
Assistant Legislative Auditor &
Director of Investigation Audit
Louisiana Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

RE: Investigative Audit Report Acadia Parish Sheriff

Dear: Mr. Purpera & Mr. Harris:

Thank you for your letter of December 9, 2016, regarding the investigative audit report of the Louisiana Legislative Auditor, a draft of which was enclosed in your letter. As requested, I have maintained this matter in a confidential manner, have carefully reviewed your draft report, and would respectfully make the following comments.

I take this opportunity to thank you and your staff for the very professional manner in which the investigation was conducted. Your investigators were very reasonable and accommodating in their requests for volumes of documents and for many interviews. I encouraged my staff to cooperate fully with your investigation; I am satisfied that they did. The interactions between my staff and your investigators was very courteous, professional, and thorough. I want to make very clear that the major circumstances and facts which were the focus of your investigation took place prior to my taking the office of District Attorney on January 12, 2015. As you will recall, I requested your assistance in the legislative audit, by letter of May 26, 2016. In early 2015, after taking office, an effort was undertaken to review drug asset seizures and forfeitures in the entirety of the 15th Judicial District, namely in Acadia, Lafayette, and Vermilion Parishes. A special asset forfeiture fund had been established in each of the parishes in accordance with LA. R. S. 40:2616, wherein "any monies forfeited or

obtained by judgment or settlement” were to be deposited, to be deposited “pursuant to court order”. It was during this review process in 2015 that it was discovered that certain cash seizures made by law enforcement agencies in Acadia Parish had not been appropriately deposited into the District Attorney Asset Forfeiture Account in Acadia Parish. It was further determined that these cash seizures had been delivered to then Deputy Maxine Trahan who later acknowledged that she failed to deliver such funds to the District Attorney’s Office, but rather used those seized funds for her personal purpose. On or about April 14, 2016, probable cause was documented and an arrest warrant was obtained. Thereafter, a criminal investigation was undertaken by the Louisiana State Police and I made a specific request to you to conduct a thorough legislative audit of the Acadia Parish Sheriff, the Crowley Police Department, and the Rayne Police Department, as well as the District Attorney’s Drug Asset Forfeiture Account, so as to obtain a complete identification of the cash assets seized by law enforcement agencies within Acadia Parish which were diverted from the District Attorney’s Special Asset Forfeiture Account.

A determination of the ownership of the funds seized and taken by the defendant Trahan, has not been yet made. Restitution is certainly a request to be made during the course of the criminal proceedings pending against the defendant Trahan. I have requested the assistance of the Attorney General in the handling of the criminal matters against the defendant, Trahan. Any other appropriate legal actions to be taken have not yet been determined.

Upon my taking office in 2015, I developed and implemented policies and procedures to ensure that all seized cash assets received from law enforcement agencies were duly accounted for and actually deposited into the District Attorney’s Drug Asset Forfeiture Account. L.A. R. S. 40:2616 requires the deposit of such funds “forfeited or obtained by judgment or settlement”. I have implemented policy and procedure that require that all seized cash assets be remitted to the District Attorney’s Office for deposit and safekeeping in the asset forfeiture bank account upon a court ordered determination as to the seized funds, the funds are to be distributed appropriately. The procedures implemented upon my taking office included the following, to-wit:

1. require that all seized cash assets be remitted to the District Attorney’s Office for deposit in the asset forfeiture bank account;
2. ensure that all funds collected be adequately documented, recorded, and deposited daily in accordance with state law;
3. ensure that employees are properly trained on cash handling policies and procedures;
4. review and compare the daily total deposits to the total receipts on a regular basis and immediately investigate any differences; and

5. segregate the duties of collecting cash from making deposits, recording deposits in the general ledger, and performing bank reconciliations.

Procedures were established whereby employees are trained in cash handling policies and procedures. They are to document and record the cash deposits, and a regular review and reconciliation of the deposit are maintained by assistant district attorney's and staff. Proceedings are conducted in order to determine the forfeiture of the seized cash assets and proper distribution to the appropriate parties, in accordance with state law.

Again, I thank you for your meticulous and thorough investigation and report. I look forward to our continued cooperation and further investigations.

Thanking your for your assistance in this matter, I remain,

Very truly yours,

Keith A. Stutes
District Attorney

md



ACADIA PARISH SHERIFF'S OFFICE

K.P. GIBSON

Sheriff and Ex-Officio Tax Collector

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

December 12, 2016

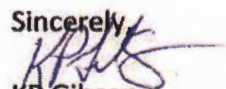
Dear Mr. Purpera,

Thank you for taking time out of your schedule to review the findings of your investigative report of the seized cash assets for Acadia Parish.

As you are aware, the matter at hand occurred prior to my administration with the Acadia Parish Sheriff's Office. Working with our District Attorney's Office, we have changed the process of how asset forfeitures are handled moving forward. As of the beginning of my administration as Sheriff of Acadia Parish, there will be no one from our agency serving as an agent to process asset forfeitures for the District Attorney's Office. As a matter of fact, an Assistant District Attorney is now serving as the asset forfeiture agent for the parish.

We have set standards within our agency for checks and balance procedures as to the processing, counting and transferring of all monies seized in cases involving asset forfeiture. My administration has employed an on staff Certified Public Accountant for the purpose of internal auditing as part of an overall checks and balances of all departments that handle public funds.

I would like to clarify that the Acadia Parish Sheriff's Office never received any asset forfeitures from law enforcement agencies during the period of January 21, 2003 through February 3, 2016. Former Deputy Maxine Trahan was appointed by the District Attorney's Office as the representative to handle all asset forfeitures for processing within the parish of Acadia. This processing included depositing of said funds in the District Attorney's account for asset forfeitures. At no time were asset forfeitures from any agency deposited into an Acadia Parish Sheriff's Office account. Former Deputy Trahan simply served as a processing agent for this process.

Sincerely,

KP Gibson
Sheriff, Acadia Parish

APPENDIX B

Maxine Trahan's Response

Mr. Howie's response to our audit mentions \$196,357 as the value of seized cash assets not deposited by his client, Maxine Trahan. This figure is based on the value of seized cash assets not deposited specified in our draft audit report. Since the receipt of Mr. Howie's response, we have adjusted the value of seized cash assets not deposited to \$194,900.

GLEN E. HOWIE
ATTORNEY AT LAW
P. O. BOX 932
Crowley, Louisiana 70527

337-785-8500 (Office)

337-514-2157 (Fax)

December 21, 2016

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

RE: December 9, 2016 Letter
To Maxine Trahan

Dear Mr. Purpera:

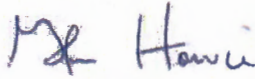
This letter is in response to your letter of December 9, 2016 to Ms. Maxine Trahan. We have read your report and wish this response to be included in your final report.

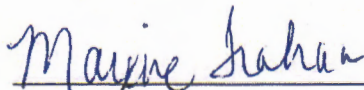
Ms. Trahan has acknowledged failure to deposit sums seized by law enforcement in Acadia Parish, Louisiana. We are in receipt of discovery materials from the Acadia Parish District Attorney. We are in the process of reviewing those records and at this time we cannot confirm an actual amount of monies not deposited. We do not know if your figure of \$196,357.00 is accurate. We will work to determine the figure as we work with the Attorney General's office as they prosecute this case.

Ms. Trahan is attempting to cooperate in the investigation and will seek to repay all sums that she failed to deposit.

Thanking you for your attention to this matter, I am

Very truly yours,


Glen E. Howie
Attorney at Law


Maxine Trahan