

Special Report

Arkansas Legislative Audit

Prosecuting Attorneys

Disposition of Matters Referred by the Legislative Joint Auditing Committee

For the period January 1, 2022 through December 31, 2022



INTRODUCTION

This report is issued to provide the Legislative Joint Auditing Committee (LJAC) a summary of the disposition of matters referred to the Prosecuting Attorneys of the State's 28 judicial districts. A map of judicial districts is provided in **Exhibit I on page 5**.

BACKGROUND

Arkansas Code Requirements

Ark. Code Ann. § 10-4-419,¹ provided in **Appendix A**, requires the Legislative Auditor to notify the appropriate Prosecuting Attorney of transactions reflecting apparent unauthorized disbursements or unaccounted for funds or property by a public official or employee. The Legislative Auditor also notifies and cooperates with the appropriate Prosecuting Attorney on all matters that appear to involve a criminal offense. Furthermore, Ark. Code Ann. § 10-4-419 requires the Legislative Auditor to report findings related to a Prosecuting Attorney's Office to the Attorney General for review and appropriate action.

Ark. Code Ann. § 10-4-419 also directs Prosecuting Attorneys to report to the LJAC by June 30 of each year the status or disposition of any matter referred to them by the Legislative Auditor or LJAC.

Ark. Code Ann. § 21-2-708 directs the Legislative Auditor, with LJAC approval, to notify the Arkansas Governmental Bonding Board (Bond Board) of audit reports reflecting apparent improper transactions for which a public official, officer, or employee may be liable. The Bond Board determines whether a loss is covered by the Arkansas Self-Insured Fidelity Bond Program. Entities are required to meet a \$2,500 deductible per occurrence before payment is made by the Bond Board. The Fidelity Bond Program coverage limit is \$300,000 per occurrence.

Memorandum of Understanding

In response to the LJAC's request to formalize interaction relating to "white collar crime" among Arkansas Legislative Audit (ALA), Arkansas State Police, and Prosecuting Attorneys, the parties agreed to a Memorandum of Understanding, approved by the LJAC on July 14, 2006, and presented in **Appendix B**.

¹This Code section was amended by Act 632 of the Regular Session of 2023 to include notification of the Attorney General.

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Report Date: October 31, 2023



OBJECTIVES

The objectives of this special report are as follows:

- Compile responses from each Prosecuting Attorney concerning all matters referred by the Legislative Auditor or LJAC.
- Present disposition information concisely for the LJAC.

SCOPE AND METHODOLOGY

Disposition information submitted by Prosecuting Attorneys was compiled for the period January 1, 2022 through December 31, 2022. Matters referred to Prosecuting Attorneys *prior* to January 1, 2022, but unresolved as of October 31, 2023, are also included in this report.

Relevant Arkansas Code, state circuit court orders, federal district court orders, and audit-related files were reviewed. In addition, payments from the Arkansas Fidelity Bond Trust Fund (Bond Trust Fund) are disclosed in this report, if applicable.

MATTERS REFERRED TO PROSECUTING ATTORNEYS

The audit reports referred to the State's Prosecuting Attorneys are arranged by judicial district (see table of contents provided in **Exhibit II on page 5**). Individual matters are briefly summarized; the status or disposition provided by the applicable Prosecuting Attorney and any Bond Trust Fund payments are also included. The Legislative Auditor or LJAC referred 119 matters to the State's Prosecuting Attorneys during the period January 1, 2022 through December 31, 2022. An additional 34 matters included in this report were referred but not resolved prior to the previous special report date of November 19, 2021.

Case Results

A summary of the disposition of matters referred to Prosecuting Attorneys is presented in **Exhibit III on pages 6 and 7**. This exhibit includes matters referred but unresolved in previous years, as well as matters referred in calendar year 2022. In addition, **Exhibit III** classifies case results in the categories defined below, as determined by ALA staff based on disposition reports provided by the Prosecuting Attorneys:

- **Conviction:** Includes guilty and no contest pleas, as well as jury verdicts, that resulted in court-ordered sentencing.
- **Pending:** Charges were filed, but the case has not been adjudicated.
- **Acquitted/Dismissed:** Charges were filed; however, the defendant was acquitted, or charges were dismissed without penalty.
- **Charges Not Filed:** Prosecuting Attorney chose to take no action. The status of each matter, contained in the body of this report, provides Prosecuting Attorneys' reasons for not filing charges.
- **Speed Trap:** Revenue from traffic offense citations exceeded 30% of a municipality's total expenditures in the preceding year.
- **Under Review:** Matter is currently being investigated by law enforcement or the appropriate Prosecuting Attorney.

Also provided in **Exhibit III** are the dollar amounts, if applicable, disclosed in audit findings of matters referred.

Court-Ordered Sentences Imposed

Criminal charges were filed in 24 of 153 matters referred to a Prosecuting Attorney. Five cases are pending in court; four cases were *nolle prossed* or dismissed; and one defendant was found not guilty by a jury. The remaining 14 cases in which a conviction was obtained and sentence imposed are listed by judicial district in **Exhibit IV on page 8**. Information provided includes the following:

- Judicial district.
- Entity audited.
- Matter referred, including year of referral, type of matter (i.e., receipts over deposits, unauthorized disbursements, or improper transactions), and dollar amount.
- Position of individual against whom charges were filed.
- Plea of defendant.
- Court-ordered sentence.

The terms of a defendant's court-ordered sentence, also presented in **Exhibit IV**, include the following:

- Time, in months, of incarceration, probation, or suspended imposition of sentence.
- Hours of community service, where applicable.
- Fines, fees, court costs, restitution, and audit costs, where applicable.

Defendants entered pleas of no contest or guilty in all 14 cases in which a conviction was obtained. Of these cases, 13 were disposed of in state circuit courts, and 1 was disposed of in federal district court.

MATTERS REFERRED UNDER THE ARKANSAS SPEED TRAP LAW

Under the Arkansas Speed Trap Law, an audit shall include an inquiry to determine whether the affected municipality is potentially abusing police power. Five matters were referred to the Second, Seventh, and Thirteenth Judicial District Prosecuting Attorneys and are discussed on pages 16, 17, 37, and 57.

MATTERS DISPOSED OF BY THE ATTORNEY GENERAL

As required by Arkansas Code, the matter pertaining to the 21st Judicial District was referred to the Attorney General. This matter is discussed on page 87.

MATTERS REFERRED TO A SPECIAL APPOINTED PROSECUTING ATTORNEY

In six instances, matters initially referred by the LJAC to the appropriate Prosecuting Attorney were subsequently assigned to a Special Appointed Prosecuting Attorney (PA), appointed by the Office of the Prosecutor Coordinator, because of conflicts of interest. Defendants entered guilty pleas in one matter in the 10th Judicial District and one matter in the 20th Judicial District; these matters are included in **Exhibit III**. For one matter in the 18th-West Judicial District and three matters in the 20th Judicial District, the Special Appointed PA chose to take no action.

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Exhibit III

Prosecuting Attorneys Summary of Disposition Reports of Matters Referred by Legislative Joint Auditing Committee For the Period January 1, 2022 through December 31, 2022							
Judicial District	Number of Matters Referred (Note 1) (a+b+c+d+e+f)	Charges Filed - Case Results			Charges Not Filed (Note 2) d	Speed Trap (Note 3) e	Under Review (Note 4) f
		Conviction a	Pending b	Acquitted/Dismissed c			
1st	15		1	2	11		1
			\$3,021	\$50,388	\$54,199		\$6,237
2nd	14				8	3	3
					41,187		41,454
3rd	5			1	4		
				1,388	10,295		
4th	8	1		1*	4		2
		\$335,716		99,944	140,384		219,396
5th	4				2		2
					25,982		1,500
6th	16	3			10		3
		1,141,814			128,444		51,446
7th	2				1	1	
					0		
8th N	7				7		
					66,121		
8th S	0						
9th E	1				1		
					12,185		
9th W	2	1			1		
		501,193			0		
10th	9	1	1	1	1		5
		17,183	9,363	10,357	6,974		20,527
11th E	1						1
							5,020
11th W	8	1	1		3		3
		24,335	20,850		42,746		93,676
12th	2	1			1		
		216,916			11,619		
13th	20	2			12	1	5
		129,225			462,017		68,822
14th	9				8		1
					65,283		3,218
15th	1				1		
					3,000		
16th	2		1		1		
			75,003		1,609		

Exhibit III (Continued)

Prosecuting Attorneys							
Summary of Disposition Reports of Matters Referred by Legislative Joint Auditing Committee							
For the Period January 1, 2022 through December 31, 2022							
Judicial District	Number of Matters Referred (Note 1) (a+b+c+d+e+f)	Charges Filed - Case Results			Charges Not Filed (Note 2) d	Speed Trap (Note 3) e	Under Review (Note 4) f
		Conviction a	Pending b	Acquitted/Dismissed c			
17th	4				4		
					\$10,240		
18th E	1				1		
					3,770		
18th W	1				1		
					\$1,560		
19th E	2	1			1		
		\$6,157			1,278		
19th W	5	1	1		3		
		24,597	\$62,190		15,483		
20th	6	1			4		1
		19,388			103,769		\$1,206
21st	1				1		
					3,000		
22nd	0						
23rd	6	1			5		
		38,146			47,877		
Office of the Attorney Gen.	1						1 10,589
Judicial District	Number of Matters Referred (Note 1)	Conviction a	Pending b	Acquitted/Dismissed c	Charges Not Filed (Note 2)	Speed Trap (Note 3)	Under Review (Note 4)
Totals	153	14	5	5	96	5	28
		\$2,454,670	\$170,427	\$162,077	\$1,259,022		\$516,854
		\$2,787,174					

Note 1: Includes matters referred in previous years but unresolved as of the date of the previous disposition report.
 Note 2: The status of each matter, contained in the body of this report, provides Prosecuting Attorneys' reasons for not filing charges.
 Note 3: Revenue from traffic offense citations exceeded 30% of a municipality's total expenditures in the preceding year, in noncompliance with Ark. Code Ann. § 12-8-403.
 Note 4: Matter is under review by a law enforcement agency or the appropriate Prosecuting Attorney.
 *Case was dismissed upon the defendant's successful completion of a diversion program, which included paying victim restitution in the amount of \$90,044.

Source: Prosecuting Attorneys' disposition reports

Exhibit IV

Prosecuting Attorneys
Disposition of Certain Matters Referred by Legislative Auditor or Legislative Joint Auditing Committee
Court-Ordered Sentences Imposed for Matters included in this Report
During the Period January 1, 2022 through October 15, 2023

Judicial District	Entity Audited	Matter Referred		Year	Type	UD	Amount	Position of Responsible Individual	Plea	Court-Ordered Sentence				Fines, Fees, & Costs (Note 2)	Restitution (Note 3)	Audit Costs
		Incarceration (Terms of sentence in: months)	Probation							Suspended Imposition	Community Service (hours)					
4th	University of Arkansas, Fayetteville	2021	IT	UD	\$ 335,716	Administrative Support Supervisor	Gn	120	Gn	120	440	\$ 332,191				
6th	Department of Finance and Administration	2021	IT	IT	893,284	Employee	Gn	36	Gn		1,290				✓	
6th	Little Rock School District	2022	IT	IT	(Note 1)	Director of Childhood Education	G	48	G		100			230,636	✓	
6th	Pulaski County	2017	IT	IT	248,530	Road Department Employee	Nnc			36						
9thW	City of Dierks Water and Sewer	2021	ROD	ROD	501,193	Secretary/Water Clerk	Gn	72	Gn		490			501,000		
10th	City of Dermott	2019	ROD	ROD	17,183	Water Clerk	Gn	72	Gn		690			15,594	✓	
11thW	University of Arkansas at Pine Bluff	2021	IT/UD	IT/UD	24,335	Program Coordinator	Gn	120	Gn		940			24,335	✓	
12th	City of Bonanza	2022	ROD/UD	ROD/UD	216,916	Administrative Assistant	Gn		Gn	240	2,900			38,042	\$ 24,050	
13th	Buena Vista Fire Department	2022	UD	UD	96,747	Treasurer	Gn	180	Gn		440			96,747	13,500	
13th	Columbia County	2022	ROD	ROD	32,478	Bond and Fine Clerk	Gn	60	Gn		440			32,478	10,900	
19thE	City of Eureka Springs	2021	IT	IT	6,157	Employee	Gn	48	Gn		190			6,157		
19thW	Avoca Volunteer Fire Department	2022	UD	UD	24,597	Treasurer/Secretary	Gn	36	Gn		1,440			4,897	9,550	
20th	City of Fairfield Bay	2022	IT/UD	IT/UD	19,388	Emergency Medical Services Captain	Gn	12	Gn		1,400			4,763		
23rd	City of Cattislee	2019/2020	ROD	ROD	37,269	Clerk/Treasurer	Nnc	72			1,485			28,000	✓	

Note 1: A dollar amount was not included in the referral.

Note 2: These amounts do not include administrative fees, established by Ark. Code Ann. §§ 16-13-704, 16-93-104, that may be assessed with monthly restitution payments.

Note 3: These amounts include court-ordered restitution and amounts of restitution paid as part of a negotiated plea.

✓ Indicates the Arkansas Fidelity Bond Trust Fund reimbursed losses related to this matter.

Legend

Type of Matter Referred

ROD: Receipts over deposits

UD: Unauthorized disbursements

IT: Improper transactions

Plea

G: Guilty

Gn: Negotiated plea of guilty

Nnc: Negotiated plea of no contest

Source: Prosecuting Attorneys' disposition reports and state circuit and federal district court orders



First Judicial District

Cross, Lee, Monroe, Phillips, St. Francis, and Woodruff Counties

Judicial District Population: 77,876
Circuit Judges: 5

Todd Murray
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Cross County

City of Wynne (*Audit Period: 1/1/21 - 12/31/21*):

2022 District Court Clerk

Ending balances remaining in the District Court bank accounts were not identified with receipts issued for cases not yet adjudicated and the payments on all unpaid time accounts, as required by Ark. Code Ann. § 16-10-209. The balance remaining in the bank was \$4,747 less than the listing of receipts issued for cases not yet adjudicated and payments on unpaid time pay accounts.

We noted \$25,968 in District Court cash receipts not deposited:

- \$24,168 in receipts could not be traced to deposits for the period January 1, 2021 through July 30, 2021.
- Deposits on June 29 and July 29, 2021, contained \$500 in unreceipted credit card payments and \$1,300 in unreceipted checks, respectively, in place of cash receipts.
- Of 12 deposits made on July 29 and 30, 2021, six were missing all or some cash that should have been deposited.
- During July 2021, cash collections for three daily deposits were not deposited, and several deposit slips were apparently altered prior to the deposits being made.
- Receipts were not always deposited intact daily, in noncompliance with Ark. Code Ann. § 16-10-209, and several deposits were held in excess of 30 days.

The Court Clerk, who appears to have been responsible for making deposits, resigned from employment on July 30, 2021. During discussions with ALA staff in April 2022, the prior Court Clerk and the current Court Clerk disclosed an adjustment of approximately \$24,000 to the July 2021 cash receipts journal and bank reconciliation due to issues noted in the year-end reconciliation process. As of report date, the outstanding deposit added to the bank reconciliation had not cleared the bank.

Status per Prosecuting Attorney: *The PA requested an investigation by State Police. Formal charges were filed and later nolle prossed.*

Matters Referred by Legislative Joint Auditing Committee

Cross County (Continued)

Cross County (Audit Period: 1/1/20 - 12/31/20):

2022 Sheriff

Sheriff's Office personnel brought to our attention one jail receipt for fines of \$1,760, collected on September 21, 2019, that could not be traced to a subsequent District Court or Sheriff's Office receipt to be deposited or to a court docket. Further review of Sheriff's Office collections revealed the following:

- Numerous receipts, totaling \$22,510, collected for fines at the County Jail could not be traced to a subsequent District Court or Sheriff's Office receipt to be deposited or to a court docket (\$14,290 in calendar year 2020 and \$8,220 from January 1 through September 21, 2021). The custodian of these funds could not be determined due to multiple individuals having access to the funds.
- The Sheriff did not maintain proper custody of all receipt books. Sheriff's Office personnel were unable to locate receipt books for January 2021 collections, and receipts issued were not always properly voided or maintained in the receipt books.
- It appears that bond and fine refunds were issued by County Jail personnel using cash funds, and supporting documentation was not maintained.

As a result, the Sheriff contacted the First Judicial District Prosecuting Attorney, who requested the Arkansas State Police to investigate these issues.

Status per Prosecuting Attorney: Ana Stewart was charged with tampering with public record and found not guilty by a jury.

Monroe County

Monroe County (Audit Period: 1/1/20 - 12/31/20):

2022 The County paid \$2,000 to the widow of a Justice of the Peace, who died in 2020 while in office, in accordance with Monroe County Ordinance no. 398 (February 9, 2009) and Monroe County Resolution no. 2020-04 (September 14, 2020). However, the Ordinance conflicts with Ark. Code Ann. § 14-14-1205, as interpreted by Op. Att'y Gen. no. 2016-072. Additionally, the payment is in noncompliance with Ark. Const. art. 12, § 5, and Op. Att'y Gen. no. 2016-072.

Status per Prosecuting Attorney: The PA inquired with County officials, and the County Judge responded that the payment in question was made pursuant to an ordinance adopted by a prior administration and before clarification provided by the audit. The County Judge recommended the Quorum Court repeal or amend the ordinance and, since they are now aware of the conflict between the ordinance and state statute, does not anticipate this will occur again in the future. After reviewing the audit and response of the County, the PA does not intend to take further action unless additional facts arise.

Matters Referred by Legislative Joint Auditing Committee

Phillips County

City of Helena-West Helena (Audit Period: 1/1/21 - 12/31/21):

2022 Mayor/City Clerk/Treasurer

The Treasurer's payroll check posted to the general ledger on January 1, 2022, but cleared the bank on December 31, 2021. Additionally, this check only contained one authorizing signature (that of the Treasurer), in noncompliance with Ark. Code Ann. § 14-59-105. It appears the Treasurer posted journal entries in an attempt to conceal that the check cleared the bank prior to being posted to the general ledger.

Status per Prosecuting Attorney: *The former Mayor wrote a letter to ALA and the PA requesting an investigation and special audit of financial irregularities of the City Treasurer and any elected official of the City of Helena-West Helena as warranted. The PA advised the Mayor that he needed to provide additional information and that he should take appropriate action and provide notice of any violation and any corrective or remedial action per Ark. Code Ann. § 14-77-105. No additional supporting documents or information concerning measures taken by city officials to address the myriad issues or concerning city finances has been provided. ALA responded that the Executive Committee of the Legislative Joint Auditing Committee decided to take no action on the request and to wait for the financial audit of the City to be released in December 2022.*

Mayor

The City made the following payments totaling \$17,011, for related party transactions without authorizing ordinances, in apparent conflict with Ark. Code Ann. § 14-42-107.

- \$10,011 to a business owned by an employee for heating and cooling services.
- \$7,000 to a business owned by an employee's spouse for legal services.

Status per Prosecuting Attorney: *The City advised that corrective action would be taken, and the City would comply with the statute in the future.*

City Clerk/Treasurer/Advertising and Promotion Director

The A & P Director was reimbursed for the following questionable expenses totaling \$5,546, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted by Op. Att'y Gen. no. 1991-410:

- \$3,759 for lodging, meals, supplies, and utilities without adequate documentation; therefore, the validity of these disbursements could not be determined.
- \$1,292 for meals without an overnight stay.
- \$357 for alcoholic beverages.
- \$138 for clothing purchases.

Matters Referred by Legislative Joint Auditing Committee

Phillips County (Continued)

City of Helena-West Helena (Audit Period: 1/1/21 - 12/31/21): (Continued)

Status per Prosecuting Attorney: *Mayors of the City have been consistently advised to investigate alleged violations of fiscal responsibility and management laws and to document corrective or remedial action, including additional documentation or any reimbursement of public funds by the officer or employee, per Ark. Code Ann. § 14-77-103. No additional supporting documents or information concerning measures taken by City officials has been provided.*

Mayor and Advertising and Promotion (A & P) Director

The City paid \$945 to an organization affiliated with a Commission member's spouse for supplies and various services, without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107.

Status per Prosecuting Attorney: *See above comments.*

City of Helena-West Helena (Audit Period: 1/1/20 - 12/31/20):

2021 Mayor/City Clerk/Treasurer

During the period of January 1, 2020 through May 7, 2021, landfill receipts totaling \$6,237 were not remitted to the City Clerk's office and, therefore, not deposited in a City bank account. The Landfill Clerk, who resigned on May 20, 2021, was custodian of these undeposited funds.

Status per Prosecuting Attorney: *The PA requested an investigation, the results of which are pending.*

City of Marvell (Audit Period: 1/1/19 - 12/31/20):

2022 Mayor

The City purchased a tractor from a Council member for \$20,000 on October 25, 2019, without an authorizing ordinance, in noncompliance with Ark. Code Ann. § 14-42-107.

Review of selected disbursements revealed the City expended \$895 for a Christmas dinner in 2019, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted by Op. Att'y Gen. no. 1991-410.

The City purchased personal tasers for several police officers and allowed them to repay the City over time through payroll withholdings, in conflict with Ark. Const. art. 12, § 5, which states that cities may not loan their credit to any individual.

Status per Prosecuting Attorney: *The PA consulted with the Mayor, who responded that the findings have been corrected and will not occur again in the future. The PA does not intend to take further action unless additional facts arise.*

Matters Referred by Legislative Joint Auditing Committee

Phillips County (Continued)

City of Marvell (Audit Period: 1/1/14 - 12/31/15):

2017 Mayor and Police Chief

The City discovered, and ALA verified, unauthorized fuel purchases charged to a city credit card. These unauthorized purchases, made during the period July 3, 2016 through August 1, 2016, consisted of 1,538 gallons of fuel costing \$3,021. The Police Chief indicated that a credit card, with the personal identification number (PIN) attached, was lost in April or May 2016 but was never cancelled, so the responsible party may not be a city employee. In addition, the Mayor indicated that surveillance cameras were not in use at the business where these unauthorized purchases were made. As a result, ALA staff were unable to determine responsibility for these charges. As soon as the Mayor became aware of the problem, the credit card was cancelled, and ALA and Arkansas State Police were notified.

Status per Prosecuting Attorney: *Subsequent to a State Police investigation, the suspect was formally charged but is a fugitive at this time. This remains an open case.*

Marvell School District (Audit Period: 7/1/20 - 6/30/21):

2021 Our examination of payroll records revealed that the District Treasurer/Payroll Preparer paid herself \$1,125, using the rate of "time and a half," without supporting documentation.

Status per Prosecuting Attorney: *There is insufficient evidence to support prosecution of anyone in these matters. The Superintendent also sent a corrective action letter outlining procedures that should be followed to prevent problems of this nature from occurring in the future. The PA does not intend to take further action unless additional facts arise.*

Phillips County (Audit Period: 1/1/20 - 12/31/20):

2022 County Judge and County Clerk

A review of County expenditures revealed the following overpayments totaling \$2,777:

- \$1,208 for a janitorial services contract.
- \$935 for a grounds maintenance contract.
- \$634 to Quorum Court members who were paid mileage for attending virtual meetings.

A similar finding was issued in the prior report.

Status per Prosecuting Attorney: *The PA inquired of the County and was informed that corrective action was taken and that the issues should not occur again in the future.*

Matters Referred by Legislative Joint Auditing Committee

Phillips County (Continued)

Phillips County (Audit Period: 1/1/20 - 12/31/20): (Continued)

County Judge

The County expended \$1,900 to an employee to prepare jail requisitions without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-14-1202 and Op. Att'y Gen. no. 2008-014. A similar finding was issued in the prior report.

Status per Prosecuting Attorney: *The PA inquired of the County and was informed that corrective action was taken and the issue should not occur again in the future.*

Woodruff County

City of Patterson (Audit Period: 1/1/20 - 12/31/21):

2022 Mayor and Recorder/Treasurer

The Mayor and Recorder/Treasurer both received a \$1,000 bonus that was not documented in Council minutes or the budget and, therefore, appears unauthorized. In addition, the budget did not detail the Mayor's approved salary.

Status per Prosecuting Attorney: *The PA inquired of the City. The Mayor responded that the Mayor and Recorder/Treasurer's pay will be documented in the Council minutes and set out separately in approved budgets in the future.*

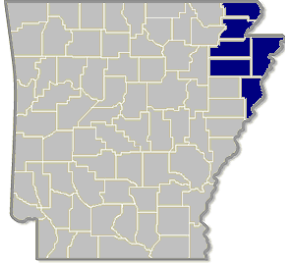
Woodruff County (Audit Period: 1/1/21 - 12/31/21):

2022 County Judge

The County paid \$1,000 to an employee for the lease of his personal tools to be used for county business without an authorizing ordinance, as required by Ark. Code Ann. § 14-14-1202.

Status per Prosecuting Attorney: *The PA inquired of the County and was informed that corrective action was taken and the issue should not occur again in the future.*

Note: No matters were referred for Lee and St. Francis Counties.



Second Judicial District

Clay, Craighead, Crittenden, Greene, Mississippi, and Poinsett Counties

Judicial District Population: 282,731
Circuit Judges: 12

Keith Chrestman
Prosecuting Attorney (2022)

Sonia Fonticiella
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Clay County

Clay County (*Audit Period: 1/1/20 - 12/31/20*):

- 2022 It was brought to our attention that Clay County Deputy Collectors received payments directly from the five Drainage Districts within the county to collect taxes for them in apparent conflict with Ark. Code Ann. § 14-14-1202. This was in addition to the Drainage Districts being charged Collector's Commission on the Final Tax Settlement for the collection of taxes. The County has indicated that these payments will stop beginning this year. We recommend the County seek legal counsel to resolve this matter.

Status per Prosecuting Attorney: *The Clay County Quorum Court has adopted measures to minimize the likelihood that this error will reoccur. The PA declines to prosecute any criminal offense.*

Craighead County

City of Jonesboro (*Audit Period: 1/1/21 - 12/31/21*):

- 2022 The City discovered that an employee's payroll direct deposit had been fraudulently diverted to another bank account. It was determined that the City made the direct deposit change request after receiving an email from what appeared to be the employee's email account. This transaction resulted in a \$1,446 loss to the City. This loss and security incident were properly reported to ALA in accordance with Arkansas Act 260 of 2021.

Status per Prosecuting Attorney: *An unknown person redirected these funds. The City filed a police report, and the email was ultimately determined to be a scam. The PA declines to prosecute any criminal offense.*

Matters Referred by Legislative Joint Auditing Committee

Craighead County (Continued)

City of Monette (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor, Recorder/Treasurer, and Police Chief.

The following issues were noted during our review of the City's payroll:

- The Police Chief's timesheets were not approved by someone in a supervisory role.
- Based on review of timesheets, we determined that the Police Chief's actual pay exceeded approved pay by \$3,334, as noted in the City's original salary schedule and policy manual; however, the Council amended the budget for total salaries paid on January 25, 2021. Based on discussion with a Council member on January 6, 2022, the Council was aware that the amended budget included overtime pay.
- We also determined that the Police Chief's actual pay exceeded the amounts documented on timesheets by \$4,287, primarily due to improper leave payouts and weekly payments for fewer hours worked than a standard workweek. According to City officials, fewer hours were worked during some weeks due to the Police Department reducing staff from four to three individuals; however, the dates provided for this change did not always correlate with the timesheets.
- Based on discussion with City personnel and review of timesheets, we determined the City paid officers for "on-call" time without a policy regarding this practice and without defining a "normal work day" for officers in existing policy.
- Daily and holiday pay rates were improperly calculated on the City's salary schedule, causing vacation and holiday time to be paid at 50% more than the daily rate (i.e., time and a half) instead of the actual daily rate.

Status per Prosecuting Attorney: *The PA warned the City that this activity must stop, and the City Attorney stated that the City has adopted measures to remedy past errors and minimize the likelihood that new errors will occur. As a result, the PA declines to prosecute for any criminal offense.*

Town of Cash (Audit Period: 1/1/21 - 12/31/21):

2022 Mayor and Police Chief.

Fines and costs revenue of \$84,656 exceeded 30% of the Town's total expenditures in the preceding year by \$7,967, in noncompliance with Ark. Code Ann. § 12-8-403. This revenue was generated from traffic offense citations written by or arrests made by the Town's law enforcement personnel or from ancillary actions related to the enforcement of traffic offenses.

Status per Prosecuting Attorney: *The PA concluded that the Town did not abuse its police power. Cash's budget is so small that it quickly triggers the Speed Trap Law.*

Matters Referred by Legislative Joint Auditing Committee

Crittenden County

Town of Gilmore (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor/Police Chief

Fines and costs revenue of \$49,784 exceeded 30% of the Town's total expenditures in the preceding year by \$15,849, in noncompliance with Ark. Code Ann. § 12-8-403. This revenue was generated from traffic offense citations written by or arrests made by the Town's law enforcement personnel or from ancillary actions related to the enforcement of traffic offenses.

Status per Prosecuting Attorney: *The PA determined that the City did not abuse its police power. Its budget is relatively small and quickly triggers the Speed Trap Law. Additionally, only 2 of the 158 tickets involved posted speed limits greater than 25. This matter is closed.*

Town of Jericho (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor/Police Chief

Fines and costs revenue of \$51,723 exceeded 30% of the Town's total expenditures in the preceding year by \$18,367, in noncompliance with Ark. Code Ann. § 12-8-403. This revenue was generated from traffic offense citations written by or arrests made by the Town's law enforcement personnel or from ancillary actions related to the enforcement of traffic offenses.

Status per Prosecuting Attorney: *The PA concluded that the City has not abused its police power. The Town's budget is so small that it quickly triggers the Speed Trap Law. This matter is closed.*

Town of Sunset (Audit Period: 1/1/15 - 12/31/16):

2018 Mayor

The Town paid \$11,080 and \$19,942 on the Mayor's personal credit card accounts in 2016 and 2015, respectively, in noncompliance with Ark. Const. art. 12, § 5. The Mayor identified personal credit card transactions totaling \$6,070 and \$9,439 in 2016 and 2015, respectively, as Town expenditures. Based on review of \$4,456 (2016) and \$4,440 (2015) of those transactions, ALA staff determined that \$2,735 (61%) and \$3,141 (71%), respectively, lacked documentation to substantiate them as Town expenditures. Additionally, the Mayor withdrew \$1,200 from the Town's bank account in 2015 using a counter check.

To justify these credit card payments and the cash withdrawal, the Mayor submitted the items shown below for which he claimed to have paid from personal funds:

- Timesheets for \$7,610 in contract labor performed by various individuals. ALA staff verified payments to these individuals were not made from the Town's bank accounts, and two individuals confirmed they received cash payments from the Mayor. However, the Town issued IRS 1099 Forms to these individuals.

Matters Referred by Legislative Joint Auditing Committee

Crittenden County (Continued)

Town of Sunset (Audit Period: 1/1/15 - 12/31/16): (Continued)

- Timesheets for \$6,930 in work the Mayor performed for the Town; however, the Town did not have an ordinance allowing the Mayor to provide additional services, in conflict with Ark. Code Ann. § 14-42-107. ALA staff verified payments to the Mayor for the timesheets submitted were not made from the Town's bank accounts.
- Invoices for Town business totaling \$1,973 and purchase of a mower for \$5,000. ALA staff verified payments to vendors were not made from the Town's bank accounts.
- One \$400 invoice for Town parking lot repairs. ALA staff verified this payment was not made from the Town's bank accounts.

Status per Prosecuting Attorney: *This matter is under investigation by the Crittenden County Sheriff's Office.*

Mississippi County

City of Blytheville (Audit Period: 1/1/21 - 12/31/21):

2022 District Court Clerk

The District Court Clerk discovered missing funds in excess of \$4,000 from civil and small claims deposits and the District Court petty cash box. The District Court Clerk filed a police report on October 27, 2021, and on November 9, 2021, the employment of the Deputy Court Clerk, who was custodian of these funds, was terminated. We confirmed receipts totaling \$4,929, issued from July 1 through October 29, 2021, could not be traced to a deposit. An envelope in the custody of the former Deputy Court Clerk, containing civil and small claims cash and checks totaling \$4,614, was returned to the City in November 2021 and deposited in December 2021. Furthermore, on May 3, 2022, the former Deputy Court Clerk remitted a money order for \$348 to Arkansas State Police to cover any remaining missing cash. As of the report date, no charges have been filed.

Status per Prosecuting Attorney: *State Police determined that evidence was insufficient to prove beyond a reasonable doubt that a specific person committed the crime. As a result, the PA will not prosecute and considers these matters closed.*

City of Joiner (Audit Period: 1/1/21 - 12/31/21):

2022 Recorder/Treasurer

City policies for annual and sick leave did not include documentation guidelines for elected officials. Because the Recorder/Treasurer did not maintain timesheets or adequate records to document leave accrual and usage, we could not verify the propriety of a \$700 payment to the Recorder/Treasurer made on September 23, 2021 for 10 days of annual leave.

Status per Prosecuting Attorney: *The PA spoke with the City Attorney and issued a warning letter to the Mayor. The City has taken steps to alleviate these issues. The PA declines to prosecute for any criminal offense.*

Matters Referred by Legislative Joint Auditing Committee

Poinsett County

City of Fisher (*Audit Period: 1/1/14 - 12/31/15*):

2017 Mayor, Recorder/Treasurer, and Bookkeeper

\$3,991, \$830, and \$181 paid to a fuel vendor without a documented business purpose in 2014, in 2015, and from January through July 2016, respectively, in noncompliance with Ark. Code Ann. §§ 14-58-303 and 14-59-105. Sundry items totaling \$177 were included in these payments. According to the Mayor, fuel purchases were for both city and personal vehicles; however, the amount of fuel purchased for city vehicles could not be determined due to inadequate city records. A similar finding was noted in the prior report.

Mayor and Recorder/Treasurer

\$13,858, \$4,591, and \$2,330 paid to the Mayor in 2014, in 2015, and from January through July 2016, respectively, and \$502 paid to the Recorder/Treasurer in 2014 without adequate documentation, as required by Ark. Code Ann. § 14-59-105. A similar finding was noted in the prior report.

Mayor and Bookkeeper

\$800 and \$1,500 paid for repair services in 2015 and 2016, respectively, to a company owned by a Council Member, who had volunteered to serve as Bookkeeper through June 2, 2016, without an authorizing ordinance, as required by Ark. Code Ann. § 14-42-107. Furthermore, documentation to support these payments was not on file at the City until ALA requested it from this Council Member/Bookkeeper, who provided three invoices, on September 22, 2016.

These invoices appeared invalid because of the following irregularities:

- \$400 paid in 2015 was for a \$388 invoice, including sales tax at a rate of 8%.
- \$400 paid in 2015 was for a \$422 invoice, including sales tax at a rate of 8.25%.
- \$1,500 paid in 2016 was dated April 26, 2015; was marked "paid" on that date; and did not include an amount for sales tax.

Additionally, these three invoices reflected the payment amount and a zero balance due, and in one instance, the payment method indicated "visa" rather than "check."

In addition, the Council Member/Bookkeeper reimbursed her company \$1,020 and \$2,700 in 2015 and 2016, respectively, for office supplies, a computer, and software. Of this \$3,720, only \$788 was supported by documentation, leaving \$2,932 due the City. On April 18, 2016, the Council Member/Bookkeeper also issued a \$4,000 city check payable to a vendor to which the City did not owe payment; the vendor applied this amount to the Council Member/Bookkeeper's company account. During an interview on September 22, 2016, the Council Member/Bookkeeper assumed responsibility for the \$2,932 in undocumented reimbursements to her company and reimbursed the City \$4,000 for the improper vendor payment.

As of report date, the Council Member/Bookkeeper's company received improperly documented payments totaling \$5,232.

Matters Referred by Legislative Joint Auditing Committee

Poinsett County (Continued)

City of Fisher (Audit Period: 1/1/14 - 12/31/15): (Continued)

Status per Prosecuting Attorney: The former Mayor is deceased. The former Council member who served as Bookkeeper moved out of state when the PA requested an Arkansas State Police investigation. A special agent for the State Police obtained an arrest warrant for the former Council member who served as Bookkeeper. She has not returned to the State, and an arrest has not been made. This matter will be prosecuted in due course once an arrest has been made.

City of Lepanto (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor/Clerk-Treasurer/Police Chief

We noted the following discrepancies surrounding payments the City made to the Police Chief and one Officer for compensatory time:

- Adequate supporting documentation for these payments was not maintained.
- Timesheets provided contained clerical errors and did not always indicate on which days the hours considered compensatory time were worked.
- The Police Chief's timesheets did not contain supervisor approval to certify accuracy.
- Compensatory time appears to have been earned concurrently with sick leave, which conflicts with the Department of Labor board calculation standards.
- Several compensatory time payouts appear to have been issued prior to the time being earned.

Additionally, the City did not have a compensatory time accrual or usage policy, and due to improper record keeping, we were unable to place a dollar amount on any potential overpayments.

Status per Prosecuting Attorney: The PA issued a warning letter to the Mayor and spoke with the City Attorney. Because the Mayor and City Council have adopted measures to minimize the likelihood of these issues reoccurring, the PA declines to prosecute any criminal offense.

Matters Referred by Legislative Joint Auditing Committee

Poinsett County (Continued)

City of Lepanto (Audit Period: 1/1/21 - 12/31/21):

2022 Mayor and Police Chief

The Police Chief was allowed to take 34 days of sick leave before the leave was earned, resulting in a salary overpayment of \$5,210. This arrangement appears to conflict with Ark. Const. art. 12, § 5, which prohibits cities from loaning credit to any individual. A similar finding was noted in the previous report.

Status per Prosecuting Attorney: *The PA issued a warning letter to the Mayor and spoke with the City Attorney. Because measures have been adopted to minimize the likelihood of these issues reoccurring, the PA declines to prosecute any criminal offense.*

Note: No matters were referred for Greene County.



Third Judicial District

Jackson, Lawrence, Randolph, and Sharp Counties

Judicial District Population: 69,590
Circuit Judges: 3

Ryan Cooper
Prosecuting Attorney (2022)

Devon Holder
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Jackson County

Arkansas State University – Newport (*Audit Period: 7/1/21 - 6/30/22*):

2022 Mayor/Recorder-Treasurer

Arkansas State University – Newport’s internal controls failed to detect a fraudulent email received during July 2022, and payroll staff subsequently modified an employee’s bank information, resulting in a loss of \$1,369. As of October 31, 2022, the funds had not been recovered.

Status per Prosecuting Attorney: *The PA declined to prosecute this matter.*

City of Campbell Station (*Audit Period: 1/1/19 - 12/31/20*):

2022 Mayor/Recorder-Treasurer

The City paid credit card charges totaling \$706 in 2019 without supporting documentation to substantiate a valid business purpose, in noncompliance with Ark. Code Ann. § 14-59-105.

Status per Prosecuting Attorney: *After careful review, the PA decided to decline prosecution.*

Sharp County

City of Evening Shade (*Audit Period: 1/1/19 - 12/31/20*):

2022 Mayor and Recorder/Treasurer

The City paid \$420 and \$840 in excess of appropriated salary to the Recorder/Treasurer in 2020 and 2019, respectively, in noncompliance with Ark. Code Ann. § 14-42-120. Additionally, salary of \$1,130 and \$1,645 paid to the Recorder/Treasurer was not reported on Internal Revenue Service Form W-2 in 2020 and 2019, respectively.

The City paid \$4,800 to the Recorder/Treasurer’s husband, who also serves as a part-time Police Department employee, for the purchase of a 2003 Tahoe patrol vehicle without an authorizing ordinance, in noncompliance with Ark. Code Ann. § 14-42-107.

Matters Referred by Legislative Joint Auditing Committee

Sharp County (Continued)

City of Evening Shade (Audit Period: 1/1/19 - 12/31/20): (Continued)

Status per Prosecuting Attorney: The PA reviewed this matter and has decided to decline prosecution.

Sharp County (Audit Period: 1/1/21 - 12/31/21):

2022 County Judge

The Quorum Court voted to deed .54 acres of land, valued at \$2,160, to an individual who has maintained this land and had an easement through it to the adjoining property, which this individual owns. However, this arrangement conflicts with Ark. Const. art. 12, § 5, and the “public purpose” doctrine.

Status per Prosecuting Attorney: The PA reviewed this matter and has decided to decline prosecution.

Sharp County (Audit Period: 1/1/18 - 12/31/18):

2020 During an interview with County Sheriff’s Office personnel on May 2, 2019, John Huffmaster, a Reserve Sheriff Deputy and former Road Department employee, acknowledged using the Road Foreman’s personal identification number (PIN) to obtain fuel from the Road Department fuel pumps for personal use. Huffmaster used the Road Foreman’s PIN 30 times without authorization during the period January through April 2019 to obtain 493 gallons of fuel valued at \$1,035. Huffmaster was charged with theft of property (a class D felony) on August 14, 2019.

Review of Road Department fuel records revealed additional questionable transactions:

- The Road Foreman’s PIN was used to obtain 341 gallons of fuel valued at \$717 outside of normal business hours. Because several employees knew the Road Foreman’s PIN, ALA staff were unable to determine who actually obtained this fuel.
- Sheriff’s Office employees and reserve officers obtain fuel for their vehicles from the Road Department. To document the transactions, the employees and reserve officers record pertinent information (i.e., officer’s name, number of gallons, odometer reading, etc.) on fuel slips. ALA reviewed these records for five selected months and determined that 319 gallons of fuel valued at \$671 did not have supporting documentation recorded on the fuel slips. Due to the same PIN being used by all reserve officers and the lack of documentation, ALA staff were unable to determine who actually obtained this fuel.

Status per Prosecuting Attorney: Huffmaster was charged with felony theft of property. This case was nolle prossed in April 2023.

Note: No matters were referred for Lawrence and Randolph Counties.



Fourth Judicial District

Madison and Washington Counties

Judicial District Population: 267,017
Circuit Judges: 8

Matt Durrett
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Madison County

Madison County (*Audit Period: 1/1/20 - 12/31/20*):

2022 County Judge

The County paid \$6,615 to the spouse of the County Collector for janitorial services without an authorizing ordinance, as required by Ark. Code Ann. § 14-14-1202. A similar finding was issued in the prior report.

Status per Prosecuting Attorney: *There was no criminal intent sufficient to support a charge. No funds were misappropriated. Therefore, no charge was filed, and the PA considers this matter closed.*

Washington County

City of Elkins (*Audit Period: 1/1/20 - 12/31/20*):

2022 Mayor

The City paid \$600 to an employee for construction services beyond regular job duties without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107.

Status per Prosecuting Attorney: *This is an incident in which no criminal intent was involved. No funds were misappropriated. Therefore, the PA considers this matter closed.*

Finance Director

On April 24, 2020, the City discovered that an employee's payroll direct deposit had been fraudulently diverted to another bank account after the employee contacted the City about not receiving her payroll direct deposit. It was determined that on April 20, 2020, the City made the direct deposit change request after receiving an email from what appeared to be the City employee's email account. This transaction resulted in a \$1,090 loss to the City.

Status per Prosecuting Attorney: *The Elkins Police Department determined that the email in question was sent from a bogus account. Their investigation was unable to discover a source of the email, so a suspect could not be charged. The City has changed its policy in reference to requests for payment changes to ensure that an incident such as this is not repeated. This matter is now closed.*

Matters Referred by Legislative Joint Auditing Committee

Washington County (Continued)

Department of Finance and Administration (*Audit Period: 7/1/19 - 6/30/20*):

2021 On five separate occasions, a Springdale Revenue Office employee circumvented controls surrounding deposits of daily collections. The employee entered the daily collections, which were composed of both cash and checks, in the AIRS-DSMV system but did not deposit the funds in their entirety, causing the bank account to be in overdraft status on these five days. The total amounts retained by the employee ranged from \$4,022 to \$11,134. Based on review of monthly bank statements, all funds the employee withheld were deposited the day after collection, resulting in no loss to the State. When interviewed by DFA, the employee acknowledged retaining portions of collections for the days in question and resigned from employment.

Status per Prosecuting Attorney: *The Springdale Police Department is investigating this matter; therefore, it remains open.*

Springdale School District (*Audit Period: 7/1/20 - 6/30/21*): **[Private audit]**

2022 The lead employee in the HVAC department of the District purchased HVAC systems on behalf of the District and then installed the systems at jobs associated with his personal HVAC business. The employee would provide District vendors with a completed District Purchase Authorization (PA) listing the school and room number of the system to be replaced. In other instances, no repairs were needed to the units listed on the PA. Once the new HVAC equipment arrived, the employee would pick up the units either at the vendor or the District's warehouse and take them to his personal residence to use in his personal HVAC business. Upon discovering missing HVAC units, the District reviewed all purchases from HVAC vendors during the time period that the former employee was in charge of the HVAC department (an additional six months prior to that time). As a result of the review, it was determined that \$99,944 of HVAC inventory was missing.

Status per Prosecuting Attorney: *Jorge Vargas was charged with felony theft of property in March 2022. On January 10, 2023, his case was dismissed upon his successful completion of a diversion program, which included paying victim restitution in the amount of \$90,044. This matter is now closed.*

Bond Trust Fund reimbursed losses totaling \$7,388.

University of Arkansas, Fayetteville (*Audit Period: 7/1/21 - 6/30/22*):

2022 The University of Arkansas System Internal Audit Department (IAD) reviewed Workday Payroll business processes and internal controls to verify accuracy of selected financial information at the University of Arkansas, Fayetteville. A review of the Termination Details report identified 2,701 employment terminations in fiscal year 2021, including four terminated employees who received unearned payroll payments totaling \$14,190. In addition, IAD reviewed Account Receivable ledgers for salary overpayment invoices in BASIS, which was used prior to fiscal year 2021. This review revealed 88 terminated employees received overpayments totaling \$85,167 prior to fiscal year 2021. Furthermore, IAD identified 46 terminated employees in Workday who were overpaid \$93,226 in fiscal year 2021 and 9 employees who were overpaid \$15,679 in fiscal year 2022. After subsequent collections of \$49,323, the remaining loss totals \$144,749.

Status per Prosecuting Attorney: *This matter is under investigation and remains open.*

Matters Referred by Legislative Joint Auditing Committee

Washington County (Continued)

University of Arkansas, Fayetteville (Audit Period: 7/1/20 - 6/30/21):

2021 The University of Arkansas System Internal Audit Department (IAD) conducted an audit of disbursement transactions made by an Administrative Support Supervisor (Supervisor) of the World Languages, Literatures, and Cultures Department (WLLC) primarily during the period September 1, 2018 through March 31, 2021. University management identified 205 transactions, asserting misappropriation of funds totaling \$305,993. IAD identified and confirmed this assertion, as detailed below:

- 99 transactions, totaling \$192,147, for nonbusiness-related items charged to procurement cards (P-Card) assigned to the Supervisor.
- 62 transactions, totaling \$20,042, for nonbusiness-related travel expenses charged to travel cards (T-Card) assigned to the Supervisor.
- 44 transactions totaling \$93,804 for nonbusiness-related items charged to procurement cards (P-Card) assigned to the Director of the Center of World Languages, a department within WLLC. Based on interviews with management and review of documentation, it appears the Supervisor used the Director's P-Cards for these transactions.

Furthermore, through additional testing, IAD identified, and University management confirmed, another 43 improper transactions, totaling \$29,723, for nonbusiness related items charged to WLLC's P-Cards.

In summary, IAD identified 248 transactions, totaling \$335,716, for nonbusiness-related items and travel costs charged to WLLC P-Cards and T-Cards assigned to or used by the Supervisor, Esther Lake, who resigned from employment on February 22, 2021. On September 28, 2021, Lake was charged with theft of property and five counts of fraudulent use of a credit card.

Status per Prosecuting Attorney: *Esther Lake entered a negotiated plea of guilty to numerous charges related to this incident, was sentenced to 120 months in Arkansas Department of Correction and 120 months suspended imposition of sentence, and was ordered to pay restitution of \$332,191 and fees and costs of \$440.*

University of Arkansas, Fayetteville (Audit Period: 7/1/18 - 6/30/19):

2019 The University of Arkansas System Internal Audit Department (IAD) conducted an audit to detect unauthorized changes to the University's vendor master file and resulting losses primarily for the period September 1, 2018 through November 30, 2018. After a suspected automated clearing house (ACH) payment fraud, management filed a report with the University Police Department. IAD found that one vendor's banking information was altered through a domain not belonging to the vendor, resulting in 15 unauthorized ACH payments totaling \$132,079 to an apparent fraudulent recipient. Of this amount, \$13,108 was recovered by the bank, leaving a loss of \$118,971 to the University.

Status per Prosecuting Attorney: *Arkansas State Police and University auditors investigated the matter. There was insufficient evidence to prove fraudulent or criminal intent against any specific individual. Therefore, this matter is closed.*



Fifth Judicial District

Franklin, Johnson, and Pope Counties

Judicial District Population: 106,807
Circuit Judges: 4

Jeff Phillips
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Johnson County

Lamar School District (*Audit Period: 7/1/20 - 6/30/21*):

2022 District personnel discovered that an activity sponsor cashed three checks totaling \$1,000 that should have been deposited into the District's bank account. Once this matter was brought to the sponsor's attention, funds were repaid to the District. Further investigation revealed that employees did not always issue subsidiary receipts when collecting money on behalf of the District. Due to lack of receipt books, we were unable to determine if all funds collected by the sponsor were accounted for.

Status per Prosecuting Attorney: *This matter remains under review.*

Spadra-Goose Camp Water Users' Association (*Audit Period: 1/1/20 - 12/31/20*):
[Private audit]

2022 Two disbursements to an employee were not adequately documented as explained below:

- An Employee use a company credit card for a personal expense; this charge was posted to Employee Receivable and has not been repaid.
- A check was made out to an employee for \$500 to pay a vendor that was subsequently not hired.

Status per Prosecuting Attorney: *Legislative Audit was asked to perform additional procedures; therefore, this matter remains under review.*

Matters Referred by Legislative Joint Auditing Committee

Pope County

City of Atkins (Audit Period: 1/1/20 - 12/31/21):

2022 Mayor and Clerk/Treasurer

The City paid expenses of \$994, \$1,491, and \$497 in 2021, 2020, and 2019, respectively, for an employee's family health insurance benefits and failed to collect the premiums from the employee, in conflict with Ark. Const. Art. 12, § 5, which states, in part "No county, city, town or other municipal corporation, shall...loan its credit to any corporation, association, institution, or individual." When this matter was brought to the attention of the employee on May 9, 2022, the employee reimbursed the City the full amount owed.

Status per Prosecuting Attorney: The PA found that no criminal statutes were violated. This matter is closed.

City of Pottsville (Audit Period: 1/1/20 - 12/31/21):

2022 Mayor

The City paid \$23,000 to a Council member for equipment in 2021, without an authorizing ordinance, in noncompliance with Ark. Code Ann. § 14-42-107.

Status per Prosecuting Attorney: The PA found that no criminal statutes were violated. This matter is closed.

Note: No matters were referred for Franklin County.



Sixth Judicial District

Perry and Pulaski Counties

Judicial District Population: 407,785
Circuit Judges: 17

Larry Jegley
Prosecuting Attorney (2022)

Will Jones
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Perry County

Town of Perry (*Audit Period: 1/1/20 - 12/31/21*):

2022 Recorder/Treasurer

The Recorder/Treasurer was paid an additional \$700 in 2020, upon Council approval, for serving as interim Mayor for one month, in apparent conflict with Ark. Code Ann. § 14-43-409 as interpreted by Op. Att’y Gen. no. 92-244.

Status per Prosecuting Attorney: *This incident appears to be a conflict with the Code. There is not sufficient proof of criminal intent for a criminal prosecution.*

Pulaski County

Arkansas Department of Labor and Licensing (*Audit Period: 7/1/18 - 6/30/20*):

2022 R1-19-4-2004 of the Financial Management Guide specifically states that an agency is “...responsible for, and held accountable for, reporting any losses of state funds to the Chief Fiscal Officer [CFO] of the State and to Arkansas Legislative Audit [ALA]. Losses include apparent unauthorized disbursements of state funds or the apparent theft or misappropriation of state funds or property.” Furthermore, reporting shall be made within five business days of the date the loss is discovered, and no agency, board, commission or institution has the authority to negotiate with any officer or employee for settlement of any losses without the approval of the CFO of the State.

The Agency did not report losses incurred regarding the former Executive Director of the State Board of Architects, who resigned on December 13, 2019. These losses included several inventory items, totaling \$2,177, that had been in the possession of the former Executive Director but could not be located and two payroll checks the former Executive Director received to which he was not entitled, totaling \$4,917.

Although approval from the CFO of the State was not obtained, the Agency withheld the accrued annual leave lump sum payout, totaling \$11,082, to recover the value of the payroll overpayment and inventory losses.

Status per Prosecuting Attorney: *The Department has detailed remedial steps to cure this issue in the future and did recover the loss.*

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

Arkansas Department of Labor and Licensing (*Audit Period: 7/1/18 - 6/30/20*): (Continued)

Our review revealed undocumented and/or unauthorized expenditures by the former Executive Director of the State Board of Architects, as discussed below:

Ark. Code Ann. § 19-4-1103 states that the executive head of an agency is responsible for establishing procedures and controls to ensure accurate payment of obligations, management approval of expenditures, and retention of supporting invoices. Additionally, R19-4-815 of the Financial Management Guide requires that original documents supporting indebtedness be kept in a safe place subject to audit.

During our review of fiscal year 2019 expenditures, we discovered 12 instances, totaling \$11,769, in which the former Executive Director of the State Board of Architects was reimbursed for expenses without appropriate supporting documentation or authorization/approval:

- Receipts for three purchases totaling \$3,020 could not be provided; therefore, the specific items purchased and business purpose could not be determined.
- A receipt for purchase of a camera, filter, and memory card, totaling \$3,345, could not be provided. (The memory card was part of the inventory loss mentioned in **Finding 1**.)
- Seven purchases of apparent personal items, totaling \$4,947, were not documented as authorized or approved, and a business purpose was not documented.
- Lodging expenses for a June 2019 trip to Las Vegas, which included a room upgrade, exceeded the per diem by \$457, and a letter of authorization/justification was not provided, in noncompliance with R1-19-4-903 of the Financial Management Guide.

Status per Prosecuting Attorney: *The Department responded in October 2021 and detailed the remedial steps taken to prevent these issues in the future. Since the records were deleted, there is no evidence with which to conduct a criminal investigation.*

Ark. Code. Ann. § 25-18-604 establishes guidelines for record retention, including permanent retention of official agendas and minutes of public meetings. Our review revealed that these records for the State Board of Architects were stored on the former Executive Director's computer. Prior to his resignation in December 2019, he deleted the contents of his computer's hard drive, which included the files related to the public meetings.

Status per Prosecuting Attorney: *The Department responded in October 2021 and detailed remedial steps to ensure information is retained in the future in accordance with Arkansas law.*

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

City of Wrightsville (Audit Period: 1/1/21 - 12/31/21):

2022 Mayor and Treasurer

The City paid a total of \$5,800 in premium pay to elected officials using the American Rescue Plan Fund. These payments were approved prior to the January 6, 2022, issuance of the U. S. Treasury Final Rule, which states that elected officials cannot be provided premium pay.

Status per Prosecuting Attorney: *It appears this overpayment was during a period without guidance on how funds were to be disbursed. There is insufficient proof of criminal intent for prosecution.*

Department of Commerce (Audit Period: 7/1/19 - 6/30/20):

2021 Section R1-19-4-2004 of the DFA – Office of Accounting Financial Management Guide states that “the bonded disbursing officer and the public employee with supervisory fiduciary responsibility over all fiscal matters for each state agency, board, commission or institution is responsible for...reporting any losses of state funds to the Chief Fiscal Officer of the State and to the Arkansas Legislative Audit. Losses include...the apparent theft or misappropriation of state funds or property theft.” Arkansas Rehabilitation Services – Division of Workforce Services (ARS-DWS) notified ALA of six warrants, totaling \$23,500, that were paid to a vendor in June and July 2020 for services that were not provided. A review performed by ARS-DWS management revealed a relationship between the vendor and an Agency employee who potentially falsified documentation on behalf of the vendor. Subsequent to being contacted by the Agency on July 31, 2020, the vendor returned one warrant totaling \$2,000 that had not been cashed. The Agency is actively seeking repayment of the remaining \$21,500.

The employee was terminated, the vendor was deactivated from ARS-DWS’s case-management system, and the Agency has initiated a criminal investigation with the Department of Public Safety – Division of Arkansas State Police.

Status per Prosecuting Attorney: *Awaiting file from Arkansas State Police.*

Department of Finance and Administration (Audit Period: 7/1/19 - 6/30/20):

2021 In March 2020, the Department of Finance and Administration (DFA) received an anonymous phone call regarding suspicious vehicle registration transactions occurring at revenue offices in central Arkansas. DFA’s internal Office of Tax Credits subsequently identified three employees (Employees A, B, and C) who circumvented controls when processing registrations on both new and used vehicles, preventing the State from collecting sales tax due. These employees processed a total of 425 improper transactions, primarily in fiscal year 2020, in which they allowed owners to register vehicles by paying either an amount below the sales tax due or nothing at all, as detailed below:

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

Department of Finance and Administration (*Audit Period: 7/1/19 - 6/30/20*): (Continued)

- Employee A, who performed management duties at multiple central Arkansas revenue offices, processed 180 improper transactions (25 prior to 2015 and 155 in 2020) on behalf of vehicle owners, including 2 transactions for his personal vehicles.
- Employee B, who worked in the Sherwood revenue office, processed 129 improper transactions on behalf of vehicle owners.
- Employee C, who worked in the west Little Rock revenue office, processed 116 improper transactions on behalf of vehicle owners.

While DFA determined, and we verified, the amount assessed to the registered owners for the improper registrations totaled \$893,284, which includes sales tax due, penalties, and interest, the full amount of personal benefit to Employees A, B, and C, if applicable, could not be ascertained. As of June 23, 2021, DFA had collected \$364,316, and all accounts with an outstanding balance continue to accrue interest and are suspended in the vehicle registration system. Additionally, Employees A and B resigned from employment, and the employment of Employee C was terminated by DFA. On June 23, 2020, Cameron Barnett (Employee A) pled not guilty to two counts of felony forgery and two counts of felony attempt to evade or defeat tax. Charges have not been filed against Employees B and C.

Status per Prosecuting Attorney: *DFA has put remedial measures into effect. Cameron Barnett entered a negotiated plea of guilty to felony forgery and attempt to evade or defeat tax, was sentenced to 36 months probation, and was ordered to pay fines and fees totaling \$1,290.*

Bond Trust Fund reimbursed losses totaling \$300,000.

Department of Human Services (*Audit Period: 7/1/19 - 6/30/20*):

- 2021 R1-19-4-2004 of the State Financial Management Guide states that monies lost through improper redemption of checks shall be reported to Arkansas Legislative Audit (ALA), the Attorney General's office, and local law enforcement. Ark. Code Ann. § 25-1-124(b)(1)&(2) states that a public employee with supervisory fiduciary responsibility over all fiscal matters of a public employer shall report to ALA the apparent theft or misappropriation of public funds within five business days upon the learning of the theft.

The Agency properly notified ALA and authorities of the following occurrences related to fraudulent activity:

A Supplemental Nutrition Assistance Program (SNAP) recipient sent in eight personal checks totaling \$10,946 as reimbursement to the Agency for an overpayment of excess SNAP monies received. The eight checks were deposited in the Agency's central office US Bank General Account on June 9, 2020. The Agency later determined the recipient had reimbursed \$4,433 too much and issued the recipient a refund check on June 10, 2020, from the US Bank General Account. Subsequently, on June 11, 2020, all of the eight personal checks totaling \$10,946 were returned by the bank due to insufficient funds.

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

Department of Human Services (Audit Period: 7/1/19 - 6/30/20): (Continued)

The refund check for \$4,433 was cashed, clearing the bank on July 10, 2020. The Agency filed a police report, and as of report date, the funds had not been recovered.

Status per Prosecuting Attorney: *Awaiting police investigative file.*

Little Rock School District (Audit Period: 7/1/20 - 6/30/21):

2022 As previously disclosed in the audit reports for the three fiscal years ended June 30, 2020, management stated that a law enforcement agency was investigating certain financial transactions of the District and the case is pending submission to a grand jury. The District conducted an internal review and discovered \$230,636 in unauthorized charges for purchases made using two Procurement Cards (P-cards).

Status per Prosecuting Attorney: *On February 9, 2022, Karen James, Director of Childhood Education/Elementary Literacy, pled guilty in federal court to felony mail fraud; was sentenced to 48 months probation; and was ordered to pay \$230,636 in restitution and \$100 in fees.*

Bond Trust Fund reimbursed losses totaling \$178,854.

Pulaski County (Audit Period: 1/1/18 - 12/31/18):

2020 Two cashier's checks totaling \$7,900, made payable to an inmate, were deposited to the Sheriff's Inmate Trust account. One check for \$3,950 was signed over to a bail bondsman before the Sheriff's Office learned it was fraudulent; these funds have not been recovered. The second check for \$3,950 was deposited, but funds were not released.

Status per Prosecuting Attorney: *An investigation was conducted, a file was reviewed by the PA, and it was determined that there was insufficient evidence for a criminal prosecution.*

Pulaski County (Audit Period: 1/1/15 - 12/31/15):

2017 County Judge

Wanda Wyatt, a Road Department employee, was charged with 73 counts of theft of property and 80 counts of computer fraud by the Pulaski County Sheriff's Department on June 21, 2016, the same day her employment ended. According to the arrest report, Wyatt fabricated accident reports involving County vehicles, submitted the reports to Central Arkansas Risk Management Association (CARMA), the County's insurance provider, and deposited insurance payments totaling \$248,530 into her personal bank account.

Status per Prosecuting Attorney: *Wyatt pled no contest to felony theft of property and was sentenced to 36 months suspended imposition of sentence.*

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

Pulaski County Regional Solid Waste Management District (*Audit Period: 7/1/20 - 6/30/21*):
[Private audit]

2022 During the year ended June 30, 2021 the District made two payments in the aggregate of \$17,000 to Recycling Research Resources, Inc., a nonprofit organization with which it shares common management. Although the payments were authorized, no documentation was available in support of these payments. Additionally, the disbursements were charged to Promotions & Advertising, although the check stubs listed them as "Foundation Contribution" and "Donation."

Status per Prosecuting Attorney: *These payments were also included in this year's audit that is still under review.*

Pulaski County Special School District (*Audit Period: 7/1/20 - 6/30/21*):

2022 The Maumelle Middle School District Secretary received a donation of \$700 in cash that was not subsequently deposited into the District's bank account. The custodian of funds could not be identified due to multiple employees having access to the location the funds were kept. The District reported the incident to the Arkansas State Police and requested an investigation.

Status per Prosecuting Attorney: *There were multiple employees involved, with no way to identify who took the funds. It was a misdemeanor amount and the statute of limitations has run out.*

University of Arkansas Division of Agriculture (*Audit Period: 7/1/21 - 6/30/22*):

2022 The University of Arkansas System Internal Audit Department (IAD) conducted an audit regarding a loss of \$2,943 due to payroll identity theft for the period August 23, 2021 through September 7, 2021. The University of Arkansas Division of Agriculture (UADA) Associate Vice President for Finance and Administration initiated the investigation after discovering an employee's payroll direct deposit was not received. On August 23, 2021, the Payroll Services Specialist received an email from a personal email address, claiming to be an employee needing assistance in changing payroll direct deposit information. The Payroll Services Specialist replied to the email and sent a copy of the UADA electronic payment authorization form to be completed and returned. After receiving the completed form, the Payroll Services Specialist changed the direct deposit account information. On September 2, 2021, an employee discovered that she did not receive her August 31, 2021, payroll direct deposit and contacted the Associate Vice President for Finance and Administration. It was then discovered that the email the Payroll Services Specialist received was from a fraudulent account. The Payroll Manager was unsuccessful in recalling the payment, and as of report date, funds totaling \$2,943 have not been recovered.

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

University of Arkansas Division of Agriculture (Audit Period: 7/1/21 - 6/30/22): (Continued)

The University of Arkansas System Internal Audit Department (IAD) conducted an audit of the supplier change management process after being notified by the University of Arkansas Division of Agriculture (UADA) Cooperative Extension Service (CES) of a potential loss of funds due to a fraudulent ACH payment. The UADA Finance Manager received a fraudulent email requesting bank information be changed for a vendor's ACH payment. After the change was made and the payment was issued, UADA received an email from the actual vendor regarding a payment notification that was received. The Cash Manager attempted to recall the transaction but was unsuccessful. UADA Management notified the bank of the fraudulent transaction and was told the funds could not be recovered due to the non-sufficient fund status of the receiving account. Due to control weaknesses in the supplier management process, UADA was unable to recover the \$80,244 that was disbursed to the fraudulent account.

Status per Prosecuting Attorney: *This was part of an email phishing scheme most likely originating out of the county. It is the PA's understanding that UADA has changed its procedures to prevent this from happening in the future.*

University of Arkansas at Little Rock (Audit Period: 7/1/21 - 6/30/22):

2022 The University of Arkansas System Internal Audit Department (IAD) reviewed employee payroll data and determined 180 University of Arkansas at Little Rock (UALR) employees were issued payments after their employment termination dates. IAD reviewed employee profiles in the Workday application to determine the accuracy and legitimacy of these payments, and the review revealed 14 overpayments, totaling \$23,787, to 4 UALR employees. As of report date, UALR is still seeking repayment from the employees.

In addition, UALR staff notified IAD of a potential loss of funds relating to an employee overpayment. The overpayment of \$25,000 was the result of the employee being moved from a full-time visiting professor to a part-time adjunct professor in the Workday application, without the full-time position being terminated. This error allowed the employee to continue receiving payments for both positions. As of May 5, 2022, UALR had received full reimbursement from the employee.

Status per Prosecuting Attorney: *This finding appears to be an oversight, and UALR has been made whole by the employee.*

The University of Arkansas System Internal Audit Department (IAD) conducted an audit regarding payroll transactions at the UALR for the period July 1, 2020 through June 30, 2021. While conducting a review to ensure all nine-month faculty were properly paid, the UALR Payroll Manager noted a Visiting Assistant Professor (Professor) was set up to receive payments for 12 months, instead of 9. Additional research revealed the Professor was terminated from employment on August 16, 2020, and overpaid \$44,633 from July 1, 2020 through May 15, 2021. Further procedures performed by IAD revealed an additional \$2,200 was garnished and paid to a creditor on behalf of the Professor after her employment termination, resulting in a total overpayment of \$46,833. As of December 2021, UALR had established a monthly repayment agreement with the Professor.

Matters Referred by Legislative Joint Auditing Committee

Pulaski County (Continued)

University of Arkansas at Little Rock (*Audit Period: 7/1/21 - 6/30/22*): (Continued)

Furthermore, IAD reviewed electronic personnel action forms (EPAF) to verify that employees were paid accordingly. Using sampling techniques, IAD discovered two employees were overpaid \$1,412 and \$5,400, respectively. In addition, using data analysis to calculate the loss amount of the remaining EPAF's in the population, IAD estimated that an additional loss of \$17,723 may have occurred due to EPAF's not being processed correctly. Subsequent to IAD procedures, UALR staff determined that the actual loss was \$6,580, and repayment agreements were established to recoup the loss.

Status per Prosecuting Attorney: *There does not appear to be criminal action here, and UALR has an agreement to recoup the loss.*

Review of selected expenditures revealed questionable travel-related payments totaling \$6,313 at the University of Arkansas at Little Rock. Specifically, the University paid travel costs of \$4,409 for a vendor, although the contract stated the vendor was responsible for these expenses. Additionally, the University paid travel costs totaling \$1,904 for two relatives of a staff member.

Status per Prosecuting Attorney: *This appears to be a violation of policy and not a criminal act. It also appears to be a contract dispute as to who is responsible for the expenses.*



Seventh Judicial District

Grant and Hot Spring Counties

Judicial District Population: 51,238
Circuit Judges: 2

Teresa Howell
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Hot Spring County

City of Rockport (*Audit Period: 1/1/20 - 12/31/20*):

2022 Mayor/Police Chief

Fines and costs revenue of \$318,940 exceeded 30% of the City's total expenditures in the preceding year by \$53,135, in noncompliance with Ark. Code Ann. § 12-8-403. This revenue was generated from traffic offense citations written by or arrests made by the City's law enforcement personnel or from ancillary actions related to the enforcement of traffic offenses. According to the Police Chief, a portion of the revenue was from State and Highway Police citations; however, the City was not able to provide amounts.

Status per Prosecuting Attorney: The PA conducted an investigation and determined that the City did not violate the Arkansas Speed Trap Law. The adherence to state traffic laws taken on the affected highways was for the public safety and welfare, not for the primary purpose of funding municipal operations.

Perla Water and Sewer Department (*Audit Period: 1/1/20 - 12/31/20*):

2022 ALA staff noted the following discrepancies in the Meter Deposit bank account:

- Customer meter deposits were sometimes applied to unpaid water and sewer balances. In these cases, the customers' meter deposit balances were properly reduced in the computer system. However, the funds were not actually transferred from the Meter Deposit bank account to the Water and Sewer bank account.
- \$30,200 was transferred from the Meter Deposit bank account to other Department bank accounts. It appears that these meter deposits were ultimately used to pay operating expenses of the Department.
- ALA staff also noted that the balance in the Meter Deposit bank account had decreased to \$564 on December 31, 2020, due to money being transferred to other accounts.

Based on these findings, it does not appear that the balance in the Meter Deposit bank account accurately reflects the Department's liability for approximately 800 customer meter deposits, and it does not appear that this liability is adequately funded.

Matters Referred by Legislative Joint Auditing Committee

Hot Spring County (Continued)

Perla Water and Sewer Department (Audit Period: 1/1/20 - 12/31/20): (Continued)

Status per Prosecuting Attorney: *The audit of the financial records showed no indication department funds were misappropriated for nonbusiness purposes; therefore, the PA found no evidentiary proof of criminal intent or conduct.*

Note: No matters were referred for Grant County.



Eighth Judicial District-North

Hempstead and Nevada Counties

Judicial District Population: 27,881
Circuit Judges: 2

Christi McQueen
Prosecuting Attorney (2022)

Ben Hale
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Hempstead County

Spring Hill School District (*Audit Period: 7/1/20 - 6/30/21*):

2022 On July 28, 2020, the District hired the sister of a Board member's spouse as a part-time paraprofessional, with compensation totaling \$10,334 for the period July 28, 2020 through June 30, 2021. The District subsequently changed the individual's employment status to a full-time paraprofessional on April 12, 2021, and to Elementary Secretary on January 27, 2022, resulting in contracted increases of \$5,864 and \$5,265, respectively.

Although meeting minutes indicate the Board approved these transactions, approval was not obtained from the Arkansas Department of Education, as required by Ark. Code Ann. § 6-24-105. Additionally, the April 2021 and January 2022 Board meeting minutes disclosed that the aforementioned Board member was present and participated in the discussion and vote, in noncompliance with Ark. Code Ann. § 6-24-105 (c)(1)(C).

Status per Prosecuting Attorney: *The referenced Board Member was not present when the relative was initially contracted as a part-time employee at the July 28, 2020, Board meeting; the related Board Member is no longer on the Board; and the current members of the Board are not related to the referenced employee. Additionally, the PA provided the District with the form Resolution drafted by the Arkansas Department of Education (ADE) that it must approve when similar issues arise; the ADE's "Contract Disclosure" form that should be completed and submitted to administration by employees, Board members, and administrators to notify the Board that it needs to pass the Resolution; and a copy of the ADE Rules and Regulations Governing Ethical Guidelines.*

Nevada County

Nevada County (*Audit Period: 1/1/20 - 12/31/20*):

2022 County Judge

County officials could not locate a lease agreement related to a \$400 payment documented with a handwritten invoice that indicated lease payment number 66 and was dated December 10, 2020. Monthly payments totaled \$4,800 for 2020. Because County officials were unable to determine the purpose of these expenditures, the County ceased the payments on July 12, 2022. The lessor was unaware of any lease agreement and ceased billing the County. We recommend the County seek legal counsel regarding resolution of these matters.

Matters Referred by Legislative Joint Auditing Committee

Nevada County (Continued)

Nevada County (Audit Period: 1/1/20 - 12/31/20): (Continued)

Status per Prosecuting Attorney: According to meeting minutes from November 3, 2000, the Board voted to lease the Nevada County Recycling Center for \$400 a month for 2001. The Recycling Center has submitted invoices for this lease regularly at \$400 a month going back to 2001. The Management Authority has paid these invoices every month since 2001. No record has been located showing that lease was ever terminated by the lessor or lessee. Billing and payment continued regularly until the issue was identified by Legislative Audit in July 2022. Out of concern, the Management Authority did not pay the July invoice. It now appears payment should not have stopped without an authorizing vote by the Board because the lease could lawfully renew automatically. No criminal charges will be filed.

The County Judge issued two court orders, with the same number and date stamp, regarding a County building: Court Order #1 declared the building to be surplus property due to necessary repairs exceeding the building's value, and Court Order #2 authorized the sale of the building. We could not determine whether the County complied with the requirements of Ark. Code Ann. § 14-16-106 for advertising the sale of the building at public auction. Additionally, the County did not require the purchaser to submit payment in full on the day of the auction, as stipulated in Court Order #2. Although it was not recorded in the County's official court order file, Court Order #2 was also included with an insurance claim filed relating to the building declared to be surplus property. On December 30, 2019, the County received insurance proceeds of \$7,623 and remitted these proceeds to the purchaser on January 27, 2020, without documentation to substantiate the cost of any repairs made by the County or the purchaser.

Status per Prosecuting Attorney: The County attempted to comply with the advertising requirements but faced difficulty in doing so because of the closure of local newspapers. Regarding the only bidder, who did not comply with the court order for the sale by making payment immediately after the auction on October 3, 2019, the County did immediately investigate. It was determined to be a legitimate claim. The dilemma the County faced was determining the proper outcome for the rights of the parties involved. The County determined that a valid contract was formed for the \$17,000 price bid at auction. While the County could lawfully require the bidder to pay that price, the case law makes it clear this scenario would be unjust enrichment to Nevada County if it kept the insurance proceeds. The remedy required Nevada County to give the buyer credit against the purchase price in the amount of the insurance proceeds.

County Judge and Tax Collector

The Quorum Court adopted Nevada County Ordinance no. 2020-1 (January 16, 2020) to establish a service fee for solid waste collection, in accordance with Ark. Code Ann. § 8-6-212. Audit procedures revealed the following issues:

- The Ordinance exempted commercial business, churches, and deer camps from the fee; however, County resources were used to provide solid waste collection services to these entities, in conflict with Ark. Const. art. 12, § 5, which states, in part, "No...County... shall... appropriate money for, or loan its credit to any corporation, association, institution, or individual."

Matters Referred by Legislative Joint Auditing Committee

Nevada County (Continued)

Nevada County (Audit Period: 1/1/20 - 12/31/20): (Continued)

- The County did not advise citizens of the fee through their annual property tax bills, pursuant to the Ordinance. Furthermore, billed service fees more than 90 days delinquent were not entered into the personal property tax records and collected with the taxes. The Sanitation Fund accounts receivable subsidiary ledger contained uncollected fees of \$35,620 as of December 31, 2020.
- The County does not have a policy in place regarding billing and collection of amounts due and appears to have inconsistently billed residents for services.
- Prenumbered receipts were not issued for funds received, as required by Ark. Code Ann. § 14-25-108.
- An account of all monies received and disbursed was not properly maintained, as required by Ark. Code Ann. § 14-25-113.

Status per Prosecuting Attorney: *The PA believes the response filed by the Sheriff and Collector is adequate to correct all of the issues identified. The PA will closely monitor this situation going forward.*

County Judge and County Clerk

The County paid the Coroner \$4,469 for miscellaneous jobs performed without a contract or authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-14-1202 and Op. Att’y Gen. no. 2008-014. A similar finding was issued in the prior report.

Status per Prosecuting Attorney: *The Quorum Court passed an ordinance in 2021 that lawfully authorized the Coroner to provide these needed services to the County.*

The County paid \$915 to non-employees for Christmas bonuses without Quorum Court authorization and in conflict with Ark. Const. art. 12, § 5, as interpreted by Op. Att’y Gen. no. 91-410. Additionally, bonuses were not paid to all employees, and payment amounts were not in accordance with amounts prescribed by the Quorum Court. A similar finding was issued in the prior report.

Status per Prosecuting Attorney: *The PA will provide officials with the specific Constitutional provision and Attorney General Opinion cited, as well as a summary of prohibited actions.*

Town of Willisville (Audit Period: 1/1/19 - 12/31/21):

2022 Mayor

The Town paid \$750, \$910, and \$700 to the Mayor for mowing services in 2021, 2020, and 2019, respectively, without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107.

Status per Prosecuting Attorney: *Willisville did pass an ordinance authorizing the specific Mayor referenced to provide it services in 2022. Further, that individual is no longer the Mayor.*



Eighth Judicial District-South

Lafayette and Miller Counties

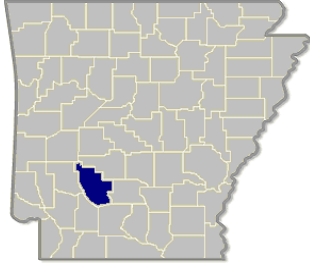
Judicial District Population: 48,812
Circuit Judges: 3

Charles Black
Prosecuting Attorney (2022)

Connie Mitchell
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Note: No matters were referred for Lafayette and Miller Counties.



Ninth Judicial District-East

Clark County

Judicial District Population: 21,321
Circuit Judge: 1

Dan Turner
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Clark County

Arkadelphia School District (*Audit Period: 7/1/18 - 6/30/19*):

2020 An examination of contracts for two individuals employed as bus drivers indicated that the contracts for Employee A and Employee B were more than the District's approved salary schedule for those employee positions by \$7,943 and \$4,242, respectively. According to District personnel records:

- Employee A's contract was for bus driving services, for which the employee was paid \$8,774, although the employee did not drive a bus route. Based on timesheets, the employee was also paid \$13,287 for bus shop general labor without a contract, in noncompliance with Ark. Code Ann. § 6-13-620(5)(A)(ii).
- Employee B was absent from work 42 days during the year; 27 of these days were charged as sick leave. Ark. Code. Ann. § 6-17-1304 provides that a school employee shall be entitled to sick leave only for reasons of personal illness or illness in the immediate family, and District policy defines sick leave as "absence from work due to illness." During an interview with ALA staff on February 6, 2020, Employee B acknowledged that 14 of these days were improperly charged as sick leave while Employee B was performing duties for another employer. As a result of the misclassification of leave, Employee B was overpaid salary totaling \$1,001.

Status per Prosecuting Attorney: *The PA requested an investigation by the Arkadelphia Police Department. Regarding Employee A, there was no evidence of criminal intent, and no charging decision was made. Information was provided to the District related to the overpayment made in noncompliance. Regarding Employee B, there was insufficient evidence to support filing a criminal charge. The PA advised counsel for the District of the issue, to the extent the District desire to pursue civil remedies.*



Ninth Judicial District-West

Howard, Little River, Pike, and Sevier Counties

Judicial District Population: 50,491
Circuit Judge: 2

Erin Hunter
Prosecuting Attorney (2022)

Jana Bradford
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Howard County

City of Dierks Water and Sewer (*Audit Period: 1/1/15 - 9/30/20*):

2021 Our review revealed that revenue totaling \$501,193 was not deposited in the System's bank accounts during the period January 1, 2015 through September 30, 2020. The Secretary/Water Clerk was custodian of the funds and was responsible for bank deposits. Several internal control deficiencies contributed to funds being apparently misappropriated and the discrepancies not being detected timely.

Status per Prosecuting Attorney: *Former Secretary/Water Clerk Cheryl Delarosa entered a negotiated plea of guilty to felony theft of property; was sentenced to 72 months in Arkansas Department of Corrections; and was ordered to pay \$501,000 in restitution and \$490 in fines, fees, and costs.*

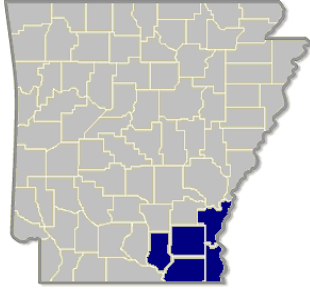
City of Nashville (*Audit Period: 1/1/20 - 12/31/20*):

2022 Mayor/Police Chief

A city employee was allowed to take 106 hours of sick leave before the leave was earned. This arrangement appears to conflict with Ark. Const. art. 12, § 5, which prohibits cities from loaning their credit to any individual. Subsequently, the employee accumulated the correct number of hours to eliminate the negative leave balance.

Status per Prosecuting Attorney: *The PA advised the City that it should not advance leave time in the future and was assured the City will not allow this to happen again. It does not appear there was any crime committed.*

Note: No matters were referred for Little River, Pike, and Sevier Counties.



Tenth Judicial District

Ashley, Bradley, Chicot, Desha, and Drew Counties

Judicial District Population: 67,301
Circuit Judge: 5

Thomas Deen
Prosecuting Attorney (2022)

Frank Spain
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Ashley County

City of Portland (*Audit Period: 1/1/20 - 12/31/20*):

2022 Mayor/Recorder-Treasurer

The City overpaid a total of \$6,033 to the following employees:

- \$1,660 to the Recorder/Treasurer due to an extra payroll check she received in December 2020 and for an hourly raise not approved by the City Council.
- \$1,760 to two city employees (\$880 each) due to an hourly raise not approved by the City Council.
- \$880 and \$1,733 to the Mayor and an employee, respectively, who were paid from Water/Sewer funds, due to an hourly raise not approved by the City Council.

Mayor

The City paid \$5,639 to a business owned by an employee without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107. A similar finding was issued in the prior report.

Recorder/Treasurer

In September 2011, the City received a Writ of Garnishment for a City employee (Defendant). Beginning in January 2018, the City ceased compliance with the terms of the Garnishment, resulting in a judgment against the City as Garnishee totaling \$4,375 for interest, accrued legal costs, and wages not withheld from the Defendant's salary. The City was also responsible for attorney fees totaling \$2,900: \$500 for preparing the Motion and Order seeking judgment against the City as Garnishee and \$2,400 for general legal services. The City's failure to comply with the Writ of Garnishment resulted in waste of public funds totaling \$7,275. The Defendant is still employed by the City.

Status per Prosecuting Attorney: *The PA requested a State Police investigation.*

Matters Referred by Legislative Joint Auditing Committee

Chicot County

City of Dermott (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor, City Clerk, and Police Chief

Monetary donations to a Police Department toy drive, totaling \$950, were deposited in the City's bank account, and checks totaling \$950 were issued to a Department employee to purchase toys/gifts for the children. However, the employee provided no documentation to substantiate how the funds were used.

Mayor and City Clerk

One City Council member was paid \$630 more than the remaining three members. Because wage rates for elected officials were not reflected in the City's budget or in the Council meeting minutes, we were unable to determine if one Council member was overpaid or the remaining three were underpaid. A similar finding concerning wages rates was noted in the previous six reports dating back to 2014.

Status per Prosecuting Attorney: The PA requested a State Police investigation.

City of Dermott (Audit Period: 1/1/17 - 12/31/17):

2019 Mayor

Unaccounted for funds totaling \$17,183 were noted as follows:

- Cash receipts for the General, Street, and Water Department Funds exceeded cash deposits by \$15,594 for the period January 1, 2016 through April 30, 2017. Unreceipted checks were included in the bank account deposits, and a clerk made numerous adjustments to customer accounts in the Water Department computer system in an apparent attempt to conceal the unaccounted for cash.
- Receipts for the General and Water Department Funds exceeded bank deposits by \$1,589 for the period May 1, 2017 through December 31, 2017. The person(s) responsible for these unaccounted for funds could not be determined.

Status per Prosecuting Attorney: Due to a conflict of interest, a Special Prosecutor was appointed to handle this case.

Status per Special Prosecuting Attorney: Shamia Jefferson entered a negotiated plea of guilty to felony theft of property; was sentenced to 72 months probation; and was ordered to pay \$15,594 in restitution and \$690 in fines, fees, and costs.

Bond Trust Fund reimbursed losses totaling \$13,094.

Matters Referred by Legislative Joint Auditing Committee

Chicot County (Continued)

City of Lake Village Water and Sewer Department (*Audit Period: 2/1/19 - 1/31/21*):

2022 Our review revealed unaccounted for funds totaling \$9,363 during the period February 1, 2019 through January 31, 2021. The Accounting Clerk, who resigned from employment in March 2021, was custodian of the funds and was responsible for bank deposits. It appears that receipt entries were reversed and customer accounts were adjusted to conceal these unaccounted for funds.

Several internal control deficiencies contributed to funds being misappropriated and the misappropriation not being detected timely. Also, the City failed to obtain the 2019 financial audit timely, as required by Ark. Code Ann. § 14-234-119.

On March 15, 2022, Tashanda Freeman, former Department Accounting Clerk, was charged with theft of property and computer fraud, and an arrest warrant was issued on June 29, 2022.

Status per Prosecuting Attorney: *An arrest warrant was issued on February 28, 2023, due to Ms. Freeman's failure to appear in court. The arrest warrant was served on March 23, 2023, and the case is pending.*

Drew County

City of Monticello (*Audit Period: 1/1/18 - 12/31/18*):

2020 From November 19, 2018 through January 7, 2019, an individual used City bank account information to process three unauthorized withdrawals totaling \$6,974. Entity personnel initially discovered the unauthorized withdrawals upon reconciliation of the affected accounts, and the funds were recovered from the bank on February 7 and 11, 2019.

Status per Prosecuting Attorney: *The PA requested an investigation by Arkansas State Police. The investigation was closed because no suspects were identified, and the funds were recovered. This case was resolved by the recovery of the funds.*

Matters Referred by Legislative Joint Auditing Committee

Drew County (Continued)

Valley Volunteer Fire Department (*Audit Period: 1/1/16 - 2/4/20*):

2022 Our review of Department financial records revealed undocumented/improper transactions totaling \$10,357 and other issues, as discussed below.

Undocumented/Improper Transactions

- \$7,218 in transfers to the Fire Chief's personal bank account and cash withdrawals from the Department bank account by the Fire Chief. According to Department personnel, the Fire Chief indicated that he used personal funds to pay Department expenses and then reimbursed himself when Department funds became available. ALA staff located invoices totaling \$4,422 that appear to have been paid with non-Department funds. However, the source of these payments could not be determined.
- \$3,139 in payments to various businesses and individuals without documentation; therefore, the validity of these disbursements or the purchaser could not be determined.

Other Issues

The Fire Chief opened a new Department bank account on October 24, 2016. Board meeting minutes, located in Department files and signed by the Fire Chief, indicated that, during a Board meeting held on September 13, 2016, the Board approved the opening of this account. However, the Department Treasurer was not aware of this meeting, and according to the Treasurer, two other Board members indicated that a meeting was not held.

Based on the information provided by Department personnel, it appears that minutes were prepared for a Board meeting that did not occur, and a new Department bank account was opened without Board authorization. The Fire Chief closed this account on February 4, 2020, and withdrew the account balance of \$931. It should be noted this withdrawal is included in the \$7,218 of questioned transfers/withdrawals previously discussed.

Status per Prosecuting Attorney: *The Fire Chief was charged with abuse of office but passed away before the case was adjudicated. The case was dismissed without prejudice.*

Note: No matters were referred for Bradley and Desha Counties.



Eleventh Judicial District-East

Arkansas County

Judicial District Population: 16,722
Circuit Judges: 1

Tim Blair
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Arkansas County

Arkansas Game and Fish Commission (*Audit Period: 7/1/19 - 6/30/20*):

2021 R1-19-4-2004 of the Department of Finance and Administration (DFA) Office of Accounting Financial Management Guide states that “the bonded disbursing officer for each state agency, board, commission or institution is responsible for... reporting any losses of state funds to the Chief Fiscal Officer of the State and to the Division of Legislative Audit. Losses include... the apparent theft or misappropriation of state funds or property theft.” The Arkansas Game and Fish Commission (AGFC) notified Arkansas Legislative Audit (ALA) of the following theft of state property:

- On January 11, 2021, AGFC staff were made aware of a theft that occurred at a storage unit in DeWitt, Arkansas that contained materials for the Nongame Bird Program. Contents stolen included research materials, office furniture, safety equipment, and small electronic devices valued at \$5,020. A police report was filed.

Status per Prosecuting Attorney: *This matter is still under investigation by the Dewitt Police Department.*



Eleventh Judicial District-West

Jefferson and Lincoln Counties

Judicial District Population: 78,898
Circuit Judges: 6

S. Kyle Hunter
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Jefferson County

Arkansas River Service Cooperative (*Audit Period: 7/1/20 - 6/30/21*):

2022 During our examination of payroll records, we noted that one employee was overpaid \$3,450. The employee did not return on August 10, 2020, for the 2020-2021 school year, as stated in the employee's contract, but received a payroll direct deposit on August 14, 2020. After numerous attempts to contact this employee, the Cooperative received a resignation letter dated August 22, 2020. As of report date, the Cooperative had not recovered these funds.

Status per Prosecuting Attorney: *This matter was referred to Arkansas State Police for investigation.*

City of Pine Bluff (*Audit Period: 1/1/21 - 12/31/21*):

2022 Mayor and Police Chief

During the period May through July 2021, Derrell Ray, a Police Department employee who served as fleet manager until he resigned from employment on July 19, 2021, sold 30 Department vehicles, valued at \$20,850 that had been removed from service, without management authorization. Proceeds from the vehicle sales were not remitted to the City, and Mr. Ray was charged with theft of property on March 4, 2022. A court date is scheduled for March 29, 2023.

Status per Prosecuting Attorney: *This matter is set for trial on March 4, 2024.*

Jefferson County (*Audit Period: 1/1/21 - 12/31/21*):

2022 County Judge

The County discovered, and ALA verified, unauthorized cell phone charges totaling \$19,306 during the period July 1, 2019, through January 31, 2022. These charges were related to 25 non-County cell phone numbers that were added to the County's account. According to County personnel, some of these unauthorized phones appeared to belong to family and acquaintances of the County Judge's Chief of Staff who resigned in January 2022.

Matters Referred by Legislative Joint Auditing Committee

Jefferson County (Continued)

Jefferson County (Audit Period: 1/1/21 - 12/31/21): (Continued)

The County Judge notified the 11th West Judicial District Prosecuting Attorney and Arkansas State Police of this matter.

Status per Prosecuting Attorney: *This matter was referred to Arkansas State Police for investigation.*

The County established a COVID survivor benefit program using American Rescue Plan Act (ARPA) funding, as authorized by the Coronavirus State and Local Fiscal Recovery Funds (SLRF). This program included a \$25,000 maximum benefit consisting of 25% of hospital expenses, funeral costs, lost wages, and joint household expenses. The County paid \$25,000 without proper documentation of these expenses to satisfy the guidelines set out by the County.

Status per Prosecuting Attorney: *The County Judge has the authority to set whatever guidelines he felt appropriate for the program. His use of the loan as evidence of household expenses is questionable but does not rise to the level of criminal conduct. No further action will be taken.*

District Court Clerk

District Court personnel discovered the following discrepancies concerning fees collected by a Probation Officer.

- The Probation Officer began collecting and receipting funds before his newly created position was formally approved by the Jefferson County Quorum Court.
- The amounts charged for the probation and drug test fees were higher than the amounts authorized by the District Judge.
- The funds collected were deposited in the Probation Officer's personal bank account.

When Court personnel discussed these discrepancies with the Probation Officer, he indicated that he was never told what to do with the funds he collected. Court personnel determined, and we verified, the receipts issued by the Probation Officer during the period August 17, 2021, through September 30, 2021, totaled \$4,300. On October 1, 2021, the Probation Officer reimbursed \$4,300 to the District Court. Per County officials, citizens who were overcharged will be refunded at the conclusion of the audit.

Status per Prosecuting Attorney: *It was determined that the Officer had no intent to steal said funds but made a poor decision on where to deposit them before seeking direction. No further action will be taken.*

Matters Referred by Legislative Joint Auditing Committee

Jefferson County (Continued)

Jefferson County (Audit Period: 1/1/20 - 12/31/20):

2021 County Judge

Due to the COVID-19 pandemic, the County paid \$70,920 to two individuals for deep cleaning and sanitizing of County buildings during the period January 1, 2020 through August 26, 2021. These individuals do not appear to have provided cleaning services to other customers or to operate an incorporated cleaning business. Additionally, we were unable to determine if these individuals were qualified to provide specialized cleaning services.

During a meeting with the County Judge and other County employees on August 24, 2021, the County Judge's Chief of Staff acknowledged hiring the individuals and approving the invoices. However, she was unable to provide any detailed information concerning these individuals' qualifications or the process for selecting them to provide the cleaning services.

Also, the County Clerk failed to issue an Internal Revenue Service (IRS) Form 1099-Misc. to one of the individuals, who received payments totaling \$26,600 in 2020.

Status per Prosecuting Attorney: *These matters are being investigated by Arkansas State Police.*

University of Arkansas at Pine Bluff (Audit Period: 7/1/21 - 6/30/22):

2022 On December 22, 2021, the Associate Vice Chancellor of Finance and Administration (Associate Vice Chancellor) at the University of Arkansas at Pine Bluff discovered \$38,446 paid to unauthorized vendors for the period September 1, 2021 through December 14, 2021. Upon further review, payment documentation could not be located, and the vendor could not be verified through the Workday application. The Associate Vice Chancellor contacted University of Arkansas System Internal Audit Department (IAD) and also contacted the bank to dispute the transactions. The bank verified that the transactions were not processed using a UAPB employee's access. IAD determined that failure to reconcile bank statements resulted in the transactions not being detected timely and only \$744 being refunded by the bank. As of report date, the remaining \$37,702 had not been recovered.

Status per Prosecuting Attorney: *At the request of the University of Arkansas System IAD, an agent assigned to the Attorney General's Public Integrity Unity investigated this matter and was unable to link the theft to any person of organization. Therefore, no criminal charges can be filed.*

Matters Referred by Legislative Joint Auditing Committee

Jefferson County (Continued)

University of Arkansas at Pine Bluff (*Audit Period: 7/1/20 - 6/30/21*):

2021 The University of Arkansas System Internal Audit Department (IAD) conducted an audit of the University of Arkansas at Pine Bluff (UAPB) as a result of alleged misappropriation of University-owned property or funds from the Tobacco Prevention and Cessation Program (TPCP). In January 2019, the University contacted the Arkansas Department of Health (ADH) concerning irregularities noted in a Minority Initiative Sub-Recipient Grant Office (MISRGO) sub grantee, Part of the Solutions (POTS). As discussed below, ADH and IAD identified unauthorized/unallowable transactions totaling \$24,335.

In February 2019, ADH submitted a report to UAPB, concluding that the POTS Program Coordinator violated numerous grant regulations and participated in fraudulent actions. These actions included 26 invoices, verified by the vendors as fictitious, for services that POTS did not provide, which resulted in POTS receiving unallowable reimbursements totaling \$10,467.

Subsequently, IAD compared bank statements provided by the bank with those provided by the POTS Program Coordinator and reviewed other documentation, resulting in identification of unauthorized or unallowable transactions totaling \$13,868:

- \$10,673 in unauthorized transactions, involving altered vendors, transaction description, amount, and/or date.
- \$3,195 in unallowable reimbursements from MISRGO to POTS.
 - \$2,282 for payroll taxes that were not actually paid.
 - \$687 for equipment that was not actually purchased.
 - \$181 in excess reimbursement for medical insurance payments.
 - \$45 for travel reimbursements to a volunteer, although POTS did not issue payments to a volunteer.

As a result of these transactions, POTS Program Coordinator Dwayne Robinson was arrested on November 2, 2021, and charged with theft of property, forgery, and falsifying business records.

Status per Prosecuting Attorney: *Dwayne Robinson entered a negotiated plea of guilty to theft of property, forgery, and falsifying business records; was sentenced to 120 months probation; and was ordered to pay \$24,335 in restitution and \$940 in fines, fees, and court costs.*

Bond Trust Fund reimbursed losses totaling \$21,510.

Note: No matters were referred for Lincoln County.



Twelfth Judicial District

Sebastian County

Judicial District Population: 128,400
Circuit Judges: 7

Daniel Shue
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Sebastian County

City of Bonanza (Audit Period: 1/1/19 - 12/31/21):

2022 Administrative Assistant

Review of City records (including Water Department records) for the period January 1, 2018 through May 5, 2022, revealed unaccounted for funds and unauthorized disbursements totaling \$216,916, as discussed below.

1. \$178,874 in unaccounted for funds:
 - \$173,404 in undeposited water bill payments.
 - \$5,470 in undeposited manual receipts.
 - \$2,323 for the General Fund.
 - \$2,722 for the Fire Department Fund.
 - \$425 for the Park Fund.
2. \$38,042 in unauthorized disbursements:
 - \$16,708 in salary overpayments to the Administrative Assistant.
 - \$21,334 for gift cards purchased by the Administrative Assistant.

Several manual receipts and bank statements were altered in an apparent attempt to conceal the unaccounted for funds and unauthorized disbursements. The Administrative Assistant maintained the bank accounts and accounting records and was responsible for receipting and depositing City funds.

Status per Prosecuting Attorney: Laurie Denham entered a negotiated plea of guilty to felony theft of property charges; was sentenced to 240 months suspended imposition of sentence; and was ordered to pay \$38,042 in restitution (which was paid prior to the plea), \$24,050 in audit costs, and \$2,900 in fines, fees, and court costs.

Matters Referred by Legislative Joint Auditing Committee

Sebastian County (Continued)

Sebastian County Solid Waste Management District (Audit Period: 1/1/20 - 12/31/20):

2022 The following disbursements totaling \$9,000 were made from the Operating Money Market account using cash withdrawals rather than prenumbered checks or an electronic disbursements system:

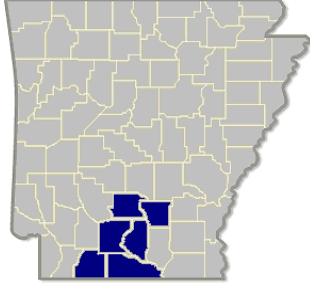
- \$4,500 for gift card purchases without a documented business purpose.
- \$2,500 paid to an individual without adequate supporting documentation.
- \$2,000 for four \$500 bonuses paid to employees. Additionally, the bonuses were not included as income on the employees' IRS W-2 Forms.

During review of credit card charges, ALA staff noted the following questionable purchases totaling \$2,619:

- \$2,507 in college tuition paid, without Board approval, on behalf of a student who worked as a summer intern for the District.
- \$112 paid for meals without itemized receipts or a documented business purpose.

The Sebastian County District conducted business totaling \$39,000 with a company for which a Board member served as Vice President, in noncompliance with Ark. Code Ann. § 21-8-1001. Additionally, the District did not conduct the formal bidding process, in noncompliance with Ark. Code Ann. §§ 8-6-704, 14-22-104.

Status per Prosecuting Attorney: *After a comprehensive criminal investigation by the Arkansas State Police and the PA, it was determined that there is an insufficient amount of admissible evidence to form a reasonable belief that the trier of fact would convict any person of a criminal offense by proof beyond a reasonable doubt.*



Thirteenth Judicial District

Calhoun, Cleveland, Columbia, Dallas, Ouachita, and Union Counties

Judicial District Population: 101,881
Circuit Judges: 6

Jeff Rogers
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Cleveland County

Cleveland County (*Audit Period: 1/1/20 - 12/31/20*):

2022 County Judge

The County disbursed funds totaling \$1,500 to American Red Cross without a contract for services, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted in Op. Att’y Gen. no. 1992-099.

Status per Prosecuting Attorney: *The PA will be sending a letter of caution to the County Judge regarding this issue and requesting that the County enter into a contract for such services or, alternatively, that the funds be reimbursed. This is not considered a criminal matter, and this matter is considered closed.*

Columbia County

Columbia County (*Audit Period: 1/1/20 - 12/31/20*):

2022 Sheriff

Cash receipts exceeded cash deposits by \$32,478 in the Sheriff Bond and Fine Account during the period January 1, 2020 through September 15, 2021. Unreceipted checks totaling \$21,415 were included in bank deposits to potentially conceal some of the unaccounted for cash. The Bond and Fine Clerk, whose employment was terminated on September 15, 2021, was custodian of the funds not deposited.

Status per Prosecuting Attorney: *Former Bond and Fine Clerk Cassandra Atkinson entered a negotiated plea of guilty to felony theft of property > \$25,000; was sentenced to 60 months probation; and was ordered to pay restitution of \$32,478, audit costs of \$10,900, and costs and fees of \$440. Atkinson paid \$32,478 to the County around the time of plea and has been making payments of \$250 per month toward audit costs. As of this report, she has paid \$1,750 and owes \$10,160.*

Matters Referred by Legislative Joint Auditing Committee

Dallas County

City of Sparkman (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor and Recorder/Treasurer

It came to our attention that on December 2, 2019, a bank employee processing a withdrawal for the Mayor, withdrew \$1,911 from the City's Parks and Recreation bank account, rather than from the Mayor's personal account. The Recorder/Treasurer discovered the erroneous withdrawal upon reconciliation of the affected account and notified the bank, which reversed the transaction on February 21, 2020.

Status per Prosecuting Attorney: *With the transaction reversed, this is not a criminal matter. This matter is considered closed.*

Mayor and Police Chief

Fines and costs revenue of \$139,302 exceeded 30% of the City's total expenditures in the preceding year by \$55,799, in noncompliance with Ark. Code Ann. § 12-8-403. This revenue was generated from traffic offense citations written or by arrests made by the City's law enforcement personnel or from ancillary actions related to the enforcement of traffic offenses.

Status per Prosecuting Attorney: *The PA requested that the Director of the Division of Arkansas State Police investigate and determine whether the City was abusing police power by conducting an unlawful speed trap pursuant to Ark. Code Ann. § 12-8-403. Upon completion of the inquiry, the Director of the Division of Arkansas State Police forwarded all information to the PA. The PA negotiated with the City and its Police Chief, and the City has since ceased such conduct. This matter is considered closed.*

Dallas County (Audit Period: 1/1/20 - 12/31/20):

2022 County Judge

During our review of the County's leave records for 2020 and 2021, we noted the following:

- In conflict with the County's personnel policy manual, three County employees, who were on extended leave due to illness, were paid for one day of unearned sick leave each month and for holidays so that they could continue receiving county health benefits. To cover monthly premiums for each employee, the employee paid \$20, and the County paid the remaining \$497. Additionally:
 - Two of the three employees received COVID premium pay and a bonus given to county employees since they had a date approved for return to work. As of April 2022, both individuals were still employed with the County.
 - The remaining employee was released by a physician to perform light duty, which was not available for this employee's position. This individual's employment was terminated in August 2021.
- Leave records examined were not accurately maintained.
- Employees were allowed to have a negative sick leave balance.

Matters Referred by Legislative Joint Auditing Committee

Dallas County (Continued)

Dallas County (Audit Period: 1/1/20 - 12/31/20): (Continued)

Status per Prosecuting Attorney: The PA will be sending a letter to the County Judge advising that the County seek repayment of the monies improperly paid. Further, the PA will advise as to the necessity of proper record keeping.

The County entered into a contract with the Fordyce Chamber of Commerce for economic development services without documented approval by the Quorum Court, in noncompliance with Ark. Code Ann. § 14-176-105. A similar finding was noted in the prior report.

Status per Prosecuting Attorney: The PA will be sending a letter to the County Judge advising that the County should comply with Ark. Code Ann. § 14-176-105 prior to the entry of such contract.

County Sheriff

The County Sheriff purchased electronic cigarettes (e-cigarettes) from an outside vendor without a contract. According to County personnel, the County should receive a 30% commission from sale of the e-cigarettes at the commissary; however, we were unable to verify this assertion due to the lack of a contract and irregular commission payments by the vendor.

Status per Prosecuting Attorney: The PA will be sending a letter to the County Judge advising that the County enter into a contract, that the County seek full payment of any commission owed from the vendor, and the necessity of proper record keeping.

Town of Carthage (Audit Period: 1/1/18 - 12/31/20):

2022 Mayor

During our review of Council minutes, we noted amounts owed to the City by the Mayor (who served in 2018) and Recorder/Treasurer, as well as lack of timely payments and possible negotiated payment reductions. During the engagement, City officials did not provide a reason for the amounts owed; however, during the exit conference, the current Mayor (who took office in 2019) indicated the amounts were for payroll checks issued to the Recorder/Treasurer's husband. The Council decided the former Mayor should reimburse a portion of the amount due because he signed the checks. Documentation supporting the amounts due was not provided.

Subsequent review of payment journals, maintained by the Recorder/Treasurer, indicated the following:

- The Mayor owed, and appears to have paid, the City \$1,100; however, receipts issued totaled \$1,660, and only \$1,410 was deposited, leaving \$250 unaccounted for.
- The Recorder/Treasurer owed, and appears to have paid \$1,400 to the Street Fund; however, receipts issued totaled \$1,650, and only \$850 was deposited, leaving \$800 unaccounted for.

Matters Referred by Legislative Joint Auditing Committee

Dallas County (Continued)

Town of Carthage (*Audit Period: 1/1/18 - 12/31/20*): (Continued)

- The City issued 21 payroll checks, totaling \$4,600 to, the Recorder/Treasurer's husband from May 2017 through December 2018, for services performed, without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107. We noted the additional issues with these payments:
 - Of the 21 checks, only 11 were included on the financial reports presented to the Council.
 - Rates of pay indicated on check stubs were not consistent.
 - Timesheets were not always provided.
 - IRS Form W-2 was not issued.

Furthermore, it should be noted that the Recorder/Treasurer was responsible for receipting and depositing her payments to the City, as well as maintaining the payment journal.

Status per Prosecuting Attorney: *This matter will be referred to law enforcement for investigation.*

Ouachita County

Buena Vista Fire Department (*Audit Period: 1/1/16 - 8/31/21*):

2022 Improper/Undocumented Disbursements

Review of Department records revealed improper/undocumented disbursements totaling \$96,747, which consisted of the following:

- \$92,307 in improper/undocumented payments to the Treasurer.
 - \$67,915 in checks payable to cash that were endorsed by the Treasurer.
 - \$19,100 in transfers to the Treasurer's personal bank accounts.
 - \$3,792 in undocumented reimbursements to the Treasurer.
 - \$1,500 payment to a vendor that was endorsed by the Treasurer.
- \$4,440 in other improper disbursements.
 - \$4,080 in payments to various businesses/individuals without documentation; therefore, the validity of these disbursements could not be determined.
 - \$360 in nonbusiness disbursements (e.g., flowers, donations, etc.), in conflict with the "public purpose" doctrine as interpreted by the Attorney General in Op. Att'y Gen. no. 1991-410.

As of report date, the Treasurer had reimbursed the Department \$3,639 for improper payments she received.

Matters Referred by Legislative Joint Auditing Committee

Ouachita County (Continued)

Buena Vista Fire Department (Audit Period: 1/1/16 - 8/31/21): (Continued)

Internal Control Deficiencies

ALA staff review revealed the following internal control deficiencies:

- Invoices were not retained to support disbursements.
- Financial duties were not adequately segregated, and the Department did not implement any compensating controls.
- The Board did not provide adequate fiscal oversight.

Other Matters

ALA staff obtained copies of the 2016 and 2017 annual expenditure reports that the Department submitted to the State, in accordance with Act 833 funding requirements. While examining invoices included with these reports, ALA staff noted that dates appear to have been altered on several invoices, and these altered dates were entered on the expenditure reports. Further analysis revealed that these invoices had already been reported as Act 833 expenditures in prior years. It appears that these inaccurate reports were prepared by the Treasurer.

Status per Prosecuting Attorney: The former Treasurer, Deborah Brown, entered a negotiated plea of guilty to theft of property > \$25,000; was sentenced to 180 months probation; and was ordered to pay \$96,747 in restitution, \$13,500 in audit costs, and \$440 in fees and costs.

Union County

City of El Dorado (Audit Period: 1/1/2020 - 12/31/20):

2022 Mayor and Advertising and Promotion Commission Chairman

The City paid El Dorado Festivals and Events, a nonprofit corporation, \$100,000 without a contract for services, in noncompliance with Ark. Const. art. 12, § 5. These payments (\$75,039 from the General Fund and \$24,961 from the Advertising and Promotion Fund) were used to set up and operate an ice skating rink during the holiday season.

Status per Prosecuting Attorney: The PA has written a letter advising that a contract for services be prepared and entered into immediately with El Dorado Festivals and Events.

Mayor

The City expended \$5,239 in noncompliance with Ark. Code Ann. § 14-42-107 as follows:

- \$1,009 paid to a business owned by the spouse of an elected official for cleaning services without an authorizing ordinance.
- \$3,195 and \$1,035 paid respectively, to two City employees for miscellaneous jobs performed after normal working hours without an authorizing ordinance.

A similar finding was noted in the previous two reports.

Matters Referred by Legislative Joint Auditing Committee

Union County (Continued)

City of El Dorado (Audit Period: 1/1/2020 - 12/31/20): (Continued)

Status per Prosecuting Attorney: The PA has written a letter advising that the \$1,009 paid to a business owned by the spouse of an elected official and the \$4,230 paid to two City employees be immediately reimbursed to the City, with proof of payment provided to the PA.

The City paid a local construction company (Contractor #1) \$1,412,297 for various projects in 2020. Review of invoices and other documentation concerning these payments revealed the following:

- The City solicited bids for a drainage project in January 2020 and accepted the lowest bid (\$97,969), which was offered by Contractor #1. Subsequently, the City paid Contractor #1 for invoices totaling \$344,878, despite the project remaining unfinished. No change orders or other documentation could be located to justify the excessive amount billed/paid; however, we noted \$60,414 in duplicate billings and overcharges during a review of invoices submitted by Contractor #1.
- Contractor #1 charged \$19,132 for materials purchased from third-party vendors without supporting documentation; therefore, the validity of these charges could not be determined.
- In July 2021, the City agreed to terminate the agreement with Contractor #1 and hire another contractor (Contractor #2) to finish the project. Contractor #2 completed the project in November 2021 and was paid \$69,493, bringing the total cost of the project to \$414,371.

It should also be noted that, in December 2019, the City accepted an hourly rate bid from Contractor #1 for various construction services for calendar year 2020. The City subsequently paid Contractor #1 for several individual projects that exceeded \$35,000 each, without entering into a written contract or soliciting additional bids. We question whether the "hourly rate" bids comply with Ark. Code Ann. § 14-58-303, as interpreted in Op. Att'y Gen. nos. 2001-396 and 2002-225, which requires cities to solicit bids for purchases over \$35,000.

Status per Prosecuting Attorney: The PA has written a letter advising that the City should contact Contractor #1 in order to obtain change orders, invoices, and other supporting documentation to explain the discrepancy in the amount, bid, billed, and ultimately paid, as well as the duplicate billings and overcharges. If such duplicate billings and overcharges did, in fact, occur, then the City should seek recovery of such amounts.

Administration employees received a 3% raise in 2021 without City Council approval. As a result, seven employees received salary overpayments totaling \$5,964.

Status per Prosecuting Attorney: Since this pay raise was not approved by the City Council, the PA advises that these funds be immediately reimbursed to the City until such time that City Council approval is obtained.

Matters Referred by Legislative Joint Auditing Committee

Union County (Continued)

City of El Dorado (Audit Period: 1/1/2020 - 12/31/20): (Continued)

The City paid the El Dorado Chamber of Commerce \$45,000 for economic development services without a contract, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted by Op. Att’y Gen. no. 1992-099.

Status per Prosecuting Attorney: *The PA has written a letter advising that a contract for services should be prepared and entered into in order to remedy this violation.*

The City was unable to provide invoices for credit card charges totaling \$1,662 to various vendors during the period June 1, 2020 through December 31, 2020. Due to a lack of supporting documentation, the validity of these disbursements could not be determined.

Status per Prosecuting Attorney: *The PA has written a letter advising the City to contact vendors who received these payments to obtain invoices and other supporting documentation to confirm the validity of these payments. If the City is unable to obtain any supporting documentation, then the PA advises that the City should seek reimbursement of the funds.*

City of Norphlet (Audit Period: 1/1/20 - 12/31/21):

2022 Mayor

The City paid \$2,400 (\$1,200 in both 2021 and 2020), to an employee for services beyond regular job duties without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107.

The City disbursed funds totaling \$1,000 to the Boys and Girls Club of Smackover/Norphlet without a contract for services, in apparent conflict with Ark. Const. art. 12, § 5.

Status per Prosecuting Attorney: *The PA will advise that the \$2,400 paid to the employee be immediately reimbursed to the City unless or until an authorizing ordinance is passed by the City Council. Regarding the payment to the Boys and Girls Club of Smackover/Norphlet, the PA will advise that a contract for services should be prepared and entered into in order to remedy this violation.*

City of Strong (Audit Period: 1/1/18 - 12/31/18):

2020 Mayor

Analysis of receipts revealed unaccounted for funds totaling \$680 as follows:

- Receipts issued by clerks were subsequently re-receipted by the Mayor, and only receipts issued by the Mayor have been provided by the City in prior audits. Analysis of receipts issued by clerks for the period January 1, 2018 through March 19, 2020, revealed that receipts totaling \$409 were not entered in the City’s general ledger and were apparently not deposited. Several clerk receipt books could not be located; therefore, the actual amount of unaccounted for funds could be higher.

Matters Referred by Legislative Joint Auditing Committee

Union County (Continued)

City of Strong (Audit Period: 1/1/18 - 12/31/18): (Continued)

- Receipts totaling \$186, which were issued by the Mayor in February 2018, were not deposited.
- Receipts issued by the Mayor for two Community Center rentals in 2018 were \$85 less than the amount actually received and noted on the rental agreements.

Analysis of the Mayor's personal Water and Sewer Department accounts, for the period December 9, 2016 through March 24, 2020, revealed the following:

- A "Bad Debt Adjustment" was posted on December 9, 2016, to eliminate a delinquent balance of \$315.
- A "Misread Meter Adjustment" was posted on March 29, 2019, to reduce the account balance by \$471. The misreading apparently occurred prior to March 2019, when the Department was using a different computer system. Data from this system were unavailable, so the validity of this adjustment could not be determined.
- Only one payment has been made on the account since March 2019, resulting in a delinquent balance of \$488 as of March 24, 2020.

Status per Prosecuting Attorney: *These matters are currently under investigation by law enforcement.*

City of Strong (Audit Period: 1/1/16 - 12/31/17):

2019 Improper disbursements noted during review of selected expenditures are as follows:

- \$36,201 in expenses and \$516 in vacation leave paid before services were rendered.
- \$5,839 in payments to individuals and businesses without adequate documentation; therefore, the validity of these disbursements could not be determined.
- \$270 in travel-related expenses without a business purpose indicated.
- \$182 in undocumented petty cash reimbursements and \$140 in undocumented cash withdrawals.
- \$150 charge assessed by hotel for smoking in room.
- \$60 reimbursement for meals without an overnight stay.

Additionally, ALA staff noted \$15,721 in questionable payments to individuals and businesses that were supported by handwritten invoices not signed by the individual receiving the funds. It appears that many of these invoices were actually prepared by the City.

Matters Referred by Legislative Joint Auditing Committee

Union County (Continued)

City of Strong (Audit Period: 1/1/16 - 12/31/17): (Continued)

On December 10, 2018, an individual used City bank account information to process an unauthorized withdrawal totaling \$2,700. An outside accounting firm utilized by the City discovered the unauthorized withdrawal upon reconciliation of the affected bank account on April 23, 2019. Due to not being detected timely, the bank will not reimburse the City's funds.

Status per Prosecuting Attorney: *These matters are currently under investigation by law enforcement.*

Union County (Audit Period: 1/1/17 - 12/31/17):

2018 County Judge

On October 5, 2017, ALA staff observed a local construction company, owned by the father of the County Judge, acquiring loads of gravel at the County Road Department. During the 2017 audit engagement, ALA staff also determined that gravel tickets were not processed for this company on that date; Road Department personnel could not explain this discrepancy.

Status per Prosecuting Attorney: *This matter is currently under investigation.*

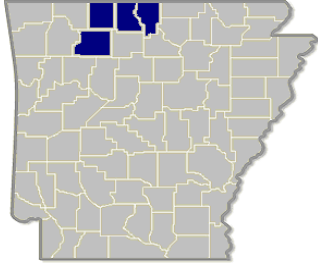
Union County (Audit Period: 1/1/16 - 12/31/16):

2018 County Judge

According to a Sheriff's Office incident report, cash totaling approximately \$15,000 and tools valued at \$3,000 were stolen from the Road Department shop during a burglary in September 2016. An interview with the Road Foreman and County Judge revealed that the \$15,000 was from the sale of scrap metal. Two Road Department employees, James Davis and Christopher Green, whose employment was terminated on September 21, 2016 and September 22, 2016, respectively, were arrested. Subsequently, both individuals were charged with and pled guilty to commercial burglary and theft of property. Cash totaling \$9,061 and the tools were recovered from these individuals upon arrest. Based on Sheriff's Office reports and interviews with County personnel, the cash was released to the County Judge. However, this cash was never deposited in a County bank account and could not be physically located. On January 24, 2018, the County Judge assumed responsibility for the unaccounted for funds and reimbursed \$9,061 to the County, leaving \$5,939 unaccounted for.

Status per Prosecuting Attorney: *This matter is currently under investigation.*

Note: No matters were referred for Calhoun County.



Fourteenth Judicial District

Baxter, Boone, Marion, and Newton Counties

Judicial District Population: 104,156
Circuit Judges: 4

David Ethredge
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Baxter County

Arkansas Game and Fish Commission (*Audit Period: 7/1/19 - 6/30/20*):

2021 R1-19-4-2004 of the Department of Finance and Administration (DFA) Office of Accounting Financial Management Guide states that “the bonded disbursing officer for each state agency, board, commission or institution is responsible for... reporting any losses of state funds to the Chief Fiscal Officer of the State and to the Division of Legislative Audit. Losses include... the apparent theft or misappropriation of state funds or property theft.” The Arkansas Game and Fish Commission (AGFC) notified Arkansas Legislative Audit (ALA) of the following theft of state property:

- Between May 18, 2020 and July 22, 2020, a 20 horsepower Yamaha outboard motor with a tiller handle and an electric jack plate with a cost of \$3,218 was stolen from an AGFC trout boat while located at Shawnee Supreme Boats in Midway, Arkansas (Baxter County) for repairs. Incident and police reports were filed.

Status per Prosecuting Attorney: *This matter remains under investigation by law enforcement. At this time, a defendant has not been identified. There will be no action in this matter until such time as additional evidence is obtained by law enforcement.*

Boone County

Bergman School District (*Audit Period: 7/1/20 - 6/30/21*):

2022 The District paid an employee \$1,500 for a vehicle without obtaining a Board resolution, as required by Ark. Code Ann. § 6-24-107.

Status per Prosecuting Attorney: *Although this action was taken outside the parameters of the statute, there was not any intent to violate the law. As a result, there is no further action to be taken by this office.*

Matters Referred by Legislative Joint Auditing Committee

Boone County (Continued)

Town of Alpena (Audit Period: 1/1/19 - 12/31/21):

2022 Mayor and Recorder/Treasurer

The following areas of noncompliance were noted in the Town's Special Events Account:

- Adequate supporting documentation was not maintained for all disbursements, as required by Ark. Code Ann. § 14-59-105.
- Prenumbered checks were not issued for all disbursements, as required by Ark. Code Ann. § 14-59-105.
- The Town paid a total of \$671 for food served at school events, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted in Op. Att'y Gen. no. 91-410.

Status per Prosecuting Attorney: *This activity fails to comply with the applicable Arkansas law but is not subject to criminal prosecution.*

Marion County

City of Bull Shoals (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor and Recorder/Treasurer

The City paid a total of \$10,001 to operate a Shop with a Cop program: \$2,000 in 2021, \$5,543 in 2020, \$2,358 in 2019, and \$100 in 2018. These payments conflict with the "public purpose" doctrine and Ark. Const. art. 12, § 5, as interpreted in Op. Att'y Gen. no. 91-410. Although the City received private donations to fund these purchases, we were unable to determine which donations were for the Shop with a Cop program because documentation was not available for all donations and expenditures were recorded in multiple accounts. It should be noted that all funds were spent in 2021, and the program is now being administered by the Fire Department auxiliary.

Status per Prosecuting Attorney: *The City has been instructed by Legislative Audit as it relates to the proper action to be used in the City's participation in the "Shop with a Cop" program. There was no proof of any loss of public funds and no criminal action taken by the City.*

City of Flippin (Audit Period: 1/1/18 - 12/31/20):

2022 Mayor and Deputy City Clerk

Supporting documentation was not provided for tested credit card disbursements of \$688, \$953, and \$2,869 in 2020, 2019, and 2018, respectively, in noncompliance with Ark. Code Ann. § 14-59-105. Although these charges were made with vendors normally used, we could not verify a business purpose due to inadequate supporting documentation.

Status per Prosecuting Attorney: *The City has been directed on appropriate documentation for credit card usage. There are no reasons for criminal prosecution.*

Matters Referred by Legislative Joint Auditing Committee

Marion County (Continued)

Marion County (*Audit Period: 1/1/20 - 12/31/20*):

2022 County Judge and County/Circuit Clerk

A review of selected credit card transactions revealed the following deficiencies:

- Statements for two credit card accounts were not properly reconciled monthly to ensure all charges were documented and paid resulting in total unpaid balances of \$10,419 at December 31, 2020.
- \$7,537 in undocumented charges (\$3,238 unpaid and \$4,299 paid in 2020 and January 2021).
- \$2,943 in purchases for which a valid business purpose could not be substantiated. These purchases consisted of:
 - \$2,221 for clothing
 - \$651 for food purchased from grocery stores and restaurant meals without overnight travel.
 - \$71 in unknown charges
- \$2,745 in documented charges that were not paid as of December 31, 2020.
- \$1,534 paid to the wrong credit card company.
- \$311 in late fees and finance charges assessed on the accounts.

During the COVID-19 pandemic, the County participated in the Shared Work Unemployment Compensation Program, which allowed County employees to work reduced hours while receiving a portion of unemployment benefits, creating savings for the County. These unemployment benefit payments were made directly to participating individuals and did not flow through the County.

A County employee, who received benefits for which she was ineligible, created and submitted an invoice billing the County for the \$2,088 the employee owed to the State. The claim was stamped with the County Judge's signature without his approval, and the County paid the employee \$2,088 on December 30, 2020. Upon further review by the County Judge, it was determined that the amount owed the State was not the County's responsibility, and the employee reimbursed the County \$2,088 on January 7, 2021.

Status per Prosecuting Attorney: All issues identified have been addressed by the current County Judge with the respective elected officials. Although not in compliance with Arkansas law, there are no actions that would allow for a successful prosecution; therefore, no further action will be taken.

County Judge

As noted in the 2018 audit report, the 14th Judicial District Prosecuting Attorney (Prosecuting Attorney) received allegations of misappropriated revenue in the County's Transfer Station and questionable payments to a vendor. Specific allegations included:

Matters Referred by Legislative Joint Auditing Committee

Marion County (Continued)

Marion County (Audit Period: 1/1/20 - 12/31/20): (Continued)

- Use of County employees and equipment to produce revenue for a business owned by a Transfer Station employee.
- Payments to a local vendor for vehicle repairs and equipment purchases, as well as the sale of County equipment to the same vendor.

The Prosecuting Attorney requested our assistance, in conjunction with an investigation by Arkansas State Police. Within the scope of our procedures, we could not substantiate the allegations due to the lack of adequate documentation and issued no findings in addition to those contained in the 2018 audit report. Furthermore, we will not issue a separate report on these matters.

Status per Prosecuting Attorney: *This matter was reviewed by Arkansas State Police, and additional review was performed by Legislative Audit. There was not sufficient evidence to identify a defendant for possible prosecution.*

Newton County

Newton County (Audit Period: 1/1/20 - 12/31/21):

2022 County Judge

The County paid an employee a \$6,000 bonus after nine years of service, in noncompliance with Newton County Ordinance no. 08-21 (July 7, 2008), which states, "Newton County employees who have completed 25 years of service will have the option to state their intention to retire in 3 years and receive a \$2,000 yearly income for the last three years of employment." The employee retired 10 months after receiving the bonus and was then re-hired by the County six months later. Subsequent to our questioning of the payment, the employee repaid \$6,000 to the County on August 17, 2022.

Sheriff

A review of employee leave records revealed a Sheriff's Office employee resigned from County employment on February 19, 2021, and started working for another municipality on February 22, 2021. Subsequently, the County paid the former employee for 40 hours every week for 8 months using sick, vacation, and compensatory time, with payments totaling \$15,324. Documentation supporting leave balances was not provided; therefore, we were unable to determine the validity of these payments. In addition, it appears this individual was paid for more leave than he was eligible to accrue during his tenure.

Furthermore, payout of sick and/or compensatory time in this manner conflicts with the County's personnel policy.

Status per Prosecuting Attorney: *After a careful review of these matters, there is not an issue to allow for criminal prosecution. The facts that gave rise to these deficiencies have been addressed with the respective departments.*



Fifteenth Judicial District

Conway, Logan, Scott, and Yell Counties

Judicial District Population: 72,065
Circuit Judges: 3

Tom Tatum, II
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

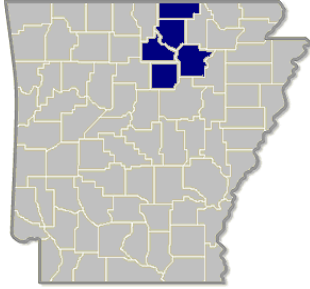
Logan County

City of Subiaco (*Audit Period: 1/1/19 - 12/31/20*):

2022 The City paid a nonprofit organization \$3,000 (\$1,500 in both 2020 and 2019) for community child advocacy services without a contract, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted by Op. Att'y Gen. no. 1992-099.

Status per Prosecuting Attorney: After speaking with the Mayor and City Clerk, it appears the issue has been resolved. The City has not paid any money to the community child advocacy group since the audit was completed for 2019 and 2020.

Note: No matters were referred for Conway, Scott, and Yell Counties.



Sixteenth Judicial District

Cleburne, Fulton, Independence, Izard, and Stone Counties

Judicial District Population: 101,275
Circuit Judges: 4

Eric Hance
Prosecuting Attorney (2022)

Drew Smith
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Fulton County

Viola School District (*Audit Period: 7/1/20 - 6/30/21*):

- 2022 The District paid \$1,609 to a credit card company without adequate documentation; therefore, the validity of these disbursements could not be determined.

Status per Prosecuting Attorney: *The PA does not believe that criminal charges are warranted. The District has implemented better controls and internal oversight to help monitor the credit card accounts on a month-to-month basis. This should allow for additional oversight and prevent any of these issues from happening again in the future.*

Stone County

Stone County (*Audit Period: 1/1/19 - 12/31/19*):

2021 Sheriff

Our review of Sheriff's Office bank accounts and selected disbursements from January 1, 2019 through June 4, 2020, revealed improper and questionable transactions totaling \$70,545 due to a general lack of oversight and internal controls within the Sheriff's Office. Many of the questionable purchases detailed below appear to be for items without a business purpose, in apparent conflict with the "public purpose" doctrine and Ark. Const. art. 12, § 5. A similar finding was noted in the prior report.

- A. \$15,729 in unaccounted for equipment and gun purchases:
- \$9,939 for guns, accessories, and ammunition reloading equipment.
 - \$5,790 for miscellaneous small equipment items (shooting equipment, 55" TV, Oakley sunglasses, body armor, fencing materials, propane cooker, small hand tools, external hard drive, cooler, storage containers, game cameras, small kitchen appliances, tool box, iPhone, and hunting gear).
- B. \$12,033 in purchases without a documented business purpose or proper authorization by the Sheriff:

Matters Referred by Legislative Joint Auditing Committee

Stone County (Continued)

Stone County (Audit Period: 1/1/19 - 12/31/19): (Continued)

- \$4,189 for building materials, tools, wiring supplies, and boat and automotive parts.
 - \$3,776 for miscellaneous small equipment items (shooting equipment, tiki torches, Apple watch, propane heaters, shop vac, laptop computer, game cameras, gun scopes, range finders, and iPad).
 - \$2,358 for personal clothing.
 - \$1,269 for food primarily from grocery stores and miscellaneous household items.
 - \$441 for fuel.
- C. \$8,640 in unallowable and unauthorized purchases:
- \$8,237 for gun accessories and night vision goggles paid for in February 2020, although the County did not receive the items; subsequently, in June 2020, a Sheriff's Office employee reimbursed this amount to the County and indicated the order had been cancelled.
 - \$403 for a spotting scope purchased from the Boating Safety Fund. This purchase was not authorized by the Sheriff and was not an allowable expense from this fund.
- D. \$6,144 in purchases with questionable documentation:
- \$2,771 for ammunition supported by two invoices that did not match other invoices from the same vendor.
 - \$2,000 for a training course with documentation we could not verify as valid. Additionally, an employee documented as a course participant indicated that he did not attend and was unaware of the course.
 - \$1,238 in duplicate credit card payments.
 - \$135 that appears to have been altered on an invoice.
- E. \$4,046 in undocumented disbursements for items purchased from various vendors. Although some of these purchases were from vendors normally used, without adequate documentation the business purpose could not be substantiated.
- F. \$5,700 in drug buy funds withdrawn from the Sheriff's Office Investigative Funds bank account, in April 2019 and January 2020, without proper authorization. Of this amount, \$4,750 was returned to the Sheriff's Office in cash by a Sheriff's Office employee on March 2, 2020. The remaining \$950 was unaccounted for as of report date.

Matters Referred by Legislative Joint Auditing Committee

Stone County (Continued)

Stone County (*Audit Period: 1/1/19 - 12/31/19*): (Continued)

- G. A \$5,000 bond refund paid to a released jail inmate from the municipal bond account on the instructions of a Sheriff's Office employee on January 31, 2020, although the inmate was not owed the refund. Sheriff's Office staff subsequently obtained documentation from the employee's County email account of a vehicle purchased by both the employee and the released jail inmate six days after bond refund, with a vehicle owned by the Sheriff's Office employee listed as trade-in on the vehicle purchased. The employee's email account also contained documentation of other payments to the inmate from the employee's personal bank accounts.

We also noted other improper and questionable transactions related to Sheriff's Office credit card usage and transactions as listed below:

- A. \$4,742 in Sheriff's Office credit card payments not paid through the claims process, as required by Ark. Code Ann. § 14-14-1102:
- \$4,597 paid from the municipal bond account on December 24, 2019. As of January 31, 2020, the municipal bond account was short \$9,907 as a result of this payment, the \$5,000 questionable bond refund noted above, and a \$310 unidentified variance. In February 2020, the account was overdrawn as a result of a \$6,318 disbursement made in error to another Sheriff's Office account that was subsequently refunded.
 - \$145 paid in cash by a Sheriff's Office employee in March 2020.
- B. \$7,733 in unpaid credit card charges:
- \$6,840 in documented charges:
 - \$3,090 for guns that were not accounted for.
 - \$3,004 for apparent personal purchases made by an employee.
 - \$746 in charges that appear to be valid office expenses.
 - \$893 in undocumented charges:
 - \$309 payment on the Sheriff's Office fuel card.
 - \$284 in purchases at a farm and home store.
 - \$142 for fuel.
 - \$122 for lodging.
 - \$36 in purchases at a grocery store.
- C. \$778 in late fees and finance charges incurred on Sheriff's Office credit cards and charge accounts with local vendors.

County officials indicated some of the purchased items in question were returned to the County by a Sheriff's Office employee after his suspension and subsequent resignation in March 2020. These matters are currently being investigated by the Arkansas State Police.

Matters Referred by Legislative Joint Auditing Committee

Stone County (Continued)

Stone County (Audit Period: 1/1/19 - 12/31/19): (Continued)

Status per Prosecuting Attorney: *It is believed that the bulk of the audit findings are the responsibility of former Chief Deputy Zachary Alexander. A cashier's check for \$25,000 has been tendered to the County Judge by representatives of Alexander. It is the PA's understanding that the cashier's check is currently in the possession of the Arkansas State Police. Alexander was indicted in federal court in May 2022 on charges of bank fraud, selling a stolen firearm, and extortion. This case is pending.*

Stone County (Audit Period: 1/1/18 - 12/31/18):

2019 ALA review of selected Sheriff's Office expenses from January 1, 2018 through May 1, 2019, revealed the following deficiencies:

Questionable Business Purpose

- \$407 to a hotel for a one-night stay for an employee. The date of the stay coincided with dates of a Sheriff's conference that other employees attended; however, ALA staff were unable to determine if this employee was registered for or attended the conference.
- \$458 for hotel rooms for two employees. The date and location of the stay coincided with the date and location of the high school basketball state tournament finals. An employee informed ALA that a local school district Superintendent requested the Sheriff's Office provide security for local teams; however, ALA staff confirmed with the Superintendent that no such request was made, and the district's resource officers provided security.

Documentation Discrepancies

- An employee submitted an apparently falsified invoice totaling \$3,132 to the County Clerk to conceal the purchase of an M-24 rifle.
- An employee submitted an apparently altered invoice for payment of a \$460 hotel charge that did not agree with the invoice provided by the vendor; however, the total amount paid to the hotel was correct.

Furthermore, ALA staff noted undocumented purchases of \$134.

Status per Prosecuting Attorney: *Subsequent to an investigation by Arkansas State Police and the Federal Bureau of Alcohol, Tobacco, and Firearms, former Chief Deputy Zachary Alexander was indicted in federal court in May 2022 on charges of bank fraud, selling a stolen firearm, and extortion. This case is pending.*

Note: No matters were referred for Cleburne, Independence, and Izard Counties.



Seventeenth Judicial District

Prairie and White Counties

Judicial District Population: 85,342
Circuit Judges: 3

Rebecca Reed McCoy
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Prairie County

Central Arkansas Regional Solid Waste Management District (*Audit Period: 7/1/19 - 12/1/21*):

- 2022 The Central Arkansas District conducted business totaling \$1,287 with a company that a Board member (i.e., the Mayor of Des Arc) owned, in noncompliance with Ark. Code Ann. § 21-8-1001.

Status per Prosecuting Attorney: *Management provided a sufficient response setting out the remedial actions to be taken by the Board. There is not an issue of criminal conduct in this area.*

White County

City of Higginson (*Audit Period: 1/1/21 - 12/31/21*):

- 2022 Mayor and Recorder/Treasurer

The City utilized American Rescue Plan Funds to issue \$2,028 in premium pay to the Mayor and a Council member for their role as sewer operators for the City. Based on Ark. Code Ann. § 14-42-107 and Op. Att'y Gen. no. 2003-164, we question the propriety of the premium pay and the dual roles filled by these individuals. In addition, the premium pay appears to be in conflict with the US Treasury Final Rule, which states that elected officials cannot be provided premium pay.

Status per Prosecuting Attorney: *The Mayor provided a letter setting out remedial actions taken by the City. The PA is satisfied with the corrections. There is not an issue of criminal conduct.*

City of Searcy (*Audit Period: 1/1/21 - 12/31/21*):

- 2022 Mayor

The City contracted with five police officers for security services totaling \$1,725 without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107.

Status per Prosecuting Attorney: *The PA sent a letter of caution to the new Mayor and the new City Attorney regarding strict compliance with Arkansas laws. These unauthorized payments do not meet the elements of any criminal offense; specifically, there does not appear to be criminal intent in any of these issues.*

Matters Referred by Legislative Joint Auditing Committee

White County (Continued)

White County (Audit Period: 1/1/21 - 12/31/21):

2022 County Judge

In fiscal year 2021, the Quorum Court amended the County's longevity bonus ordinance to include Quorum Court members. The County paid \$5,200 in longevity bonuses to nine Quorum Court members, in apparent conflict with Ark. Code Ann. § 14-14-1205 and Op. Att'y Gen no. 2016-072.

Status per Prosecuting Attorney: *The issue was addressed and remedied by the previous County Judge; however, the PA also sent a letter of caution regarding strict compliance with Arkansas laws. These unauthorized payments do not meet the elements of any criminal offense; specifically, there does not appear to be criminal intent in any of these issues.*



Eighteenth Judicial District-East

Garland County

Judicial District Population: 100,330
Circuit Judges: 4

Michelle Lawrence
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Garland County

National Park College (*Audit Period: 7/1/20 - 6/30/21*):

2022 The College discovered that a check, dated March 18, 2021, and totaling \$3,770, was mailed to an out-of-state vendor and subsequently altered and cashed by a third party on April 16, 2021. As of report date, the College had not been reimbursed by the bank, and the matter was being investigated by the United States Postal Service.

Status per Prosecuting Attorney: No additional action taken.



Eighteenth Judicial District-West

Montgomery and Polk Counties

Judicial District Population: 27,964
Circuit Judges: 1

Jason Barrett
Prosecuting Attorney (2022)

Debra Buschman
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Montgomery County

Montgomery County (*Audit Period: 1/1/21 - 12/31/21*):

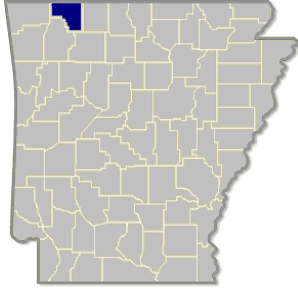
2022 County Sheriff

Sheriff's Office cash receipts exceeded bank deposits by \$1,560 during the period January 1, 2021 through January 10, 2022. It appears receipts were altered to conceal the unaccounted for funds. The Administrative Assistant, who was custodian of funds, resigned on January 10, 2022.

Status per Prosecuting Attorney: *Due to a conflict of interest, a Special Prosecutor was appointed to handle this case.*

Status per Special Prosecuting Attorney: *A State Police investigation revealed that multiple individuals had access to the cash box, and there was a shared username and password for the financial system. There is an insufficient amount of admissible evidence to form a reasonable belief that that trier of fact will convict anyone of a criminal offense by proof beyond a reasonable doubt.*

Note: No matters were referred for Polk County.



Nineteenth Judicial District-East

Carroll County

Judicial District Population: 28,435
Circuit Judges: 1

Tony Rogers
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Carroll County

Carroll County (Audit Period: 1/1/21 - 12/31/21):

2022 County Clerk

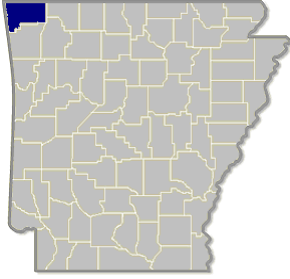
On December 22, 2021, the County discovered that an employee's payroll direct deposit had been fraudulently diverted to another bank account, after the employee contacted the County about not receiving payment. It was determined that, on December 17, 2021, the County made a direct deposit change request after receiving an email from what appeared to be the employee's email account. This transaction resulted in a \$1,278 loss to the County.

Status per Prosecuting Attorney: *The fraudulent email appears to have originated outside the United States. A suspect cannot be identified.*

City of Eureka Springs (Audit Period: 1/1/19 - 12/31/19):

2021 On October 3, 2019, Parks and Recreation discovered that a bank account linked to a point-of-sale software had been altered, and funds were being diverted to another bank account, resulting in a \$6,157 loss to the City. This matter is currently under investigation by the Arkansas State Police.

Status per Prosecuting Attorney: *Stephanie Gulu entered a negotiated plea of guilty to felony theft of property; was sentenced to 48 months unsupervised probation; and was ordered to pay \$6,157 in restitution and \$190 in fees and costs.*



Nineteenth Judicial District-West

Benton County

Judicial District Population: 293,692
Circuit Judges: 7

Nathan Smith
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Benton County

Avoca Volunteer Fire Department (*Audit Period: 1/1/16 - 1/31/21*):

2022 Improper Transactions by the Former Treasurer/Secretary

ALA staff review of Department bank statements revealed \$24,597 in unauthorized and undocumented disbursements to Adam Kinney, former Department Treasurer/Secretary, as follows:

- \$12,000 in payments without supporting documentation or written justification.
- \$6,505 in apparent reimbursement payments without supporting documentation.
- \$6,092 in payroll expenditures in excess of established compensation.

It should be noted that Kinney was the sole signor on all of the above checks (66 checks), which were issued to himself.

Undocumented Disbursements

ALA staff review of Department bank statements indicated over 1,450 debits totaling \$701,648 during the period January 5, 2016 through May 31, 2021. Of this amount, \$163,239 was classified as "payroll." ALA staff noted other payments to vendors, with some appearing to be for normal Department operations and others appearing questionable. However, because supporting documentation was not available for review, ALA staff were unable to determine the propriety of these disbursements.

Internal Control Deficiencies

Numerous deficiencies in internal control were noted during this review, including the following:

- Two signatures were not required on checks issued.
- Bank statements were not reviewed independently of the former Treasurer/Secretary.
- Supporting documentation for disbursements was not maintained for inspection.

Matters Referred by Legislative Joint Auditing Committee

Benton County (Continued)

Avoca Volunteer Fire Department (*Audit Period: 1/1/16 - 1/31/21*): (Continued)

- Employee payroll taxes withheld were not reconciled to taxes remitted to applicable taxing authorities.
- Board meeting minutes were not available to document Board actions.

In January 2021, Kinney repaid \$19,700 to the Department. This repayment was comprised of three personal checks in the amounts of \$700, \$13,000, and \$6,000.

Status per Prosecuting Attorney: *Kinney entered a negotiated plea of guilty to felony theft of property charges; was sentenced to 36 months probation; and was ordered to pay \$4,897 in restitution, \$9,550 in audit costs, and \$1,440 in fines, fees, and costs.*

City of Centerton (*Audit Period: 1/1/21 - 12/31/21*):

2022 Mayor

In late 2021, City personnel were made aware of questionable expenditures made by the former Public Works Director (Director), and the Centerton Police Department (Department) investigated this matter. Subsequently, the Director was charged, on December 16, 2021, with felony theft of property and fraudulent use of a credit or debit card in the amount of \$62,190. Our review of selected transactions included in the charged amount and select Public Works expenditures not included in the charged amount revealed an additional \$1,850 in expenditures that the Department identified as questionable.

Status per Prosecuting Attorney: *This matter is pending in court.*

The City disbursed \$2,500 to Ozark Regional Transit, Inc., without a contract for services, in apparent conflict with Ark. Const. art. 12, § 5.

Status per Prosecuting Attorney: *Since this does not appear to have any criminal intent, the PA does not believe criminal charges would be appropriate.*

City of Highfill (*Audit Period: 1/1/19 - 12/31/21*):

2022 Mayor

The City paid \$812 to a business owned by an employee without an authorizing ordinance, in apparent conflict with Ark. Code Ann. § 14-42-107.

Status per Prosecuting Attorney: *The City has been alerted to this issue and will take steps in the future to mitigate it. Since this does not appear to have any criminal intent, the PA does not believe criminal charges would be appropriate.*

Matters Referred by Legislative Joint Auditing Committee

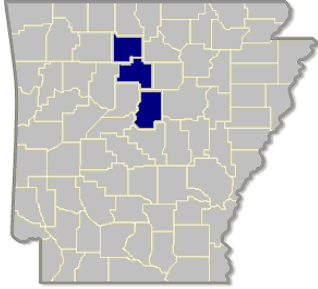
Benton County (Continued)

City of Sulphur Springs (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor

On August 17, 2020, the City paid an attorney \$500 to set up a nonprofit organization, City of Sulphur Springs Foundation. In addition, the City paid \$11,671 on October 30, 2020, to this organization without a contract, in apparent conflict with Ark. Const. art. 12, § 5, as interpreted in Op. Att'y Gen. no. 1992-099.

Status per Prosecuting Attorney: *The City has been alerted to this issue and will take steps in the future to mitigate it. Since this does not appear to have any criminal intent, the PA does not believe criminal charges would be appropriate.*



Twentieth Judicial District

Faulkner, Searcy, and Van Buren Counties

Judicial District Population: 148,680
Circuit Judges: 5

Carol Crews
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Faulkner County

City of Vilonia (*Audit Period: 1/1/17 - 12/31/17*):

2018 Mayor and Recorder/Treasurer

According to City personnel, questionable credit card charges (\$1,206) made in September and October 2016 and related interest (\$54) were noted on a credit card in the custody of the Park Director. While this employee stated he was not responsible for these charges, the City did not substantiate this statement and paid the credit card company \$1,206 on January 26, 2017. Based on ALA's internet search, the phone number associated with this vendor is considered a suspicious, unsafe number.

Status per Prosecuting Attorney: *The PA requested an investigation by the Faulkner County Sheriff's Office and has yet to receive an investigative file.*

Searcy County

City of Marshall (*Audit Period: 1/1/21 - 12/31/21*):

2022 Mayor and Recorder/Treasurer

The Mayor was overpaid \$8,500 from Street Fund during 2021 due to a clerical error. According to the Mayor, during an executive session held on August 9, 2022, the City Council discussed this overpayment, as well as restricted Street Fund monies of \$6,500 expended for the Mayor's salary in 2020 and reported in the prior audit report. The Council agreed unanimously in executive session not to require the Mayor to repay the 2021 salary overpayment and then voted in open session to transfer \$15,000 from the General Fund to the Street Fund to cover the unallowable expenses.

Status per Prosecuting Attorney: *A Special Prosecutor was appointed to handle this case.*

Status per Special Prosecuting Attorney: *The Special PA found no criminal intent to steal/defraud the City, and no further action will be taken. The Special PA has been assured this problem has been corrected in their system, but the action of presenting it to the Council alleviates any concerns about misappropriation.*

Matters Referred by Legislative Joint Auditing Committee

Searcy County (Continued)

City of Marshall (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor and Recorder/Treasurer

We noted the following improper payroll disbursements totaling \$13,507:

- \$8,951 in unused vacation leave paid to seven employees, in conflict with City policy, which states that unused leave is only to be paid when employment is terminated. Of this amount, \$6,105 was not properly documented, in conflict with Ark. Code Ann. § 14-59-105.
- \$4,556 in undocumented salary payments for which timesheets were not maintained, in conflict with Ark. Code Ann. §§ 14-59-105, -114.

Status per Prosecuting Attorney: Due to a conflict of interest, a Special Prosecutor was appointed.

Status per Special Prosecuting Attorney: With the assistance of Arkansas State Police and Legislative Audit, the Special PA conducted a thorough inquiry into the nature of the allegations and did not find facts to support the necessary element of criminal intent to deprive, by either the city officials who rendered payment or those employees who received payment. Charges will not be filed.

Searcy County (Audit Period: 1/1/20 - 12/31/20):

2022 County Judge

A review of the County Judge's expense reimbursements for the period January 1, 2020 through November 16, 2021, revealed the following questionable reimbursements:

- \$48,193 in purchases shipped to the County Judge's personal residence in 2021 (\$26,242) and 2020 (\$21,951). These purchases consisted primarily of automotive parts, tools, and shop supplies. Because of the lack of controls and the nature of the items purchased, we were unable to substantiate a valid business purpose or determine if the County received the items purchased. It should be noted that some of the parts purchased did not appear to be compatible with any vehicles on the County's asset listing.
- \$4,011 in purchases that were reimbursed twice or for items returned and refunded after reimbursement to the County Judge in 2021 (\$2,725) and 2020 (\$1,286). The County Judge repaid the County \$4,011 on December 1, 2021, for these overpayments.
- Review of monthly credit card statements indicated that the Judge received incentive points for purchases made and paid for by the County. The value of these incentives could not be determined.

Additionally, a comparative analysis of departments/funds under the County Judge revealed that total expenses for automotive parts and repairs increased approximately 56% from 2018 to 2021.

Matters Referred by Legislative Joint Auditing Committee

Searcy County (Continued)

Searcy County (Audit Period: 1/1/20 - 12/31/20): (Continued)

Status per Prosecuting Attorney: Due to a conflict of interest, a Special Prosecutor was appointed.

Status per Special Prosecuting Attorney: With the assistance of Arkansas State Police, the Special PA conducted a thorough inquiry into the nature of the purchases by the former County Judge. Based on evidence submitted, it is believed that these items were, in fact, purchased for and used on county-owned property, in spite of the fact that the former County Judge made the purchases using his personal credit card and was reimbursed by the County for these purchases. As a result, the burden of proof for a criminal charge could not be met.

Van Buren County

City of Fairfield Bay (Audit Period: 1/1/20 - 12/31/20):

2022 Our review of selected disbursements in the Emergency Medical Services (EMS) Department, for the period January 1, 2019 through July 1, 2021, revealed improper and questionable transactions totaling \$19,388. Many of the questionable purchases detailed below appear to be for items without a business purpose, in apparent conflict with the “public purpose” doctrine and Ark. Const. art. 12, § 5.

The following transactions, totaling \$17,936, were charged to a City credit card by the EMS Captain or paid to an immediate family member:

- \$4,842 in purchases without adequate documentation.
 - \$2,049 for uniforms.
 - \$1,500 for satellite bills without detailed account information.
 - \$519 for hotel charges without invoices.
 - \$444 in conference hotel charges without the invoice and for dates beyond the conference.
 - \$231 for various charges for which documentation was not detailed or did not agree with items charged.
 - \$99 for meals without an adequately documented business purpose.
- \$4,018 in purchases without a documented business purpose.
 - \$1,893 for meals and grocery items.
 - \$872 for various household and kitchen items (65-inch TV, area rug, small furniture and storage items, cleaning and kitchen supplies, bedding).
 - \$582 for small hand tools and miscellaneous parts.

Matters Referred by Legislative Joint Auditing Committee

Van Buren County (Continued)

City of Fairfield Bay (*Audit Period: 1/1/20 - 12/31/20*): (Continued)

- \$339 for boat rental for a team-building event that does not appear to have occurred.
- \$332 for miscellaneous items (earbuds, device chargers, children's toys, children's face masks, and a Facebook ad campaign).
- \$2,895 in personal purchases for which the EMS Captain, when questioned by the City Treasurer, paid the credit card company directly.
- \$2,817 in unaccounted for equipment purchases.
 - \$1,784 for miscellaneous hand tools, several of which appear to have been seized during the execution of a search warrant by the Fairfield Bay Police Department; however, we were unable to determine if some of the tools seized matched the items purchased by the City.
 - \$1,033 for miscellaneous household items (furniture and small storage items, appliances, electronics, and accessories).
- \$2,019 in purchases without documentation.
 - \$1,090 from vendors used in the normal course of business; however, without documentation, we could not verify the business purpose of these purchases.
 - \$660 from Amazon, PayPal, and Facebook.
 - \$269 from various department stores and restaurants.
- \$874 for meals that were subsequently reimbursed to the EMS Captain or an immediate family member.
- \$417 in miscellaneous late fees.
- \$54 in grocery items purchased with SNAP benefits that were subsequently reimbursed to the EMS Captain.

It should be noted that the EMS Captain benefitted from promotional discounts, totaling at least \$592, by using City accounts for many of the above purchases of apparent personal or unaccounted for items.

On May 4, 2021, EMS Captain Andrea Notz was placed on administrative leave. On August 27, 2021, she was charged with one count each of felony theft of property and non-financial identity fraud, six counts of fraudulent use of a credit or debit card, and 18 counts of prohibited acts for public employees. Furthermore, according to local law enforcement, some of the personal items purchased with EMS funds were seized from Notz's home. These matters are currently being investigated by law enforcement.

Questionable transactions totaling \$1,452 were charged to another City credit card by EMS personnel other than the Captain:

Matters Referred by Legislative Joint Auditing Committee

Van Buren County (Continued)

City of Fairfield Bay (Audit Period: 1/1/20 - 12/31/20): (Continued)

- \$639 in hotel and parking fees related to a conference in New Orleans but outside the documented conference dates.
- \$427 in purchases without documentation.
 - \$244 at a hotel in New Orleans.
 - \$183 from vendors used in the normal course of business; however, without documentation, we could not verify the business purpose of the purchases.
- \$386 in purchases without adequate documentation
 - \$196 for meals without detailed documentation.
 - \$180 for satellite bills without detailed account information, plus \$10 in late fees assessed on the account.

Status per Prosecuting Attorney: Due to a conflict of interest, a Special Prosecutor was appointed.

Status per Special Prosecuting Attorney: Notz entered a negotiated plea of guilty to misdemeanor theft of property, was sentenced to 12 months probation, and was ordered to pay \$4,763 in restitution and \$1,400 in fines, fees, and costs.

Town of Shirley (Audit Period: 1/1/21 - 12/31/21):

2022 Mayor

On March 8, 2021, the Town executed a \$23,058 Promissory Note to sell Town-owned residential property to the current tenants on a lease-to-own basis. This arrangement appears to conflict with Ark. Const. art. 12, § 5, which states, in part, “No county, city, town or other municipal corporation, shall...loan its credit to, any corporation, association, institution or individual.” Additionally, the Town Council did not adopt a resolution authorizing this conveyance of town property, as required by Ark. Code Ann. § 14-54-302.

Status per Prosecuting Attorney: The PA sent a letter of caution to the Mayor. This matter is considered closed.



Twenty-first Judicial District

Crawford County

Judicial District Population: 60,378
Circuit Judges: 3

Rinda Baker
Prosecuting Attorney (2022)

Kevin Holmes
Current Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Crawford County

City of Mulberry (Audit Period: 1/1/20 - 12/31/21):

2022 Mayor

In 2021 and 2020, the City disbursed \$3,000 to the Mulberry Senior Center without a contract for services, in apparent conflict with Ark. Const. art. 12 § 5, as interpreted by Op. Att’y Gen. nos. 91-410 and 92-099.

Status per Prosecuting Attorney: *The PA determined no criminal intent. This matter is closed.*

Twenty-first Judicial District (Audit Period: 1/1/20 - 12/31/20):

2021 The Office had 13 and 14 vehicles for use by law enforcement agencies within the Drug Task Force (DTF), as well as by the Prosecutor and Deputy Prosecutors, during 2019 and 2020, respectively. Although the DTF had a vehicle policy, it did not require usage logs to corroborate a business purpose for vehicle use.

In addition, during 2019 and 2020, 11 credit cards were assigned to Office employees as follows: one to the Prosecutor, eight to Deputy Prosecutors, and two to members of the 12th/21st Judicial District DTF. Our review of credit card statements indicated inadequately documented charges totaling \$7,378, \$2,291, and \$920 for 2019, 2020, and the first two months of 2021, respectively. These charges totaling \$10,589 are listed below:

- \$3,659 charged at hotels.
- \$3,304 for purchases at gas stations.
- \$1,381 charged at vehicle rental vendors.
- \$1,215 charged at miscellaneous vendors.
- \$673 charged at restaurants.
- \$347 for nonbusiness items that were subsequently reimbursed by the card user.
- \$10 for a gift card.

Status per Attorney General: *Under review.*



Twenty-second Judicial District

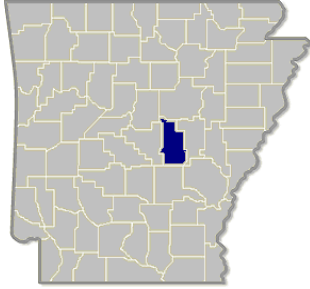
Saline County

Judicial District Population: 125,233
Circuit Judges: 4

Chris Walton
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Note: No matters were referred for Saline County.



Twenty-third Judicial District

Lonoke County

Judicial District Population: 74,712
Circuit Judges: 3

Chuck Graham
Prosecuting Attorney

Matters Referred by Legislative Joint Auditing Committee

Lonoke County

City of Cabot (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor and Fire Chief

It was brought to our attention that a firefighter was allegedly paid for shifts not worked. Our review revealed one firefighter had 12 shifts logged in City records as “swap time” shifts during the period February 2020 through June 2021; according to timesheets, the firefighter did not work but was paid for these shifts. This firefighter was terminated from City employment on September 25, 2021.

Although the City’s Fire Department Employee Handbook (Handbook) contained a section permitting firefighters to exchange work schedules, the City allowed firefighters to be paid for shifts not worked or reciprocated. We recommend the City obtain legal counsel to resolve the payments to the firefighter for 12 shifts not worked and ensure adherence to its Handbook.

Status per Prosecuting Attorney: *The City has addressed this issue sufficiently in their letter send to Legislative Audit on January 7. The shift swaps were legal under federal law, and the City has updated its policy so that this situation should not occur in the future.*

City of Carlisle (Audit Period: 1/1/20 - 12/31/20):

2022 Mayor and Clerk/Treasurer

As noted in the prior report, the City overpaid a trash collection vendor \$30,863. To recoup the overpayment, the City is reducing the rate paid to the vendor from \$9.10 to \$8.00 per household for 41 months, in apparent conflict with Ark. Const. art. 12, § 5, which states, in part, “No...city...shall...loan its credit to...any corporation, association, institution, or individual.” The City began recouping \$733 per month beginning in February 2021, and as of report date, the vendor owes the City \$25,735 (payments for approximately 35 months.)

Status per Prosecuting Attorney: *No criminal charges will be filed.*

Clerk/Treasurer

Eight employees transferred 455 hours of sick leave to four employees, in violation of City policy. An overpayment of \$5,300 to the Clerk/Treasurer occurred as a result of sick leave transfer.

Status per Prosecuting Attorney: *While this is a violation of policy, the PA does not believe anything of a criminal nature occurred.*

Matters Referred by Legislative Joint Auditing Committee

Lonoke County (Continued)

City of Carlisle (Audit Period: 1/1/19 - 12/31/19):

2021 Mayor and Clerk/Treasurer

The City overpaid a trash collection vendor \$30,863 and is reducing the rate paid to the vendor from \$9.10 to \$8.00 per household for 41 months to recoup the overpayment, in apparent conflict with Ark. Const. art. 12, § 5, which states, in part, "No...city...shall...loan its credit to...any corporation, association, institution, or individual."

Status per Prosecuting Attorney: *No criminal charges will be filed.*

Clerk/Treasurer

During our review of payroll, we noted the following:

- The City made payments totaling \$11,714 in excess of authorized salary, in noncompliance with Ark. Code Ann. § 14-58-203:
 - \$6,500 to an Administrative Assistant
 - \$5,214 to the Clerk/Treasurer/Payroll Preparer.
- The City paid for health insurance for employees and did not report the payments on their Internal Revenue Service W-2 Forms.

Status per Prosecuting Attorney: *While this is a violation of Arkansas Code, the PA does not believe anything of a criminal nature occurred.*

City of Carlisle (Audit Period: 1/1/18 - 12/31/18):

2020 Receipts exceeded deposits by \$3,352 (\$2,288 in undeposited cash and \$1,064 in undeposited checks) during the period September 11, 2018 through January 27, 2020. The Clerk/Treasurer was custodian of these undeposited funds.

Status per Prosecuting Attorney: *Subsequent to an investigation by Arkansas State Police, Clerk/Treasurer Angelia James was charged with felony theft of property. James entered a negotiated plea of no contest, was sentenced to 72 months probation, and was ordered to pay \$28,000 in restitution and \$1,485 in fines and fees.*

City of Carlisle (Audit Period: 1/1/17 - 12/31/17):

2019 Receipts totaling \$34,794 were not deposited into City bank accounts, including the Water Department, during the period January 1, 2017 through September 10, 2018. Of this amount, the Clerk/Treasurer was custodian of \$33,917, and the Water Clerk, who resigned from employment on September 7, 2018, was custodian of \$877. To explain the discrepancy, the Clerk/Treasurer indicated that certain funds had been incorrectly deposited into Water Department accounts; however, ALA staff found only one receipt that was "incorrectly" deposited into the Water Department.

Status per Prosecuting Attorney: *Subsequent to an investigation by Arkansas State Police, Clerk/Treasurer Angelia James was charged with felony theft of property. James entered a negotiated plea of no contest, was sentenced to 72 months probation, and was ordered to pay \$28,000 in restitution and \$1,485 in fines and fees.*

Bond Trust Fund reimbursed losses totaling \$33,849.

APPENDICES

Appendix A – Arkansas Code Annotated § 10-4-419 – Report of Improper Practices

Appendix B – Memorandum of Understanding

Appendix A

Arkansas Code Annotated § 10-4-419¹ Reporting of Improper Practices

10-4-419. Report of improper or illegal practices.

(a) (1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of improper practices of financial administration or inadequacy of fiscal records, the Legislative Auditor shall report the evidence to the appropriate executive official or officials affected thereby and to the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.

(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the findings to the Attorney General for review and appropriate action.

(b) (1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of apparent unauthorized disbursements or unaccounted-for funds or property by a public official or employee, the Legislative Auditor shall promptly report the transactions in writing to the prosecuting attorney for the county in which the entity of the state or the political subdivision of the state is located, the Governor, the appropriate executive official or officials affected thereby, and the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.

(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the same to the Attorney General for review and appropriate action.

(c) (1) The Legislative Auditor shall notify and cooperate with the appropriate prosecuting attorney on all matters that appear to involve a criminal offense.

(2) Upon request and with the approval of the cochairs of the Legislative Joint Auditing Committee, the Legislative Auditor shall cooperate in any other investigations by the appropriate prosecuting attorney, the Department of Arkansas State Police, or any other state or federal law enforcement agency.

(d) (1) While the Legislative Joint Auditing Committee is not established as an agency to effect through its own direct action the correction of improper practices of financial administration or the inadequacy of fiscal records, the prosecution of defaulting public officials, or the improvement of accounting systems in any entity of the state or political subdivision of the state, it is nevertheless determined that the action or nonaction on the part of the appropriate public officials in respect to the correction of the matters when called to their attention or in respect to the institution of criminal proceedings where proper, has pertinent bearing upon the question of the necessity for future remedial legislation.

(2) It is for this reason that the Legislative Joint Auditing Committee is authorized to inform public officials to the extent provided by law of the findings of the Legislative Auditor in respect to any such matters.

(e) (1) If the Legislative Joint Auditing Committee determines that an entity of the state or a political subdivision of the state has not corrected the deficiencies noted in one (1) or more previous reports, the Legislative Joint Auditing Committee may request the prosecuting attorney of the judicial district in which the entity of the state or the political subdivision of the state is located to take appropriate action to assure that the records of the entity of the state or the political subdivision of the state are maintained in accordance with law.

¹This Code section was amended by Act 632 of the Regular Session of 2023 to include notification of the Attorney General.

(2) If the prosecuting attorney fails or refuses to take appropriate action within a reasonable time after receipt of notice from the Legislative Joint Auditing Committee that an entity of the state or a political subdivision of the state is not maintaining its records in substantial compliance with law, the Legislative Joint Auditing Committee may request the Attorney General to take such appropriate action as may be necessary to assure that the records of the entity of the state or political subdivision of the state are maintained in compliance with law.

(f) (1) By June 30 of each year, the Attorney General and each prosecuting attorney to whom the Legislative Joint Auditing Committee or the Legislative Auditor has reported a matter under this section shall file with the Legislative Joint Auditing Committee a disposition report on the status of the matters that have not been previously reported as resolved to the Legislative Joint Auditing Committee.

(2) A disposition report shall address all matters that have not been previously reported as resolved under subdivision (f)(1) of this section prior to and during the preceding calendar year.

(3) A disposition report shall include without limitation:

- (A)** The date the matter was reported to the Attorney General or the prosecuting attorney;
- (B)** The amount of loss or funds unaccounted for in connection with the matter;
- (C)** The status or disposition of the matter; and
- (D)** Other comments pertinent to the investigation or disposition of the matter.

MEMORANDUM OF UNDERSTANDING

WHEREAS, crime of all types is one of the primary problems in our state, and,

WHEREAS, violent crimes involving murders, child rapes, domestic abuse and drug labs, sales and the damage that flows therefrom plague our society, there also exists a class of crimes known as “white collar crimes” which undercut the framework of our way of life to a much greater degree than is commonly recognized; and,

WHEREAS, there are three organizations who must work together in order to successfully identify, stop and punish those who would use their positions of public trust to commit theft: the Division of Legislative Audit, the Arkansas State Police and attendant assisting law enforcement agencies, and the Prosecuting Attorneys of the State of Arkansas; and,

WHEREAS, heretofore these agencies have interacted on a case by case basis and enjoyed certain successes evidenced by the tens, if not hundreds of thousands of dollars assessed and recovered, in spite of the fact that this interaction has not been formalized, neither has any form of document setting forth general, flexible terms of cooperation providing a basis for reasonable expectations as to how these agencies will deal with those situations previously existed; and,

WHEREAS, the Legislative Joint Auditing Committee at its June 9, 2006, meeting correctly identified the need for such an agreement, or Memorandum of Understanding, such as this document, which shall hereinafter be referred to as the “MOU”, representatives of the Division of Legislative Audit and the Prosecution Coordination Commission met, discussed the obvious, threshold issues facing such an agreement, involved the Arkansas State Police and have generated this document which addresses the following considerations which commonly present themselves in the function of an audit and set forth the guidelines to which the signatory agencies will adhere, with the stated understanding that the spirit of this document will control, the recognition that all situations cannot be anticipated, but with the hope that this first written MOU between the three involved agencies will streamline the audit, investigation and prosecution of fraud and theft in the public sector, clarify the appropriate areas of responsibility and provide a basis for cooperation from which the taxpayers, with whose money we deal, will benefit.


MEMORANDUM OF UNDERSTANDING

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To wit, the following situations are identified as triggering events which will require the Division of Legislative Audit to notify the relevant Elected Prosecutor of suspected criminal activity in order to allow him or her to exercise their Constitutionally conferred discretion and authority:


1. Where the amount of money misappropriated exceeds \$2,500;
2. Where the amount of money misappropriated is in excess of \$500 and there is a probability of continuing loss;
3. Where the possibility of physical harm, witness tampering or the probability of evidence tampering exists; or
4. Whenever an interview wherein an admission or confession to criminal activity is reasonably anticipated (i.e. "an admission seeking interview").

IT IS SO AGREED that this Memorandum of Understanding shall provide a flexible, evolving basis for the manner in which the Division of Legislative Audit, in the performance of its inquiries into the accounting functions of the agencies for which they are responsible, the manner in which the Prosecuting Attorneys shall respond to indications of theft and make their determination as to whether and what law enforcement agencies will become involved in order to develop a prosecutable case, should same be possible, and determine the manner with which it should be dealt, consistent with the goals and ideals set forth in this document, setting forth clear areas of responsibility, authority and communication.



David Gibbons
Chairman, Prosecution
Coordination Commission

10 July 06
Date



Col. Steve Dozier
Director, Arkansas State Police

07/12/06
Date



Charles Robinson
Legislative Auditor
Division of Legislative Audit

7/7/06
Date

