

Justice or Injustice in Salt Lake County

“A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, and that guilt is decided upon the basis of sufficient evidence.” – Utah Supreme Court Rule of Professional Practices 3.8

“The prosecutor in a criminal case shall... refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause...” – Utah Supreme Court Rule of Professional Practices 3.8





Seven 2nd Degree Felonies = 1 to 15 years and \$10,000 per count

Investigation of the Investigators

Thomas J. Harvey

Thomas J. Harvey is a private investigator licensed in Utah. Prior to retiring as a journalist, he was an editor and a business and white-collar crime reporter for the Salt Lake Tribune where he won numerous awards. He also worked in 15 different countries as a journalist and in the states of Montana, Utah and Florida, as well as Washington, D.C.

Education:

- Ph.D., American history, Department of History, University of Utah, August 2004
- Bachelor of Arts degree in Journalism, University of Montana, Missoula, 1979

Professional Experience:

- 2009 – present: part-time investigator for criminal defense attorneys
- 1993 – 2017: reporter, editor, The Salt Lake Tribune, investigating white collar crime and writing business-related stories. Also served stints as an editor
- 1991 – 1992: Chief foreign correspondent, Sun-Sentinel, Fort Lauderdale, Fla.
- 1982 – 1990: Correspondent, United Press International



Origin of the Seven Second Degree Felony Charges

- January 19, 2017, the State Auditor’s Office released an audit of the credit card use at the League of Cities and Towns.
- April 21, 2017, the State Auditor extended his authority by issuing an audit on a private, non-governmental entity.
- Failing to conduct an independent review of the evidence and relying on both the State Auditor’s official reports and documents forwarded to their office in violation of GRAMA by the Auditor’s staff accountant, the District Attorney filed charges in January of 2019.
- Both the State Auditor and his staff accountant acknowledged in meetings with defense counsel, that the audit’s were not sufficient to justify criminal charges.

“[State] audit reports don’t meet criminal standards” – State Auditor

“We don’t deal with [whether the audit meets criminal case requirements.]” – State Auditor Staff Accountant



District Attorney's Initial Involvement

- Consistent with the State Auditor's recommendation the president of the League presented a letter to the chief deputy district attorney asking his office to review the Audit finding of misuse of public funds by the former League CFO for potential criminal charges
- The League president further stated that the *“Board believes that the former Executive Director, Ken Bullock, did not have criminal intent to defraud the ULCT.”*
- In the letter the League President acknowledged that the *“ULCT withheld \$11,659.46 as identified by the State Audit Report as personal expenses that were not previously reimbursed from Mr. Bullock's final check.”*
- Approximately 10 months later the chief deputy formally initiated the investigation.



What Triggered the Investigation after 10 Months

- The chief deputy district attorney received the Auditor’s notes, findings, draft reports and other documents on a “Google” drive.
- The chief deputy district attorney forwarded a “Google” drive to the State Auditor’s notes, findings, draft reports and other documents on November 3, 2017.
- On December 3, 2017, members of the District Attorney’s Office interviewed the State Auditor’s staff accountant. The Auditor’s staff accountant appeared at the time to be the source of the link.

“As I was collecting my documents, I was just dumping them into a folder on the LAN. It was just a big pile of stuff, and as I went through it, I tried to organize it. I wouldn’t expect that it makes any sense, really, even to me.” – District Attorney Interview with Auditor Staff Accountant, December 3, 2017, Page 2, lines 7 – 12

“I can add that to the Google Drive” – Page 6, lines 16 – 17



Why Stop to Ask the Right Questions

- At no time during the initial two interviews did the members of the District Attorney's Office ask if the information had been provided with the State Auditor's knowledge or if it the Government Records Access and Management Act have been followed. Nor did the District Attorney's Office issue a formal request for information.
- At no time was the State Auditor interviewed by the District Attorney's Office.
- Finally on May 18, 2019, the chief district attorney acknowledged the source of the information.
- As a representative from the State Attorney General's Office revealed in an August 26, 2019, hearing, the documents had not been requested by the District Attorney's Office, they had been provided by the State Auditor's staff accountant.



If They Had Asked... They Would Have Realized There was a Problem The Staff Auditor Violated GRAMA

The State... because of the way in which they were shared, we didn't have a chance to properly classify them as protected... So draft reports would be iterations and notes that were made internally by the Auditor's Office... according to GRAMA..., unless otherwise classified as public are protected under GRAMA law. Also records created or maintained for audit purposes, which could be expected to interfere with audits. So, some of the notes may kind of reveal the auditing process by the State Auditor's Office and those should be protected.” – August 26, 2019, Hearing. **Assistant Attorney General**

“Records that would disclose information regarding to relating to allegations of personal misconduct, gross mismanagement or illegal activity of a governmental employee that cannot be corroborated by the state auditor through other documents or evidence. And this is sort of the reason why those notes and those draft reports are protected under GRAMA because the State Auditor wasn't able to verify whether or not the veracity of the claims.” –

August 26, 2019, Hearing. Assistant Attorney General



No Information was Requested and No Questions Asked

- At no time during the initial two interviews did the members of the District Attorney ask if the State Auditor was aware the documents had been transferred or that the Auditor's staff accountant was meeting with the District Attorney's Office
- From the State Auditor's prospective he was unaware of the communications between his staff accountant and the District Attorney up and until his interview with defense counsel

“[The State Auditor] said he later asked [his staff accountant] what had happened with the District Attorney's Office. [The State Auditor] said [his staff accountant] told him, ‘Oh, they forgot about it. I think they didn't care.’” – Defense Counsel Interview



If You Don't Like Your Boss' Decision Go Around Him

- The Auditor's staff accountant took issue with the State Auditor's decisions regarding the Utah Municipal Finance Cooperative II – Trust and decided to intervene by disclosing draft documents and incomplete records to the District Attorney.

So, what these [draft] reports indicate, I believe, are the facts and the state auditor's interpretation of what is our purview. We disagree on that. We had several elevated conversations about that, and ultimately, the letter rather than the report – the reason I put it in the work papers the way I did was in hopes that you guys would get it, and it would just tell the story. That's the real story. Same with this report here. I knew that it probably wasn't going to see the light of day. – Staff Accountant Interview with District Attorney May 18, 2018, Page 125, Lines 6 – 19

“I could not stand by what was in the [Trust] report, knowing what was not in the report that I knew was true and was in the public's interest.” – Staff Accountant Interview Page 131, Lines 21 – 2

“It's a hard thing, but you know, you try to be as idealistic as you can, but if you don't do the right thing nobody else will.” – Staff Accountant Interview Page 171, Lines 9 - 12



What about the Trust

- There were three major issues regarding the Utah Municipal Finance Cooperative II – Trust
 - Whether the Trust was a private entity or a public entity
 - Whether payments to the assistant administrator was authorized
 - Whether payment for a Trustee's legal counsel was authorized.
 - The later two issues were not identified by the State Auditor in the official audit report
- The Auditor's staff accountant claimed to have reviewed all of the organizing and operating documents contained in 28/38* boxes provided to the State Auditor
- If he did, he clearly did not understand the documents



* Actual number of boxes is unknown. Auditor's staff accountant was inconsistent.

Public Versus Private Who Decides

- To date the State Auditor's Office and the District Attorney's Office have failed to provide evidence that nullifies the evidence contained in the 28/38 boxes. Evidence that clearly indicates that the Trust was a private 501(c)4.
 - 1996 Amendment to the Trust Agreement
 - Letter to the Internal Revenue Service
 - Private Letter Ruling from the Internal Revenue Service
- According to the Auditor's staff accountant the Utah Attorney General was unable to decisively determine that the Trust was a government entity

*“So, [State Auditor] ... made efforts to try to get a legal opinion through our AG... assigned attorney to answer that question, from our perspective, whether it was or was not and was never decisively successful ...” – District Attorney Interview with Auditor staff accountant
May 18, 2018, Page 25, Lines 15 – 24*

- According to the Internal Revenue Service, Attorney General's are responsible for researching each state's laws to determine the legal status of an entity.



If You Don't Like a Law Change It

Given the position of the Attorney General's office, the State Auditor recommended and achieved changes in the Utah Code

- 2017 Legislative Session – State Legislature passes HB 55 [Government Non-profit Entity Compliance Amendments] expanded the definition of Government nonprofit entity to include:
 - a) “... a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity, or
 - b) a nonprofit corporation in which one or more governmental entities exercise a controlling interest.”
- In seeking passage of the bill, the State Auditor argued, “People think there’s a big bright line between public and private and there’s not. There’s a big grey area. And that’s what we’re looking for from the Legislature to clarify where the line is, so we know which set of rules to apply in which cases.”

“As I read the current substitute bill, it does not appear that the Trust funds... would be considered a governmental nonprofit since it was the repository for donated funds not tax dollars.” - Legislative Auditor’s Email to State Auditor



Assistant Administrator's Compensation

- The Auditor's staff accountant falsely claimed that *“there can be no explanation for [payments to the assistant administrator.]”*
- To the contrary, the evidence was contained in the 28/38 boxes of Trust documents
 - 1996 Amendment to Trust Agreement 5.11 – Compensation. *“Trustees are authorized to employ and pay such accountants attorney's and or other advisors...”*
 - Minutes February 20, 1997. Trustees agreed in lieu of approving individual expenditures, trustees would approve financial reports (i.e. budget).
 - Minutes October 7, 2011. Members unanimously approved direct payments to the assistant administrator
 - Trustees approved all budgets providing for payments to the assistant administrator for service rendered



Authorization of Payment for Mr. Bullock's Legal Counsel

- The Auditor's staff accountant claimed that Mr. Bullock was not a Trustee
 - Once Mr. Bullock resigned from the League he could no longer serve as a Trustee
 - Mr. Bullock Assumed the Role

- To the contrary, the evidence was contained in the 28/38 boxes of Trust documents
 - 1996 Amendment to Trust Agreement did not contain language linking Trustees to roles with the League
 - Mr. Bullock was acknowledged as a Trustee and administrator by other Trustees, legal counsel for the Trust and the State Auditor.

“Oh, [Mr. Bullock's] a trustee and administrator.” – District Attorney Interview with Trustee

- 1996 Amendment to Trust Agreements provided indemnification for Trustees

“Trustees shall be indemnified from the Trust Estate to the fullest extent permitted by law, against any liability incurred in connection with the performance of their duties.”



In Search of a Case

- Salt Lake County District Attorney's office relied, almost entirely on information obtained from a disgruntled staff accountant from the State Auditor's Office
 - The expert adopted the staff accountant's categorization of expenses
 - The District Attorney's interviews with the Auditor's staff accountant were full of speculations that would have raised questions if conducted by proper standards.
 - Information obtain from interviews conducted by the staff accountant were based on hand-written notes that were not accurately reflected in the typed notes provided the District Attorney's office

“I have speculated which I wouldn't do again.” – Defense Counsel Interview with Staff Accountant



In Search of a Case (cont.)

- When the District Attorney's office did conduct interviews, they were problematic
 - At the request of the interviewee, recordings were terminated early
 - The investigator lied to and intimidated vulnerable interviewees.

"I am too old to go to jail." – Former League Treasurer



Independent Forensic Audit

Brent Robbins, CPP, CFE

Brent Robbins is the director at Kokomo Enterprises, Inc., dba B&T Forensic Accounting and Investigations. As a certified private investigator, certified protection professional and certified fraud examiner (“CFE”) he specializes in white collar/fraud investigations, identification of assets, tracing and recoveries.

Education:

- Bachelor of Science in Accounting, University of Utah – Eccles School of Business 1974

Professional Experience

- 2010 – present: Director at Kokomo Enterprises
- 2009 – 2020: Criminal and Civil Financial Investigations at West River Group Government Services/Sullivan Cove Consultants LLC – Forensic accounting investigations for the Department of Justice, Federal Bureau of Investigation
- 2006 – 2008: V.P./Corporate Fraud Investigations Manager Zions Bancorporation
- 1976 – 2005: Federal Bureau of Investigation – Special Agent, Conducted criminal investigations specializing in drugs, money laundering, fraud and other white-collar crimes



Expert Witness Adopted State Auditor's Staff Report

- “[State] audit reports don’t meet criminal standards” – Defense Counsel’s Interview with State Auditor
 - “The personal charges... are the charges that were deemed personal in the State Auditors report. The questionable charges, same situation.” – Salt Lake County District Attorney Expert Preliminary Hearing
 - “Whether the State Auditor’s office believed they’d be personal in nature.” – Salt Lake County District Attorney Expert
 - “Witness Statements, bank Statements. I think that would be primarily and the audit report from the State Auditor’s Office.” – Salt Lake County District Attorney Expert Preliminary Hearing
- Clearly there was a problem with adopting the Auditor’s staff accountant’s analysis
 - The State Auditor staff accountant was a certified public accountant (“CPA”) not a certified forensic accountant (“CFA”) or certified fraud examiner (“CFE”)
 - CPAs provide financial services and advice and often specialize in areas such as taxation, solvency or financial reporting
 - CFAs and CFEs combine accounting knowledge with investigative skills to investigate fraud or embezzlement and to analyze financial information for use in legal proceedings.



Proper Investigative Steps

- By adhering to proper investigative steps, law enforcement ensures investigations are thorough, fair and in-line with the rule of law, which is vital for maintaining the public trust of the justice system
- Investigative Steps
 - The six W's
 - Collect and preserve all evidence
 - Serve search warrants or subpoenas if appropriate
 - Interview witnesses
 - Interrogate suspect
 - Case analysis for coherent theory of the crime
 - Work with prosecutors to determine if charges should be filed.
- The accountant for the State Auditor's Office did not adhere to these steps
- The District Attorney's Office did not interview the State Auditor at anytime during the investigation or the litigation of the charges
- Is it reasonable to assume the District Attorney's Office fulfilled its obligation to only prosecute "*a charge that the prosecutor knows is not supported by probable cause?*"



Proper Procedures in a Forensic Accounting Investigation

- Conducting a forensic accounting investigation requires precision and compliance with established protocols to uncover financial fraud
- Investigative Steps
 - Define the scope
 - Collect and document all financial records and other relevant documentation
 - Analysis of data and document all findings in detail relying on facts
 - Prepare objective and factually objective report without assumptions

“[A League Staff Member] provided me with three file boxes filled with receipts. The documents will be scanned into this case.” – DA Investigator’s Notes



What Principles Serve to Control Accountants

- General Accepted Accounting Principles (GAAP) represent best accounting practice as measured by four constraints – they are considered the “bible” in accounting
 - Consistency
 - Objectivity
 - Materiality
 - Prudence
- Generally Accepted Government Auditing Standards (GAGAS) are the guidelines for audits regulated by the GAO. The ethical principles involve
 - Public interest
 - Integrity
 - Objectivity
 - Proper use of government information, resources and position
 - Professional behavior



Where Did They Go Wrong?

- The State Auditor's Office failed to follow General Accepted Accounting Principles and Generally Accepted Government Auditing Standards
- The expert witness for the District Attorney's Office failed to conduct a separate forensic accounting investigation



A Calamity of Errors

- Internal Revenue Service rules state an expense item is deductible as a business expense if it furthers the entity's going concern.
- A tax-deductible business expense would consist of an expenditure which is ordinary, necessary and reasonable, which can be verified by means of a receipt, credit card slips or similar document
- The District Attorney's expert relied upon the State Auditor's Office audit results without challenging the designation of expenses

*“The personal charges during the period are the charges that were deemed personal in the State Auditors report. The questionable charges, same situation. Those were the charges deemed questionable during that time-period.” – District Attorney's Expert, Preliminary Hearing
Timestamp 00:30:54*

“Witness Statements, bank Statements. I think that would be primarily, and the audit report from the State Auditor's Office.” – Timestamp 00:38:35

“Whether the State auditor's office believed they'd be personal in nature...” – Timestamp 00:50:59



A Calamity of Errors (cont.)

- Consistency – The State Auditor’s Office erroneously classified types of expenses, i.e., business, personal or questionable (unsure of type)

- The result:
 - Identical types of expenses were classified differently
 - Receipted expense items were classified as personal or questionable expenses without necessary additional investigation



A Calamity of Errors (cont.)

- Materiality – If a discrepancy, such as an omission or misstatement would impact a reasonable user’s decision-making, it is material.
 - The District Attorney’s Office disregarded exculpatory information obtained during their interviews of individuals which provided evidence favorable to the accused
 - The State Auditor’s staff accountant told the District Attorney (5/18/18 interview p. 154) that he felt the... Trust was the most abusive and the best area to be pursued in a criminal investigation, not Mr. Bullock’s credit card charges. He said the DA would have a difficult time moving beyond the auditor’s classifications of expenses and the fact that the accused had paid all that he owed

“I think these questionable things that we didn’t pursue, you’re going to have a tough time moving them into another category with more certainty... But the stuff that’s never gone public, the MFA and the Trust, I fell like that’s really the most abusive. That’s the most clear-cut... the money that Mr. Bullock obfuscated through the credit cards has been recovered.” – District Attorney interview with staff accountant May 18, 2018, page 154 lines 2 – 11



A Calamity of Errors (cont.)

- Prudence – The State Auditor’s Office failed to exercise cautiousness by being careless, sloppy, and unsystematic while conducting their audit.
 - There were three boxes of receipts never reviewed by the State Auditor’s Office or the District Attorney’s Office –receipts documenting information, generally handwritten on the front or back of a receipt
 - The Auditor’s staff accountant made no attempt to investigate expenses to determine their legitimacy (case of gift was provided in lieu of compensation)
 - The district attorney’s expert failed to use good judgement by adding questionable expenses to the business expenses identified by the State Auditor’s Office.
 - The expert claimed that Mr. Bullock was responsible for questionable expenses.

“Reimburse the charge...” In response to the question “if a party can’t show that a questionable expense was legitimate...” – Expert Preliminary Hearing Timestamp 00:27:27



A Calamity of Errors – Impact

- The State Auditor's Office and by extension the District Attorney's expert made numerous errors
 - Transposition errors regarding expense amounts
 - Omission of business expense receipts
 - Failure to account for all reimbursements made by Mr. Bullock
 - Failure to investigate legitimate expenses
- Correcting for the errors shows that the League had been fully reimbursed prior to the State Auditor's Office and in total Mr. Bullock reimbursed the League of Cities and Towns approximately \$13,000 more than owed.



Lack of Objectivity

- Objectivity and independence principle – A certified public accountant “*should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities. A member in public practice should be independent in fact and appearance when providing auditing and other attestation services.*”
- The State Auditor’s results were not verifiable, based solely on this fact it is questionable whether the individual conducting the analysis was objective.
- In reviewing the analysis conducted by the State Auditor’s Office there were countless times of favoritism and bias in an effort to support the District Attorney’s objectives.
- In an interview with defense counsel, the State Auditor himself stated, “*it became clear that [his staff accountant’s] independence in regard to Mr. Bullock was impaired.*”



Utah Prosecutor's Best Practices

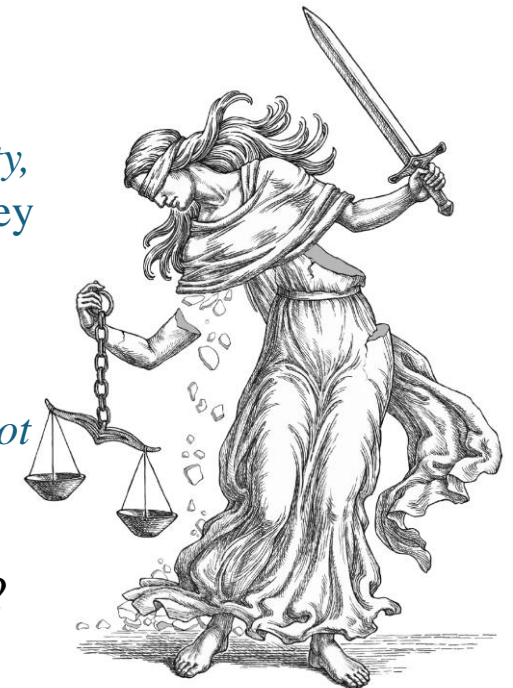
3.2.1 Filing and Maintaining Criminal Charges.

- b. A prosecutor should file and maintain criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge or maintain charges is in the interests of justice.
- c. A prosecutor should only file and maintain charges in number and degree that are reasonably necessary to fairly reflect the gravity of the offense or deter similar conduct
- d. In the event that a prosecutor learns of previously unknown information that could affect a screening decision previously made, the prosecutor should reevaluate that earlier decision in light of the new information.



Questions I Would Like Answers To

- What expectations should a defendant charged with a crime have of the Judiciary process?
- Do auditors and prosecutors have ethical standards and policies?
- Does the Auditor give out working drafts of investigation's?
 - *“The Auditor’s Office... has an obligation to classify its records pursuant to the Government Records Access Management Act before they are provided to a third party, regardless of whether the request is made through GRAMA or a subpoena.”* – Attorney General Motion June 29, 2018
 - *“We don’t share [draft reports].”* – State Auditor Interview with Defense
 - *“... the reason why [the Office of the State Auditor’s] notes and... draft reports are protected under GRAMA because the State Auditor wasn’t able to verify whether or not the veracity of the claims.”* – Assistant Attorney General August 29 Hearing
- How should have prosecutors gone about acquiring documents to establish their case?



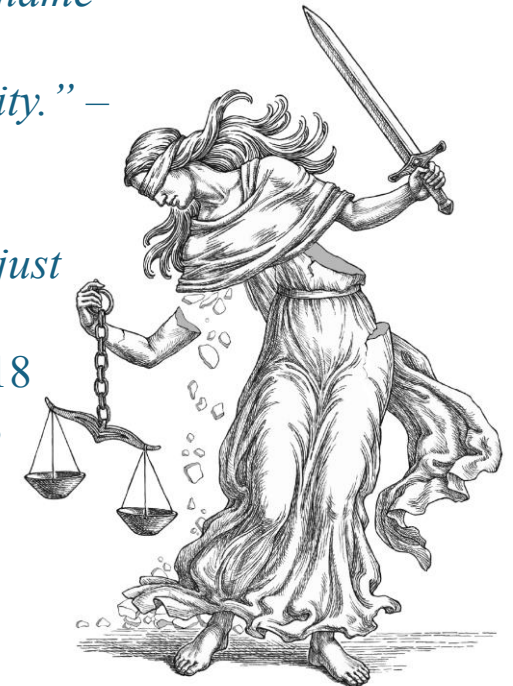
Questions I Would Like Answers To

- Why and how did the Salt Lake County prosecutors receive documents, incomplete drafts working papers and spread sheets without making a GRAMA request?
 - *“Of [the State Auditor’s] position with which disagreed, I said I don’t care if we lose the case the public deserves to [information contained in the draft report.]”* – Auditor’s Staff Accountant May 18, 2018
 - *“... the reason I put it in the work papers the way I did was in hopes that you guys would get it, and it would just tell the story.... Same with this [draft] report here. I knew that it probably wasn’t going to see the light of day...”* – Auditor’s Staff Accountant May 18, 2018
 - *“Well, we got it and it told a story.”* District Attorney Investigator May 18, 2018
 - *“[The chief deputy district attorney] forwarded me a link to the Auditor’s notes and findings. The file was very large and included every aspect of the Auditors investigation.* – District Attorney Investigator Notes November 3, 2017 Meeting
 - *“Now, [Auditor’s staff accountant], what we would say is this, too. We also know where we got them, ultimately, it was from you... Okay, On the ask, and then you provided [the documents on the Google drive], but they were. not provided originally.”* Chief Deputy District Attorney May 18, 2018



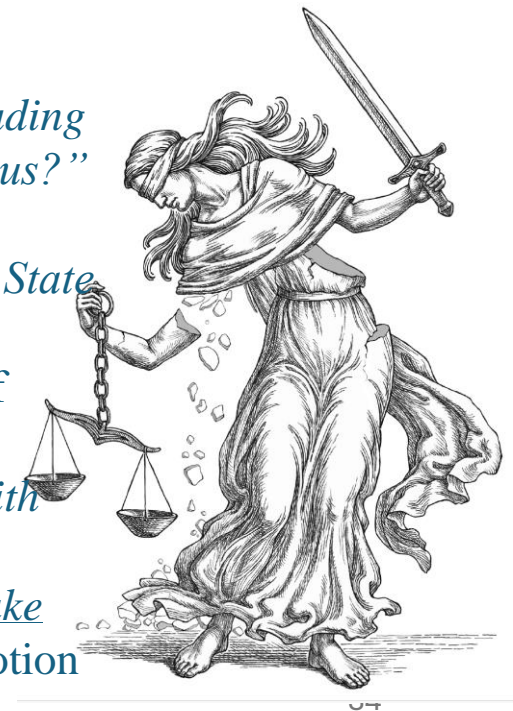
Questions I Would Like Answers To

- Should the State Auditor's staff accountant conducting the audits be objective?
 - *".. it became clear that [staff member's] independence in regard to [Mr. Bullock] was impaired."* - State Auditor Interview with Defense
 - *"But what got released got released and... you've seen what has not been released. So I've expressed my issues. I ultimately washed my hands of it and said, 'I will not have my name associated with that report.'"*
 - *"So, [ADA], how did you feel when you heard Mr. Bullock got a job with Salt Lake City."* – Auditor's Staff Accountant May 18, 2018
 - "I mean, it incensed me. I mean, I know what he's..."* – Deputy District Attorney
 - "So we're on the same page then... When you've seen what you've seen... you got to just think, how can this happen?"* – Auditor's Staff Accountant May 18, 2018
 - *"I hope it leads to successful prosecution."* – Auditor's Staff Accountant May 18, 2018
 - *"You guys realize this is catnip for me..."* – Auditor's Staff Accountant May 18, 2018



Questions I Would Like Answers To

- Should witnesses, such as the Auditor’s staff accountant, be required to “swear to tell the truth and nothing but the truth?”
 - The State Auditor asked his staff accountant what had happened with the District Attorney’s Office [regarding the League and Trust audits]. He indicated the staff accountant said, *“oh, they forgot about it. I think they didn’t care.”* – State Auditor Interview with Defense
 - *“Did [the State Auditor] know that you were going to give us all the documents, including all of these more salient ones, before you actually gave it to us or after you gave it to us?”* – Chief Deputy District Attorney May 18, 2018
 - *“... I would not have given documents [to the District Attorney’s Office] without [the State Auditor’s] permission, but once I was given permission to give documents, unless specifically told not to, I was going to include everything I could...”* – Auditor’s Staff Accountant
 - *“Unbeknownst to the Auditor’s Office, [staff accountant] had subsequent meetings with individuals from the Salt Lake County Attorney’s Office. The Auditor’s Office is now informed that [the staff accountant] provided additional records... though the Salt Lake County Attorney’s Office had not made any formal request...”* – Attorney General Motion June 29, 2019



Questions I Would Like Answers To

- Should the District Attorney's expert witness be expected to do his own independent investigation?
 - *“We looked at the Utah State Auditor's report ... We've looked at their work papers...”* – District Attorney's Expert in the Preliminary Hearing
 - *“We relied on the Auditor's report as the questionable expenditures.”* – District Attorney's Expert in the Preliminary Hearing
 - *“The personal charges during the period are the charges that were deemed personal in the State Auditors report. The questionable charges, same situation...”* – District Attorney's Expert in the Preliminary Hearing



Questions I Would Like Answers To

- What role does transparency play in the prosecution of a case?
 - *“When you go to work on Monday, are you going to be expected to discuss with [the State Auditor] everything we discussed.... If we asked you to not discuss what we discussed with you with anybody else, you would... invoke that catch phrase. [‘I spoke with some attorneys about a pending potential criminal prosecution, and I’m not allowed to say anything until its’ over...’] and we would ask you to be circumspect... even with members within your own office.”* – Chief Deputy District Attorney May 18, 2018
 - *“You clarified, before, in your request to not disclose the details... of our conversation[to the State Auditor].”* – Auditor’s Staff Accountant May 18, 2018



Questions I Would Like Answers To

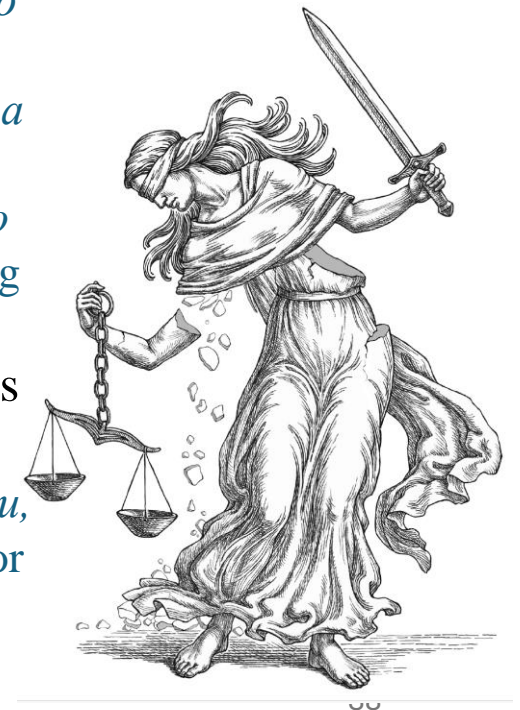
- Should the District Attorney's Office conduct its own investigation
 - *“You know, our interest, really, in speaking with you... is just to kind of verify the information that we have because ultimately, we're going to be relying upon it to make some fairly important decisions.”* – Chief Deputy District Attorney
 - *“We probably need to have at least a road map of what we need to look at, where to start and go from. And that's what I'm hoping that you can kind of point us in the direction...”* – Deputy District Attorney December 8, 2017
 - *“Good. I mean, we're asking the questions as we need your expertise... I mean, you are the expert...”* Deputy District Attorney May 18, 2018
 - *“[The draft Trust audit is] like the bible for this case.”* District Attorney Investigator May 18, 2018



Questions I Would Like Answers To

- Should evidence used to charge me for a crime be turned over in a timely manner?
 - *“I think it’s unusual for defense counsel to ask us to disclose who we’re subpoenaing so that they can issue subpoenas.”* - Deputy District Attorney October 20, 2019 Hearing
 - *“... [if] we turn over 1102 to defense counsel, there’s going to be a subpoena issued to every one of those witnesses...”* - Deputy District Attorney October 20, 2019 Hearing
 - *“I think the motion to dismiss essentially needs to be litigated before the court enters a decision on the motion to compel, because I think the court needs to come to conclusions about what sorts of information would be relevant, and I think we need to litigate. I, I think that issue is...”* - Deputy District Attorney October 20, 2019 Hearing

- In interviewing witnesses should the DA investigators threaten potential witnesses with false claims?
 - *“... somebody had to sign those checks for the [Trust]... And, and to be honest with you, your name is on some of those checks...”** – Former Trustee Interview with Investigator
 - *Her Response “... I am too old to go to jail.”* – Former Trustee



* The former Trustee signed a single check in 25 years

Questions I Would Like Answers To

- Should the District Attorney's Office withhold documents obtained in violation of the Government Records Access and Management Act from the State Auditor?

“... [the Attorney General's Office] also asked the County for copies of the records and other information provided by [Auditor's staff accountant], in order to ensure that the State had received complete and accurate records and classifications, as well as allow the Auditor to be prepared to fully respond to questions from counsel for Defendant. The County attorney's were uncomfortable providing these records and information but suggested counsel for the Auditor's Office obtain information from Defense counsel.” – Attorney General's Motion June 29, 2019



Questions I Would Like Answers To

- How thorough should we expect our prosecutors and investigators be in establishing a case?
 - *The chief deputy district attorney merely responded “oh,” to the Auditor’s staff accountant’s statement, “so, [State Auditor] ... made efforts to try to get a legal opinion through our AG... assigned attorney to answer that question, from our perspective, whether [the Trust] was or was not [a government entity] and was never decisively successful ...” – District Attorney Interview with Auditor Staff Accountant May 18, 2018, Page 25, Lines 15 – 24*
 - The chief deputy district attorney ignored the statement without conferring with (1) the State Auditor, (2) State Attorney General, (3) the Internal Revenue Service, (4) the national recognized law firms that represented the Trust or (4) the local attorney’s for the Trust.



Prosecutors hold people accountable for their actions. Prosecutors in turn are accountable for theirs... Unethical behavior by one prosecutor, if unpunished, can poison the atmosphere in an entire office...

State Wide Association of Prosecutors and Public Attorneys
Best Practices

What about the defendants that are subject to unethical conduct?

