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March 27, 1997

THE HONORABLE JAMES D. "BUDDY" CALDWELL,
DISTRICT ATTORNEY FOR THE SIXTH
JUDICIAL DISTRICT
Erickson, Louisiana

Transmitted herewith is our investigative report on the District Attorney for the Sixth Judicial District. 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 findings and recommendations, as well as your response. Copies of this report have been delivered to others as required by state law.

Respectfully submitted,

Daniel G. Kyle, CPA, CPE
Legislative Auditor

Affidavit

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STATE OF LOUISIANA LEGISLATIVE AUDITOR

Member, Attorney for the Sixth Judicial District
Tululah, Louisiana

March 27, 1997



Investigative Audit

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

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Executive Summary

Investigative Audit Report District Attorney for the Sixth Judicial District

The following summarizes the finding and recommendation that resulted from this investigation. Detailed information relating to the finding and recommendation may be found at the page number indicated.

District Attorney Failed to Fully Reimburse Office for Personal Expenses

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| Findings: | District Attorney James D. "Buddy" Caldwell used \$1,519 of District Attorney's Office funds to pay for personal expenditures. Although Mr. Caldwell repaid the District Attorney's Office for these personal charges after we began our work, his use of public funds may be in violation of Louisiana law. |
| Recommendation: | The District Attorney's Office should establish policies that prohibit the use of a public credit card for personal charges, whether or not the charges are reimbursed. In addition, Mr. Caldwell should pay all balances due on his personal card. If business expenses are charged to Mr. Caldwell's personal card, Mr. Caldwell should submit appropriate detailed receipts to the District Attorney's Office for reimbursement. In addition, the Attorney General for the State of Louisiana should review this information and take appropriate action. |
| Management's Response: | The previous District Attorney Criminal Division Secretary mistakenly paid these personal charges without the express knowledge or consent of the District Attorney. The charges were repaid as soon as the current secretary confirmed that the errors were made. The procedure in place for years was thought to be adequate to catch such errors, but apparently was not. The district attorney has implemented a new procedure to avoid future errors. |
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Background and Methodology

We received several allegations from various sources involving possible improper activities occurring at the District Attorney's Office of the Sixth Judicial District of Louisiana. We conducted our investigation to determine the propriety of these allegations.

Our procedures consisted of (1) interviewing employees and officials of the District Attorney's Office; (2) interviewing other persons as appropriate; (3) examining documents and records related to the allegations; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable Louisiana laws.

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

Finding and Recommendation

DISTRICT ATTORNEY FAILED TO FULLY REIMBURSE OFFICE FOR PERSONAL EXPENSES

District Attorney James D. "Buddy" Caldwell used \$1,529 of District Attorney's Office funds to pay for personal expenditures. Although Mr. Caldwell repaid the District Attorney's Office for these personal charges after we began our work, his use of public funds may be in violation of Louisiana law.

Mr. Caldwell uses two credit cards to conduct district attorney business. One of the credit cards is an American Express Corporate card issued in the name of the District Attorney's Office and the other is Mr. Caldwell's personal Citibank credit card. The statements and receipts supporting these credit cards indicate that business and personal expenses were charged to both cards and that funds of the District Attorney's Office were used to pay the monthly outstanding balances for both cards. Although the District Attorney's Office has procedures in place to identify personal charges made on both of these cards, the procedures have not always worked. The procedures are as follows:

- Mr. Caldwell identifies his personal items by circling and/or initialing the charges on the credit card statements.
- The corporate card balance is paid with a district attorney check. In most cases the District Attorney's Office also pays the entire balance due on Mr. Caldwell's personal card; however, there are cases when Mr. Caldwell sends his personal check along with a district attorney check for the balance due on the personal card.
- Mr. Caldwell then reimburses the District Attorney's Office for his personal charges.

During our investigation, we examined the charges made to these cards and determined that Mr. Caldwell reimbursed the District Attorney's Office for the majority of the personal expenses in a timely manner. However, we did identify \$1,529 of the charges incurred during the period January 24, 1994, through April 21, 1996, which may have been for personal purposes and were not reimbursed by Mr. Caldwell. Some of these charges had been identified as personal expenses on the credit card statements; however, they had not been reimbursed.

<u>CARD</u>	<u>SALE DATE</u>	<u>VENDOR/LOCATION</u>	<u>AMOUNT</u>
Amex	011795	Polo/Poloys Lauren	\$105.73
Citibank	5/8/95	Late Fee	15.00
Citibank	6/6/95	Late Fee	15.00
Amex	011895	U-Head Cr./Airlines - B.R.	270.72
Citibank	7/6/95	Late Fee	15.00
Citibank	12/17/95	Late Fee	15.00
Amex	12/20/95	Wilson Inn	117.26
Amex	12/20/95	Service Miscellaneous	103.07
Amex	111896	American Airlines - Bozeman, MT	196.50
Amex	111896	American Airlines - Bozeman, MT	503.00
Citibank	3/9/96	Chateau Pub	71.19
Citibank	3/4/96	Golf, USA	66.79
Citibank	3/4/96	Golf, USA	97.60
Citibank	4/2/96	Curling Rovers/Vicksburg, MI	69.43
Citibank	4/10/96	Olive Garden	85.00
Citibank	6/18/96	Rock Creek Golf Club - Prichard, AL	73.50
Citibank	4/11/96	Timberland Golf Co. - Daphn, AL	18.20
	Total		<u>\$1,128.60</u>

According to Mr. Caldwell, these personal charges should not have been billed to the District Attorney's Office. He stated that they were personal charges and he should have paid them. Mr. Caldwell repaid \$1,468 of the charges, the remaining \$60 of charges represents late fees on Mr. Caldwell's personal Citibank card. He stated that it was not his fault the bills were paid late, but he would pay the late charges if it was appropriate.

These actions describe possible violation of the following:

- R.S. 40:1461 (A), "Obligation Not to Misappropriate"

The District Attorney's Office should establish policies that prohibit the use of a public credit card for personal charges, whether or not the charges are reimbursed. In addition, Mr. Caldwell should pay all balances due on his personal card. If business expenses are charged to Mr. Caldwell's personal card, Mr. Caldwell should submit appropriate detailed receipts to the District Attorney's Office for reimbursement. In addition, the Attorney General for the State of Louisiana should review this information and take appropriate action.

Attachment I
Management's Response



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March 18, 1997

Dr. Daniel S. Ryle, CPA, CFE
 Legislative Auditor
 State of Louisiana
 P. O. Box 54397
 Baton Rouge, LA 70804-3397

RE: Management's Response to Investigative Audit Report
 District Attorney for the Sixth Judicial District

Dear Dr. Ryle:

The previous District Attorney Criminal Division Secretary (who retired July, 1996) had total check writing authority on the District Attorney's 12th office fund, among an awesome number of other duties, and had the job and obligation to pay nearly all office bills on a monthly basis for all employees in the criminal division. Among these bills were those of credit card charges for all employees of those parishes including secretaries, investigators, and the District Attorney himself. Same secretary mistakenly and erroneously (from January, 1994 through July, 1996) paid some \$1,488.84 to American Express and Citibank for what later turned out to be clearly, and undeniably personal charges incurred by the District Attorney. Same charges were paid in error, without the express knowledge or consent of the District Attorney, and were repaid as soon as the new District Attorney's Secretary's accounting confirmed the errors were made and so current evidence of their repayment could be found from District Attorney records over the appropriate period of time. Personal accounts for the District Attorney have not yet been checked at the time of this response to determine what, if any, of the same may have been previously repaid.

The District Attorney procedure had been in place for years and approved by previous auditors and was thought to be adequate to catch such errors; but apparently was not. Even the District Attorney auditor, using random checking methods required by the Legislative Auditor, did not catch the errors.

The District Attorney agrees with the Legislative Auditor that a new procedure should be and has all ready been, implemented since July, 1986 to avoid future error.

There was no actual violation of civil statute R.S.42:1461 (A) as the errors were purely unintentional mistakes of a district attorney employee for which the District Attorney was personally civilly liable outside the parameters of this statute. There is no action for the Attorney General to take other than to read a statutorily supplied copy of this Audit Report.

Sincerely,



James B. Caldwell
District Attorney

Attachment II
Legal Provision

Legal Provision

The following legal provision is referred to in the Finding and Recommendation section of this report:

LSA-R.S. 42:1461(A) provides that officials, whether elected or appointed and whether compensated or not, and employees of any "public entity," which, for purposes of this Section shall mean and include any department, division, office, board, agency, commission, or other organizational unit of any of the three branches of state government or of any parish, municipality, school board or district, court of limited jurisdiction, or other political subdivision or district, or the office of any sheriff, district attorney, coroner, or clerk of court, by the act of accepting such office or employment assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other things of value belonging to or under the custody or control of the public entity in which they hold office or are employed. The breach of an obligation established under this Section gives rise to an action in favor of the public entity for the recovery of any such funds, property, or other things of value and for any other damages resulting from the breach.

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LEGISLATIVE AUDITOR

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

DIRECTOR OF INVESTIGATIVE AUDIT

Allen F. Brown, CPA, CFE

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 State Range office of the Legislative Auditor and at the office of the parish clerk of court.