

STATE OF LOUISIANA LEGISLATIVE AUDITOR

City of Monroe
Pre-Trial Diversion Program
Monroe, Louisiana

May 2000



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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City of Monroe Pre-Trial Diversion Program

May 2000



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

Daniel G. Kyle, Ph.D., CPA, CFE

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DANIEL G. KYLE, PH.D., CPA, CFE
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May 31, 2000

**THE HONORABLE ABE E. PIERCE, III, MAYOR,
AND MEMBERS OF THE CITY COUNCIL
CITY OF MONROE**
Monroe, Louisiana

Transmitted herewith is our investigative report on the City of Monroc, Pre-Trial Diversion Program. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our finding and recommendation, as well as your response. Copies of this report have been delivered to the City of Monroe; the Honorable Jerry L. Jones, District Attorney for the Fourth Judicial District of Louisiana; and others as required by state law.

Respectfully submitted,

A handwritten signature in black ink, reading "Daniel G. Kyle". The signature is written in a cursive style with a large initial "D".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

SDP:EKL:AFB:dl

[MONROE]

Executive Summary

Investigative Audit Report City of Monroe Pre-Trial Diversion Program

The following summarizes the finding and recommendation as well as management's response that resulted from this investigation. Detailed information relating to the finding and recommendation may be found at the page number indicated. Management's response may be found at Attachment I.

City Funds Not Deposited

(Page 5)

- Finding:** During a 14-month period, Mr. Eric Gabriel, former Director of the City of Monroe, Pre-Trial Diversion Program, appears to have received \$10,650 that he did not deposit into the program's bank accounts.
- Recommendation:** We recommend that management for the City of Monroe, Pre-Trial Diversion Program implement policies and procedures to ensure that funds collected are accounted for properly. We also recommend that the District Attorney for the Fourth Judicial District review this information and take appropriate legal action, to include seeking restitution.
- Management's Response:** Management states that it has implemented the necessary procedures to ensure that funds are accounted for properly. Furthermore, management concurs with the recommendation that the District Attorney for the Fourth Judicial District review this information and take appropriate legal action, including seeking restitution.
-

Background and Methodology

The Pre-Trial Diversion Program (Program) was created in 1996 and began operating in January 1997. The purpose of the Program is to offer first time minor offenders an alternative to court trials and prison terms.

The Office of the Legislative Auditor received allegations that fees paid into the Program were being converted to personal use.

The procedures performed during this investigative audit consisted of (1) interviewing employees and officials of the Program; (2) interviewing other persons as appropriate; (3) examining selected Program records; (4) performing observations and analytical tests; and (5) reviewing applicable state and federal laws and regulations.

The result of our investigation is the finding and recommendation herein.

Finding and Recommendation

CITY FUNDS NOT DEPOSITED

During a 14-month period, Mr. Eric Gabriel, former Director of the City of Monroe, Pre-Trial Diversion Program, appears to have received \$10,650 that he did not deposit into the program's bank accounts.

The City of Monroe (City) began the Pre-Trial Diversion Program (Program) in January 1997. Mr. Eric Gabriel served as the Director of the Program from September 1997 until he resigned in November 1998. A total of 1,165 participants entered the Program during Mr. Gabriel's tenure as Program Director.

Program participants are required to sign an agreement that lists the fee they are required to pay and any other conditions of their participation. Mr. Gabriel signed 169 individual records (receipts and agreements) that appear to have been altered.

When participants pay the required fee, they are given a receipt and a copy of this receipt is kept by the Program office. We received 13 original Program receipts and/or agreements that indicate that participants paid \$700 more than recorded on the receipt copies found in the Program's records. In addition, we received written statements from seven other Program participants who were certain of the amounts they had paid. The total deposited from those seven individuals is \$400 less than the amount that they paid. The receipt copies on file with the Program office for these individuals also appeared to have been altered.

Further review of Program deposit records, signed agreements, and receipt copies indicates that an additional 149 records were altered in a manner that understated receipts by an additional \$9,550.

Based on the original receipts that we were able to review, statements by Program participants, and our review of Program records, it appears that Mr. Gabriel received \$10,650 that was not deposited into the Program's bank account.

During the period March 9, 2000, through March 31, 2000, we made several telephone contacts with both Mr. Gabriel and his attorney in an attempt to establish a meeting to discuss the above issues; however, we were unable to establish such a meeting with Mr. Gabriel.

The actions described previously may be violations of the following Louisiana laws:

- R.S. 14:67, “Theft
- R.S. 14:72, “Forgery”
- R.S. 14:133, “Filing False Public Records”
- R.S. 14:134, “Malfeasance in Office”
- R.S. 42:1461(A), “Obligation Not to Misuse Public Funds”

We recommend that management for the City of Monroe, Pre-Trial Diversion Program implement policies and procedures to ensure that funds collected are accounted for properly. We also recommend that the District Attorney for the Fourth Judicial District review this information and take appropriate legal action, to include seeking restitution.

Attachment I

Management's Response



**OFFICE OF THE MAYOR
MONROE, LOUISIANA**

RECEIVED
LEGISLATIVE AUDITOR
00 MAY 15 AM 10:01

**ABE E. PIERCE, III
MAYOR**

May 10, 2000

**P.O. BOX 123
MONROE, LA 71210-0123
(318) 329-2310**

Mr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
State of Louisiana
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Mr. Kyle:

RE: City of Monroe Pre-Trial Diversion Program

As requested in your letter of May 5, 2000 and in our meeting with members of your staff on the same day, we do hereby respond to the finding and recommendation contained in your letter as follows:

Response to Finding:

When this matter was first brought to our attention in July 1999, investigators of the Monroe Police Department advised Mr. Jerry Jones, District Attorney for the Fourth Judicial District, of the allegations and of the investigation begun by the Police Department. During the next few months, the Police Department kept the District Attorney advised of the progress and findings of the investigation.

In November 1999, the investigators conferred with the District Attorney on the case and it was decided that this matter should be referred to the Legislative Auditor and to the Louisiana State Police.

Response to Recommendations:

1) **Implementation of Accounting Procedures.**

The following procedures have already been implemented to ensure that funds collected through the Pre-Trial Diversion Program are accounted for properly:

Once an individual is enrolled into the program, the data surrounding the enrollment is logged into a computer for reporting purposes. This data includes: the defendant's name, the police file number, date of enrollment, the charges diverted, new court date, the fees charged, the fees paid, whether paid by check or cash, receipt number, and the term of community service.

When an individual pays any fees, the individual is given the original receipt for the amount paid. The carbon copy of the receipt is attached to a daily report, listing all enrollments for that day and the amounts paid on each enrollment. The daily report is turned in to the Chief Prosecuting Attorney, who reviews the enrollments, the fees charged, the amount of fees collected and the carbon receipts for both errors and/or alterations.

Further, a copy of the daily report and all funds collected are deposited daily with the City Accounting Department.

2) Review by District Attorney:

The Police Department kept the District Attorney advised of the progress and findings of the investigation throughout the handling of this matter. If the District Attorney has not been given a copy of your preliminary report, we sincerely hope that he will be given a copy of the final report when it is officially issued by your office.

We endorse and concur in your recommendation that the district Attorney review the information and take appropriate legal action, including restitution of the funds involved.

Sincerely,

A handwritten signature in cursive script that reads "Abe E. Pierce III". The signature is written in black ink and is positioned above the printed name and title.

Abe E. Pierce, III
Mayor

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Finding and Recommendation section of this report:

R.S. 14:67 provides, in part, that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:72 provides, in part, that forgery is the false making or altering, with intent to defraud, of any signature to, or any part of, any writing purporting to have legal efficacy.

R.S. 14:133 provides, in part, that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any wrongfully altered document, or any document containing a false statement or false representation of a material fact.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 42:1461(A) provides, in part, that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

