

STATE OF LOUISIANA LEGISLATIVE AUDITOR

District Attorney of the
Eighth Judicial District
Winnfield, Louisiana

July 14, 1999



Audit Resolution Report

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

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LEGISLATIVE AUDITOR

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

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**DISTRICT ATTORNEY OF THE
EIGHTH JUDICIAL DISTRICT**
Winnfield, Louisiana

Audit Resolution Report
Dated May 6, 1999

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor and at the office of the parish clerk of court.

July 14, 1999

**DISTRICT ATTORNEY OF THE
EIGHTH JUDICIAL DISTRICT
Winnfield, Louisiana**

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DANIEL G. KYLE, PH.D., CPA, CFE
LEGISLATIVE AUDITOR

May 6, 1999

**HONORABLE FRANCIS C. THOMPSON,
ACTING CHAIRMAN, AND MEMBERS OF
THE LEGISLATIVE AUDIT ADVISORY COUNCIL**
Baton Rouge, Louisiana

We have performed a limited examination of the District Attorney of the Eighth Judicial District. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine whether the district attorney has taken appropriate action to resolve findings cited in the audit report and management letter dated October 30, 1998, issued by William E. Weatherford, Certified Public Accountant.

The accompanying report includes unresolved findings. We will continue to monitor those findings until the district attorney resolves the findings. Copies of this report have been delivered to the district attorney and other authorities as required by state law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

DGK:GLM:GCA:dl

[BDA]

**DISTRICT ATTORNEY OF THE
EIGHTH JUDICIAL DISTRICT
Winnfield, Louisiana**

BACKGROUND AND METHODOLOGY

William E. Weatherford, Certified Public Accountant, issued an audit report, with a management letter, dated October 30, 1998, on the financial statements of the District Attorney of the Eighth Judicial District as of and for the year ended December 31, 1997. The audit report and management letter included eight internal control deficiencies and violations of state laws and regulations.

We visited the district attorney to determine whether appropriate action was taken to correct the matters included in the report and management letter. Our procedures consisted of the following: (1) examining selected district attorney records; (2) interviewing certain employees of the district attorney; (3) reviewing applicable Louisiana laws and Attorney General opinions; and (4) making inquiries to the extent we considered necessary to achieve our purpose.

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**DISTRICT ATTORNEY OF THE
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Winnfield, Louisiana**

CONCLUSIONS

Based on the results of the procedures performed during our visit to the district attorney, we conclude that the district attorney has taken the following steps to resolve the findings contained in the William E. Weatherford report and accompanying management letter, dated October 30, 1998:

1. The December 31, 1998, audited financial statements should be issued timely (by June 30, 1999). The district attorney engaged John Vercher, Certified Public Accountant, on December 15, 1998, to conduct the December 31, 1998, audit, and we were informed by Mr. Vercher that the audit report would be issued before June 30, 1999.
2. A new accounting software program that maintains file records for the Worthless Check Fund was implemented.
3. Receipts and disbursements appear to be coded properly for the year ended December 31, 1998.
4. Bank charges, including overdraft charges, totaled \$4,279 for the year ended December 31, 1998. Bank charges totaled \$1,280 for January 1999, and \$605 for February 1999. There were no bank charges for March and April 1999.
5. Employee payroll taxes are now paid timely.
6. Employee requests for mileage reimbursements now include destinations or purposes of trips.

Management of the district attorney did not fully address the following findings included in the William E. Weatherford report and accompanying management letter, dated October 30, 1998:

1. We were unable to determine whether budgeted revenues in the General Fund exceed actual revenues by more than 5% for the year ended December 31, 1998, because financial statements were not prepared as of the date of our visit (May 6, 1999).
2. Meals paid for by the district attorney's office are not reasonable compared with the state's travel policies.

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DISTRICT ATTORNEY OF THE EIGHTH JUDICIAL DISTRICT

Winnfield, Louisiana

Conclusions (Concluded)

As we evaluated the findings contained in the William E. Weatherford report and management letter, the following matters came to our attention:

1. The district attorney does not have a formal travel policy for all employees. In addition to spending unreasonable amounts for meals as compared with the state's travel policies, the district attorney spent unreasonable amounts for lodging when compared with the state's travel policies, did not provide documentation as to why rental vehicles were the most economical means of travel at conferences, paid for meals and lodging for an individual to attend a conference who was not an employee of the district attorney's office, and incurred other conference expenditures without documenting the reason or necessity of the expenditure.
2. Credit card charge receipts were included; however, the business purpose of the charge and names of the individuals participating were not documented.
3. The district attorney expended public funds for advertising public education messages that included his name.
4. The district attorney paid one-time lump sum salary supplements to certain employees.
5. Controls over payroll need to be improved.
6. A complete inventory of fixed assets is not maintained.

The Findings and Recommendations section of this report provides details for our conclusions for the findings not addressed by the district attorney and the additional matters that came to our attention during our follow-up review.

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**DISTRICT ATTORNEY OF THE
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Winnfield, Louisiana**

FINDINGS AND RECOMMENDATIONS

TIMELY FINANCIAL STATEMENTS NEEDED

Financial statements are not prepared timely. On the date of our visit (May 6, 1999), financial statements were not prepared for the fiscal year ended December 31, 1998, nor were monthly financial statements prepared for January through March 1999. The district attorney informed us that the financial statements were not prepared timely because his office was in the process of upgrading the accounting program.

Without monthly financial statements, the district attorney cannot effectively monitor the financial operations of his office with budgeted amounts. In addition, monthly financial statements would allow the district attorney to monitor the General Fund deficit. At December 31, 1997, the General Fund reported a deficit of \$166,632 (approximately 50% of total General Fund revenues for the year ended December 31, 1997).

Monthly financial statements that report the operations of the district attorney's office compared to the budgeted amounts should be prepared timely. The district attorney should also have a formal deficit reduction plan and monitor the progress of this plan monthly.

TRAVEL POLICY NEEDED

The district attorney does not have a formal travel policy for all employees. The district attorney adopted the State of Louisiana's travel policies for his support staff; however, there are no formal travel policies for the district attorney and assistant district attorneys. The district attorney and assistant district attorneys are reimbursed actual expenses. We selected three conferences attended by the district attorney/assistant district attorneys during 1998. The following details the results of that review:

**Louisiana District Attorneys Association
Twenty-Fourth Annual Conference
Destin, Florida
August 2-7, 1998**

1. The district attorney, all full-time assistant district attorneys (three), a part-time assistant district attorney, the Pre-Trial Intervention Director, and the Driving Improvement Director for Winn Parish Court (mayor of Winnfield) attended the

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DISTRICT ATTORNEY OF THE EIGHTH JUDICIAL DISTRICT

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Findings and Recommendations (Continued)

conference. We question the necessity of so many individuals from the district attorney's office attending the conference, especially in light of the \$166,632 deficit reported in the 1997 financial statements. In addition, the district attorney should not pay for the Driving Improvement Director to attend since he is not an employee of the district attorney's office. The district attorney's office paid \$1,561 (hotel and meals) for the Driving Improvement Director. The total cost of the conference was \$17,624.

2. The conference started August 2 and ended August 6, 1998. August 7 was the "Disembarkation and Travel Day." Some of the attendees arrived a day early and stayed an additional day after the conference ended as follows:
 - August 2 was for committee meetings, Louisiana District Attorneys Association Board of Directors Meeting, and the District Attorney's Retirement System Board Meeting.
 - The district attorney is a member of the Board of Directors for 98/99; however, none of the others attending were board or committee members. Although the meetings are open to all participants, we question why everyone, except the district attorney, should attend these meetings. Therefore, unnecessary costs for meals and lodging were incurred for arriving a day earlier than required. Total cost for the six attendees arriving early on August 1, 1998, totaled \$1,626.
 - August 7 was the "Disembarkation and Travel Day"; however, two assistant district attorneys stayed an extra day. They did not depart until August 8. Meals and lodging for that day totaled \$842.
 - The following three attendees required two days to travel from Winnfield to Destin (departed Winnfield on July 31, 1998, and arrived at Destin on August 1, 1998):
 - The district attorney and Driving Improvement Director stayed at The Island House-Orange Beach, Alabama, and paid \$268 each for lodging and a total of \$183 for meals. Orange Beach is 442 miles from Winnfield or approximately an 8-hour drive. Winnfield to Destin (conference location) is 496 miles or approximately a 9-hour drive. The mileage difference is 54 miles or less than a one-hour drive. We question the necessity of taking two days to travel from Winnfield to Destin (on the return trip, it took only one day).

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Findings and Recommendations (Continued)

- The first assistant district attorney stayed at the Cabot Lodge-Hattiesburg, Mississippi, and paid \$59 for lodging and \$89 for dinner.

3. The following are the daily room charges by conference attendee:

<u>Attendee</u>	<u>Daily Room Rate</u>	<u>Tax</u>	<u>Total</u>
Terry Reeves, District Attorney	\$240	\$28	\$268
Martin Sanders, First Assistant District Attorney	340	31	371
Jim Wiley, Third Assistant District Attorney	340	31	371
James Lewis, Second Assistant District Attorney	160	21	181
Clifford Strider, Part-time Assistant District Attorney	80	10	*90
John Scott, Pre-Trial Intervention Director	160	21	181
Mayor Thornton, Driving Improvement Director	240	28	268
	<u>1,560</u>	<u>170</u>	<u>1,730</u>
Total per day	<u>\$1,560</u>	<u>\$170</u>	<u>\$1,730</u>

*District attorney paid one-half of \$181 room rate.

Although the district attorney does not have to adopt the State of Louisiana's travel policies, we are using them for comparative purposes as a rule-of-thumb as to what is reasonable. The room rates paid by the district attorney's office were not reasonable compared with the state's travel policies. State of Louisiana travel regulations allow a daily rate of \$140 (plus tax) for out-of-state conference lodging. At a rate of \$140, the total daily lodging amount would be \$910, or \$650 less per day as compared to the amount paid by the district attorney's office.

4. Meals paid for by the district attorney's office were not reasonable compared with the state's travel policies. A total of \$3,911 was paid for meals. State of Louisiana travel policies allow \$29 per day (\$6 for breakfast, \$8 for lunch, and \$14 for dinner) for meals. Based on this, \$2,562 was paid in excess of state travel policies. The district attorney informed us that meal charges included attendees from his office and district attorneys and officials from other offices. The names of those eating were not documented. In addition, although the attendees outside of the district attorney's office receive reimbursement for their meals from their offices, the reason or necessity that the district attorney's office paid for their meals was not documented. Some examples of meals follows:

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Findings and Recommendations (Continued)

<u>Date</u>	<u>Restaurant</u>	<u>Amount</u>
August 4, 1998	Café Thirty	\$910
August 2, 1998	Destin Chops	\$362
August 3, 1998	Criollas	\$356
August 5, 1998	Destin Chops	\$320

5. The district attorney's office paid \$309 for the following:

Sandcastles Lounge	\$115
Sandbar & Grill	\$57
Beach set-up	\$98
Gift Shop	\$39

Because there were no itemized receipts of items purchased, we could not determine whether these expenditures were reasonable or necessary conference expenditures.

6. Total round trip miles from Winnfield to Destin and return total 993 miles (993 miles X \$.26 = \$258). One assistant district attorney was reimbursed for 1,241 miles (\$323) and another assistant district attorney was reimbursed for 1,440 miles (\$374).

**America's Prosecutors Annual Conference
Snow King Resort
Jackson Hole, Wyoming
July 26-30, 1998**

1. The district attorney attended the conference. The registration fee paid totaling \$375 included a guest fee of \$50. The total cost of the conference was \$3,135.
2. The conference started July 24, 1998; however, the district attorney's flight departed Monroe, Louisiana, on July 22, 1998. He stayed overnight in Salt Lake City, Utah, and arrived in Jackson Hole, Wyoming, on July 23, 1998. There is no documentation as to why two days were needed to travel from Winnfield to Jackson Hole, Wyoming. Our review of flight schedules revealed several flight options for flights from Monroe to Jackson Hole that required only one day of

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Findings and Recommendations (Continued)

travel. The cost of staying overnight in Salt Lake City for meals and lodging totaled \$283 (\$199 lodging and \$84 meals).

3. Meals paid for by the district attorney's office was not reasonable compared with the state's travel policies. A total of \$441 or an average of \$55 each day was paid for meals. State of Louisiana travel policies allow \$29 per day for meals. Based on this, \$232 was paid in excess of state travel regulations.
4. The district attorney paid \$353 for a rental vehicle and \$62 for gasoline. There is no documentation as to why a rental vehicle was the most economical means by which the purposes of the trip could be accomplished. The Snow King Resort provides a free shuttle to and from the airport and taxis are available for eating away from the resort.

Louisiana Trial Lawyers Association Post-Legislative Retreat The Peaks Resort & Spa Telluride, Colorado June 26-30, 1998

1. The district attorney and first assistant district attorney attended the retreat for a total cost of \$6,812. The district attorney served as moderator for the June 30, 1998, seminar programs.
2. The district attorney arrived in Telluride, Colorado, on June 24, 1998. The cost of an extra day for meals and lodging was \$395. There is no documentation as to why the district attorney arrived early.
3. The retreat started on Friday, June 26, 1998, with two hours of seminar programs (continuing legal education) from 8:30 a.m. to 10:30 a.m. There were no seminar programs scheduled for Saturday and Sunday, June 27-28, 1998. For Monday and Tuesday, June 29-30, 1998, there were two hours of seminar programs each day from 8:30 a.m. to 10:30 a.m. There was a total of six hours of seminar programs over the five-day period.
4. Although the retreat ended June 30, 1998, at 10:30 a.m., the first assistant district attorney was reimbursed for food and lodging through July 1, 1998.
5. The room rates paid by the district attorney's office were not reasonable compared with the state's travel policies. The resort's daily room rate was \$297

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Findings and Recommendations (Continued)

(room charge of \$245 plus \$52 for taxes and service charge). State of Louisiana travel policies allow a daily rate of \$140 for out-of-state conference lodging.

6. Meals paid for by the district attorney's office were not reasonable compared with the state's travel policies. A total of \$1,604 was paid for meals. State of Louisiana travel regulations allow \$29 per day for meals. Based on this, \$1,198 was paid in excess of state travel policies. The district attorney informed us that meal charges included attendees from his office and lawyers from other offices. The names of those eating were not documented. In addition, although the attendees outside of the district attorney's office receive reimbursement for their meals from their offices, the reason or necessity that the district attorney's office paid for their meals was not documented. Some examples of meals are as follows:

<u>Date</u>	<u>Restaurant</u>	<u>Amount</u>
June 26, 1998	Harmons (lunch)	\$160
June 26, 1998	Powerhouse (dinner)	\$241
June 29, 1998	Sundance Restaurant	*\$271

*Alcoholic beverages totaling \$39.75 were included on the itemized receipt. Attorney General Opinion 96-458 provides that public funds may not be used to purchase alcoholic beverages.

7. The district attorney and first assistant district attorney each rented a vehicle. The total cost of these two rental vehicles was \$862. There is no documentation as to why a rental vehicle was the most economical means by which the purposes of the trip could be accomplished. The Peaks Resort & Spa provides free shuttle service to and from the Telluride Airport.

The district attorney should adopt a formal travel policy for all employees that will be in line with the district attorney's financial condition. We suggest that the district attorney adopt the State of Louisiana's travel policies. At a minimum, the policies should (1) provide that conferences be attended only when a benefit to the district attorney's office can be shown and funds are available; (2) limit amounts that employees are reimbursed for meals and lodging; (3) prohibit the payment of travel costs for non-employees of the district attorney's office; (4) allow rental of vehicles only when it can be documented that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished; (5) reimburse employees for business miles only; and (6) prohibit the purchase of alcoholic beverages.

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Findings and Recommendations (Continued)

CREDIT CARD CHARGES

A review of the district attorney's credit card (VISA Card) charges revealed that credit card charge receipts were included; however, the business purpose of the charge and names of the individuals participating were not documented. The district attorney informed us that the accounting personnel in his office were not aware that this documentation was required. For the period from December 14, 1997, through April 11, 1999, a total of \$16,845 was charged to the credit card primarily for the district attorney's travel.

Charges included meals, lodging, airfare, and other miscellaneous charges. Examples of some of the charges follow:

<u>Date</u>	<u>Charged To</u>	<u>Location</u>	<u>Amount</u>
April 6, 1998	Ruth's Chris Steakhouse	Baton Rouge, LA	\$341.07
May 21, 1998	Mariners Seafood	Natchitoches, LA	\$137.94
August 2, 1998	Destin Chops	Destin, FL	\$362.46
October 21, 1998	Rabbs/Derby Steak House	Ruston, LA	\$263.43
February 2, 1999	Lone Star/Sullivans	Baton Rouge, LA	\$222.04
March 13, 1999	Westin Hotels	Hilton Head Island, SC	\$409.93
March 17, 1999	Avis Rent-A-Car	Charleston, SC	\$350.15
March 19, 1999	Charleston Place Hotel	Charleston, SC	\$1,054.76

The district attorney should discontinue using the credit card and file expense reports for reimbursement of all expenditures made for business purposes. The reports should include all appropriate documentation supporting the business nature of the expenditures. In addition, all business expenses claimed for reimbursement should be within the district attorney's adopted travel policies.

ADVERTISING PUBLIC EDUCATION MESSAGES

SHOULD NOT INCLUDE DISTRICT ATTORNEY'S NAME

The district attorney expended funds for advertising public education messages that included his name in the advertisement. Louisiana Revised Statute 43:111.1 states, "No public funds shall be used in whole or in part for the payment of the cost of any advertisement

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Findings and Recommendations (Continued)

containing therein the name of any public official whether elected or appointed." We reviewed \$4,156 of a total of \$19,384 expended for advertising public education messages for the fiscal year ended December 31, 1998, and all of these advertisements included the district attorney's name.

Louisiana Attorney General Opinion 83-57 provides that the district attorney may legally include his name on an educational or anti-crime campaign pamphlet that will not be disseminated to the general public. However, all advertisements we reviewed were available or disseminated to the general public. For example, the district attorney paid for advertising as follows:

<u>Date Paid</u>	<u>Paid To</u>	<u>Description of Advertisement</u>	<u>Amount</u>
May 29, 1998	Henderson Advertising	Video message pens and round key fobs with public service messages such as "Buckle Up," "U Drink U Drive U Walk," etc. Each item containing "Terry R. Reeves Your District Attorney One Man Is Making A Difference."	\$1,217.41
May 29, 1998	Athletic Schedules	Poster with 1998 football schedules for LSU, N.O. Saints, and NSU with a public service message "U Drink U Drive U Walk." The poster contains "A Message from Terry R. Reeves, District Attorney, Winn Parish One Man Is Making A Difference."	\$337.50
October 16, 1998	National Crime Prevention Council	Trick or Treat bags with public service messages "Never go it alone," "Stay in well lighted areas," and "Have your parents check your treats." The bags contain "Compliments of Terry R. Reeves Your District Attorney."	\$910.00

The district attorney should discontinue including his name in future public service advertisements.

BONUSES SHOULD NOT BE PAID

The district attorney paid five of his employees \$250 dollars each (total of \$1,250) on December 23, 1998. Article VII, Section 14 of the Louisiana Constitution of 1974 provides that

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Findings and Recommendations (Continued)

the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation. These one-time lump sum salary supplements constitute a bonus and/or donation of public funds. Although the statement signed by each employee indicated that the payment was a "pre-1999 pay increase," the employees' future salaries were not changed.

Louisiana Attorney General Opinion 95-145 provides that incentive pay plans for employees are allowable if certain conditions are met. The incentive program must (1) be formal (adopted by the district attorney in writing); (2) have objective criteria clearly stated; and (3) have prospective effect only, with regard to future performance by employees. Thus, if the amount of the incentive award or pay is reasonable in relation to the nature of the employee's performance and the public benefit realized, then it will qualify as compensation rather than simply spontaneous payments for past performance.

If the district attorney plans to continue making one-time lump sum salary supplements, he should adopt a formal incentive program for compensating employees.

CONTROLS OVER PAYROLL NEED TO BE IMPROVED

The district attorney needs to improve payroll procedures. Our review of payroll and personnel records revealed:

- Individual employee personnel files were not complete for all employees. Although employee folders are maintained, these folders only contained copies of checks paid to employees and their approved salaries/wages.
- Form I-9 - "Employment Eligibility Verification" is not maintained for all employees hired after November 6, 1986, as required by the U.S. Department of Justice Immigration and Naturalization Service.
- All employees do not complete time reports. Only employees that are involved with federal programs and the janitor complete time reports.
- There is no policy regarding earning or taking vacation or sick leave for the assistant district attorneys.

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Findings and Recommendations (Concluded)

The district attorney's office should:

1. Maintain individual employee personnel files that include, at a minimum, (a) an employment application form; (b) approved salary or rate of pay; (c) the Employee's Withholding Allowance Certificate Form W-4 and State of Louisiana Employee Withholding Exemption Certificate Form L-4; (d) approved salary or hourly pay rate increases/decreases; (e) annual performance appraisals; and (f) the completed Form I-9 - U.S. Department of Justice Immigration and Naturalization Service "Employment Eligibility Verification" for all employees hired after November 6, 1986.
2. Require all employees to complete simple time reports to document hours worked. The appropriate supervisor should approve the time reports.
3. Adopt a simple policy regarding the earning and taking of vacation and sick leave for all employees.

FIXED ASSET RECORDS SHOULD BE COMPLETE

The district attorney does not maintain a complete inventory of its fixed assets. Louisiana Revised Statute 24:515(B) requires that the district attorney maintain current itemized records of all land, buildings, improvements other than buildings, equipment, and other fixed assets purchased or otherwise acquired. In addition, itemized records of fixed assets are necessary for management control and accountability.

The district attorney maintains a list of office furniture and equipment; however, the cost of many of these assets is not included. A complete list of all fixed assets should be maintained.

Attachment 1

Management's Responses

Office of the  District Attorney

FIRST ASSISTANT DIST. ATT.
MARTIN S. SANDERS III

ASSISTANT DIST. ATT.
JAMES E. LEWIS

ASSISTANT DIST. ATT.
JIM W. WILEY

TERRY R. REEVES
DISTRICT ATTORNEY
EIGHTH JUDICIAL DISTRICT
WINN PARISH

P. O. DRAWER 1374
WINNFIELD, LA 71483

(AREA CODE 318)
628-2141

SUPPORT ENFORCEMENT
318-628-3274

FAX: 318-628-2143

July 1, 1999

**HONORABLE FRANCIS C. THOMPSON, ACTING CHAIRMAN,
AND MEMBERS OF THE LEGISLATIVE AUDIT COUNCIL**
Baton Rouge, Louisiana

In response to audit comments submitted by Dr. Daniel G. Kyle, CPA, CFE, Office of Legislative Auditor, State of Louisiana in a report dated May 6, 1999, please find the following action summaries relating to the findings and recommendations.

Timely Financial Statements

Management concurs that timely financial statements are needed. A new accounting software program has been installed. The bookkeeper recently attended a two-day seminar and is scheduled to attend another in July for instruction in software application.

Travel Policy

Management has reduced our travel policy to written form. Although State of Louisiana travel policies do not apply to the Office of the District Attorney, these policies will continue to be used in relation to the support staff. The District Attorney and Assistant District Attorneys are reimbursed actual expenses. Consistent with adequate training required to guarantee the efficient operation of the District Attorney's office, management will continue to strive to keep travel reimbursement at a minimum and to completely document the necessity and purpose of the charges.

The Driving Improvement Director is not a paid employee of the District Attorney's office. However his donated services are an integral part of the driving improvement portion of the pre-trial intervention program. As a defacto employee, training received at the San Destin conference directly improves the quality of the pre-trial intervention program. (See attached Attorney General Opinion 98-482A.)

Management has issued a reprimand to employees for unallowable charges and is committed to closer monitoring of all reimbursements submitted. Management acknowledges the purchase of a gift shop item by Assistant District Attorney James E. Lewis in the amount of \$39.00 and a purchase in the amount of \$39.75 by Assistant District Attorney Martin S. Sanders III. Both amounts have been reimbursed to the District Attorney's Office.

Credit Card Charges

Management will document the business purpose(s) of all charges and names of the individuals participating.

Advertising Public Education Messages

The position of the District Attorney of the Eighth Judicial District regarding public education messages including his name purchased with discretionary funds is that they are appropriate as supported by A.G. Opinion 95-483 which states in part "...the use of these funds for public programs and advertisements relating to drug prevention and the like may be authorized under LSA - R.S. 15:571.11, so long as the use of the funds is consistent with the spirit of the law."

Bonuses

These payments are proper as they represent salary increases for future services in accordance with A. G. Opinion 95-145 which states in part "...that payments of additional compensation to public employees to be constitutionally valid must be in the form of salary increases for future services to be rendered, not extra compensation for past service already rendered and recompensed.

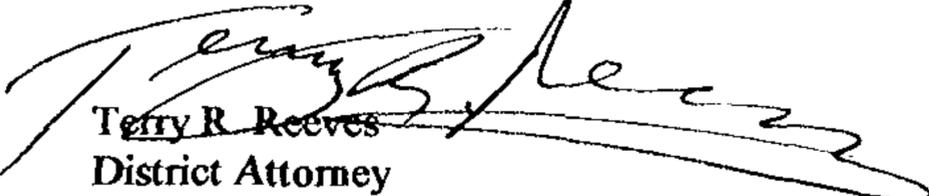
Controls Over Payroll

Management has amended the policy regarding employee personnel files to provide for inclusion of an employment application form, an approved salary or rate of pay change form, a completed form I - 9, completed time sheets to document actual hours worked and leave form.

Fixed Asset Records

The District Attorney's Office maintains records of all fixed assets using estimated values. The office will begin using actual cost for future purchases.

Respectfully submitted,


Terry R. Reeves
District Attorney

Citation

Search Result

Rank 2 of 4

Database
LA-AG

La. Atty. Gen. Op. No.

La. Atty. Gen. Op. No. 95-318, 1995 WL 508198 (La.A.G.)

Office of the Attorney General
State of Louisiana

Opinion No. 95-318

August 15, 1995

78 OFFICERS-Dual Officeholding

LSA-R.S. 42:62(9); LSA-R.S. 42:63(D)

We conclude a police juror may hold employment with the district attorney's office as either the office administrator or the director of the pre-trial intervention program of the district attorney's office.

Honorable Walter E. May, Jr.

District Attorney

500 East Court Avenue

Jonesboro, LA 71251

Dear Mr. May:

This office is in receipt of your opinion request of recent date wherein you ask whether an elected police juror may also serve as either the office administrator or the director of the pre-trial intervention program of the district attorney's office.

The provisions of the Louisiana Dual Officeholding and Dual Employment Laws, LSA-R.S. 42:61, et seq., governs our response. Therein, note that an individual serving as police juror holds local elective office within a political subdivision of the state. See LSA-R.S. 42:62(9). Employment with the district attorney's office constitutes employment in a separate political subdivision of the state. LSA-R.S. 42:62(9).

The prohibition of the Dual Officeholding and Dual Employment Law which might be applicable is found in LSA-R.S. 42:63(D), providing:

D. No person holding an elective office in a political subdivision of this state shall at the same time hold another elective office or full-time appointive office in the government of this state or in the government of a political subdivision thereof. No such person shall hold at the same time employment in the government of this state, or in the same political subdivision in which he holds an elective office. In addition no sheriff, assessor, or clerk of court shall hold any office or employment under a parish governing authority or school board, nor shall any member of any parish governing authority or school board hold any office or employment with any sheriff, assessor, or clerk of court. (Emphasis added).

The law permits an individual to hold local elective office and employment in a separate political subdivision. For this reason, we conclude a police juror may additionally hold employment with the district attorney's office as either the office administrator or the director of the pre-trial intervention program of the district attorney's office.

La. Atty. Gen. Op. No.

Very truly yours,

Richard P. Ieyoub
Attorney General

Kerry L. Kilpatrick
Assistant Attorney General

La. Atty. Gen. Op. No. 95-318, 1995 WL 508198 (La.A.G.)
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RICHARD P. IEYOUB
ATTORNEY GENERAL

RECEIVED
MAY 14 1000
State of Louisiana
DEPARTMENT OF JUSTICE
CRIMINAL PROGRAM
Baton Rouge

LA DEPT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
MAY 13 1999
Opinion No. 98-482A

CRIMINAL DIVISION
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INVESTIGATION DIVISION
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PHONE: (225) 342-7536 • FAX: (225) 342-2079

Representative Cynthia Willard
District No. 100
P.O. Box 871780
New Orleans, LA 70187-1780

Dear Representative Willard:

Opinion No. 98-482A
La. C.Cr.P. Art. 333; Art. 335; Art. 17; Art. 242; Art. 578.1; Art. 61
La. Atty. Gen. Op. No. 90-588; La. Atty. Gen. Op. No. 93-481; and La. Atty.
Gen. Op. No. 95-318

Pursuant to La. C.Cr.P. Art. 335, district courts may employ the services of private companies to monitor and supervise pretrial defendants who have been released on bail and are awaiting trial. Furthermore, although the services of private companies may be utilized in pretrial intervention programs, state courts do not have the authority to choose how and by whom such programs are administered. Instead, these programs are the domain of the district attorney in charge of prosecuting the criminal defendant.

Your request for an Attorney General's Opinion was forwarded to me for research and reply. As I understand it, you have asked the following question:

May district courts utilize the services of a private company to supervise and monitor criminal defendants before trial?

There are two instances in which the services of a private company would be retained in connection with pretrial defendants: 1) defendants released on bail and awaiting trial, and 2) defendants participating in pretrial intervention programs. The resolution of your question involves an examination of judicial authority in both of the above situations.

La. C.Cr.P. Art. 333 grants district courts the power to fix bail in all cases over which they have criminal jurisdiction. Furthermore, La. C.Cr.P. Art. 335 states, in pertinent part:

The court may impose any additional condition of release that is reasonably related to assuring the appearance of the defendant before the court.

The language of this provision is clear - it bestows upon district courts the broad authority to impose any condition of release which is "reasonably related" to securing the defendant's presence in court. Thus, pursuant to this provision, district courts may employ the services of private companies to monitor and supervise pretrial defendants who have been released on bail and are awaiting trial.

The second inquiry involves a different analysis. La. C.Cr.P. Art. 17 grants trial courts expansive authority to undertake all actions "necessary for the exercise of its jurisdiction and the enforcement of its lawful orders," as well as the power to "control the proceedings that justice is done." However, in a pretrial context, the domain of the court is limited to matters such as bail, attorney appointment, pretrial conferences and pretrial hearings - that is, concerns related to the actual trial. La. C.Cr.P. Art. 242 and Art. 578.1, among others, reflect that pretrial intervention programs fall under the capacity of the district attorney's

office. This conclusion is consistent with the authority granted to district attorneys under La. C.Cr.P. Art. 61:

. . . the district attorney has entire charge and control of every criminal prosecution instituted or pending in his district, and determines whom, when, and how he shall prosecute.

Furthermore, previous opinions of this office have confirmed that pretrial intervention programs are *entirely* controlled by the district attorneys in their respective judicial districts. See La. Atty. Gen. Op. No. 90-588; La. Atty. Gen. Op. No. 93-481; *and* La. Atty. Gen. Op. No. 95-318. Thus, district courts do not have the authority to mandate how, and by whom, pretrial intervention programs are administered, and as long as the intervention program is approved by the district attorney, private companies may be utilized to provide services for pretrial defendants.

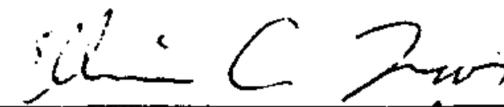
Therefore, it is the opinion of the Attorney General that, pursuant to La. C.Cr.P. Art. 335, district courts may employ the services of private companies to monitor and supervise pretrial defendants who have been released on bail and are awaiting trial. Furthermore, although the services of private companies may be utilized in pretrial intervention programs, state courts do not have the authority to choose how and by whom such programs are administered. Instead, these programs are the domain of the district attorney in charge of prosecuting the criminal defendant.

I hope that this opinion has adequately addressed your question. If this office may be of further assistance, please do not hesitate to contact us. With warmest regards, I remain

Sincerely,

RICHARD P. IEYOUB
Attorney General

BY:



ELLISON C. TRAVIS
Assistant Attorney General

Citation	Search Result	Rank(R) 5 of 57	Database
La. Atty. Gen. Op. No.			LA-30
La. Atty. Gen. Op. No. 95-483, 1995 WL 815642 (La.A.G.)			

Office of the Attorney General
State of Louisiana

Opinion No. 95-483
December 4, 1995

22 - District & Prosecuting Attorneys

R.S. 15:571.11

The Criminal Court Fund established by LSA - R.S. 15:571.11 may supply a source of funds to help meet expenses of public service promotions and sponsorships upon motion of the district attorney and approval order of the district judge, or the order or warrant of the district judge and district attorney.

Mr. James E. Lewis, Esq.
Assistant District Attorney
Grant Parish
P.O. Box 309
Colfax, Louisiana 71417

Dear Mr. Lewis:

This office is in receipt of your opinion request dated November 2, 1995, in which you ask whether the District Attorney may use proceeds from his discretionary fund for various purposes. Specifically, you name these purposes as:

(1) advertising messages on various items such as pens, calendars and newspaper advertisements promoting anti-drug campaigns and the dangers of drinking and driving;

(2) sponsoring and/or co-sponsoring community programs for various public purposes such as drug deterrence and alcohol abuse.

You also ask whether the District Attorney may use his name in conjunction with these advertisements, promotions and sponsorships.

For purposes of our discussion, I will assume that the discretionary funds at issue are derived pursuant to LSA - R.S. 15:571.11.

LSA - R.S. 15:571.11(A)(1)(a) states:

All fines and forfeitures, except for forfeitures of criminal bail bonds posted by a commercial security imposed by district courts and district attorneys, conviction fees in criminal cases, and prosecutions for violations of state law or parish ordinances, upon collection by the sheriff or executive officer of the court, shall be paid into the treasury of the parish in which the court is situated and deposited in a special "Criminal Court Fund" account, which, on motion by the district attorney and approval order of the district judge, may be used or paid out in defraying the expenses of the criminal courts of the parish as provided in Ch.C. Articles 419 and 421 and R.S. 16:6, in defraying the expenses of those courts in recording and transcribing of testimony, statements, charges, and other proceedings in the trial of indigent persons charged with the commission of felonies, in defraying their expenses in the preparation of records in appeals in such cases, for all expenses and fees

La. Atty. Gen. Op. No.

of the petit jury and grand jury, for witness fees, for attendance fees of the sheriff and clerk of court, for costs and expenses of a parish law library, and for other expenses related to the judges of the criminal courts and the office of the district attorney. In the Second Judicial District, the criminal court fund shall be used to defray the expenses of the criminal court system. (Emphasis Added.)

This office has concurred with expenditures from this Criminal Court Fund ("Fund") for a broad range of items including office furniture for the district judge's office (Opinion 86-131) and radar equipment (Opinion 85-319). More relevant to our discussion is Opinion 84-967 which concluded that the District Attorney may hire a public relations and information officer and pay him from said Fund pursuant to a professional services contract.

These opinions focus on the omnibus spending clause emphasized above which permits "for other expenses related to the judges of criminal courts and the office of the district attorney." The statute also provides the procedure by which expenditures may be made, requiring that payments be made only on motion by the district attorney and approval order by the district judge.

The purposes you present are not part of the illustrative list of proper expenditures presented in LSA - R.S. 15:571.11. Therefore, in order for them to receive disbursements from the Fund they must be expenses related to the judges of the criminal courts and the office of the district attorney, thereby falling within the omnibus expense clause. Consequently, it is necessary to look to the policy underlying the statute and the purposes behind promotions and programs you mention.

As stated in Opinion 87-244(A), law enforcement cannot reasonably be divided into separate and distinct entities. Practical considerations demand that these various levels of law enforcement work together in order to effectuate an efficient criminal justice system. The Criminal Court Fund must be interpreted to promote those goals in all reasonable respects. Therefore, the use of these funds for public programs and advertisements relating to drug prevention and the like may be authorized under LSA - R.S. 15:571.11, so long as the use of those funds is consistent with the spirit of the law.

The same analysis applies as per whether the name of the District Attorney may be used in these programs and promotions. However, the Office of the Attorney General is not designed as a policy maker for local judicial districts. Therefore, each governing authority must make an independent evaluation of their situation and make a decision based on those facts. Thus, specific questions about the necessity, reasonableness or propriety of a specific expenditure is not within the scope of this office's authority. Rather, it is to be determined by the criminal court judges and district attorneys, realizing that such expenditure be reasonable, necessary and proper.

Accordingly, it is the opinion of this office that the Criminal Court Fund established by LSA - R.S. 15:571.11 may supply a source of funds to help meet expenses of public service promotions and sponsorships upon motion of the district attorney and approval order of the district judge, or the order or warrant of the district judge and district attorney.

I trust this adequately answers your questions. Should you require further assistance, please contact this office.

Very truly yours,

La. Atty. Gen. Op. No.

Richard P. Ieyoub
Attorney General

Carlos M. Finalet , III
Assistant Attorney General

La. Atty. Gen. Op. No. 95-483, 1995 WL 815642 (La.A.G.)
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La. Atty. Gen. Op. No. 83-57

Page 1

*11565 La. Atty. Gen. Op. No. 83-57
Office of the Attorney General
State of Louisiana

Opinion No. 83-57
January 21, 1983

22 DISTRICT & PROSECUTING ATTORNEYS

90-A-1 PUBLIC FUNDS & PUBLIC CONTRACTS

District attorney may include his name on educational or anti-crime campaign pamphlet which is not disseminated to general public. R.S. 1:3 R.S. 43:111.1

Honorable Ossie Brown
District Attorney
Nineteenth Judicial District
222 St. Louis Street
Baton Rouge, Louisiana 70801

Dear Mr. Brown:

In your letter of January 18, 1983, you requested an opinion of this office as to whether it is permissible to place your name on brochures and documents which are distributed by the District Attorney's Office in educational campaigns or campaigns against crime.

R.S. 43:111.1, which is found in the Chapter relative to State Printing, provides as follows:

'Advertisements paid for with public funds, restrictions

No public funds shall be used in whole or in part for the payment of the cost of any advertisement containing therein the name of any public official whether elected or appointed, provided, however, that the provisions of this section shall in no case be construed to apply to advertisements or notices required or authorized by law to be published or to any advertisements placed by any public agency or body authorized by law to advertise in the furtherance of its functions and duties.'

Thus, we must resolve the issue of whether such a pamphlet constitutes an 'advertisement'. R.S. 1:3 provides as follows:

'Words and phrases shall be read with their context and shall be construed according to the common and approved usage of the language. Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

The word 'shall' is mandatory and the word 'may' is permissive.'

We have reviewed numerous cases construing the term 'advertisement' as well as the dictionary definition of the term and the consensus is that it is a public notice which is usually published in the mass media or broadcast over the air.

The type of specialized pamphlet you mention is to be distributed by your office to a limited number of persons for educational and anti-crime campaigns, and will not be disseminated to the public generally through newspapers, radio or television; therefore, it is not a public notice or advertisement.

Accordingly, it is the opinion of this office that you may legally include your name on an educational or anti-crime campaign pamphlet which will not be disseminated to the public generally.

Very truly yours,

William J. Guste, Jr.

Attorney General

Kenneth C. Dejean

Chief Counsel