

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Town of Lake Providence
Lake Providence, Louisiana

July 7, 1999



Investigative Audit

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

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Town of Lake Providence

July 7, 1999



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

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

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DANIEL G. KYLE, PH.D., CPA, CFE
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July 7, 1999

**HONORABLE ROBERT N. AMACKER, JR., MAYOR,
AND MEMBERS OF THE BOARD OF ALDERMEN
TOWN OF LAKE PROVIDENCE**
Lake Providence, Louisiana

Transmitted herewith is our investigative report on the Town of Lake Providence. 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 management's response. Copies of this report have been delivered to the Honorable James D. Caldwell, District Attorney for the Sixth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

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

Daniel G. Kyle, CPA, CFE
Legislative Auditor

SDP:EKL:AFB:dj

[PROV]

Executive Summary

Investigative Audit Report Town of Lake Providence

The following summarizes the findings and recommendations as well as management's response resulting from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's complete response may be found at Attachment I.

Former Chief of Police Received \$1,272 to Which He Was Not Entitled

(Page 1)

Finding: From March 1998 through September 1998, Mr. Timothy Middlebrook, former Chief of Police for the Town of Lake Providence, cashed six checks payable to other employees and used the cash for personal expenses. Mr. Middlebrook signed the employees' names to the backs of the checks and signed his name as the second endorsement to cash the checks. The net amount of the six checks was \$1,272.

Recommendation: We recommend that the Town of Lake Providence implement policies and procedures to ensure that employees are working the hours for which they are being paid. We also recommend that the District Attorney for the Sixth Judicial District of Louisiana review this matter and take appropriate legal action, to include seeking restitution.

Management's Response: The Town of Lake Providence is implementing policies and procedures which will ensure that employees are working the hours for which they are being paid.

Police Officer Informs Auditor That Former Chief of Police Paid Him for Hours He Did Not Work and Then Required Him to Return Part of the Proceeds of Each Check to Him

(Page 2)

Finding: Mr. Earl Lyons, a part-time police officer, identified five checks payable to him as checks he cashed, kept \$40 from each check for himself, and gave the balance of the proceeds to former

Chief of Police, Mr. Timothy Middlebrook. Mr. Lyons further stated that the \$200 that he kept was for time he worked but that he returned the remaining \$1,035 to Chief Middlebrook.

Recommendation:

We recommend that the Town of Lake Providence implement policies and procedures to ensure that employees are actually working the hours for which they are being paid. We also recommend that the District Attorney for the Sixth Judicial District of Louisiana review this matter and take appropriate legal action, to include seeking restitution.

Management's Response:

The Town of Lake Providence is implementing policies and procedures which will ensure that employees are working the hours for which they are being paid.

**Former Chief of Police Paid Two Individuals
Who Were Terminated by the Board of Aldermen
by Generating Paychecks for Authorized Employees**

(Page 4)

Finding:

During 1998, Mr. Timothy Middlebrook, former Chief of Police for the Town of Lake Providence, paid two employees who had been terminated by the Board of Aldermen; Mr. Lonzo Oney was paid \$466 and Mr. Edward Kennedy was paid \$879. The payments were accomplished by generating paychecks using the names of authorized employees, cashing the checks, and then giving cash to Mr. Oney and Mr. Kennedy. The payments to Mr. Oney were made without the authorized employees' knowledge. The payments to Mr. Kennedy were made using Mr. Earl Lyons' name. Furthermore, Mr. Kennedy paid Mr. Lyons \$50 each for three paychecks intended to compensate Mr. Kennedy but made payable to Mr. Lyons. Mr. Lyons did no work for the \$150 in payments he received.

Recommendation:

We recommend that the Town of Lake Providence implement policies and procedures to ensure that employees are actually working the hours for which they are being paid. We also recommend that the District Attorney for the Sixth Judicial District of Louisiana review this matter and take appropriate legal action, to include seeking restitution.

Management Response:

The Town of Lake Providence is implementing policies and procedures which will ensure that employees are working the hours for which they are being paid.

Background and Methodology

The chief of police for the municipal police department is an elected office.

The Legislative Auditor received information alleging certain improprieties involving the Town of Lake Providence.

Our procedures consisted of (1) interviewing employees and officials of the town; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the town; (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 investigative audit is the findings and recommendations herein.

Findings and Recommendations

FORMER CHIEF OF POLICE RECEIVED \$1,272 TO WHICH HE WAS NOT ENTITLED

From March 1998 through September 1998, Mr. Timothy Middlebrook, former Chief of Police for the Town of Lake Providence, cashed six checks payable to other employees and used the cash for personal expenses. Mr. Middlebrook signed the employees' names to the backs of the checks and signed his name as the second endorsement to cash the checks. The net amount of the six checks was \$1,272.

Mr. Timothy Middlebrook began work for the Lake Providence Police Department in 1987. He was elected Chief of Police in November 1995 and assumed office in January 1996. Mr. Middlebrook lost the November 1998 election and left office in December 1998.

Mr. Middlebrook identified his signature as the second endorsement on the six checks in the following list:

<u>Date</u>	<u>Payee</u>	<u>Check Number</u>	<u>Net Amount</u>	<u>Gross Amount</u>
March 27, 1998	Earl Lyons	11291	\$343	\$412
April 9, 1998	Lee Antwine	11343	282	330
April 24, 1998	Lee Antwine	11394	114	124
April 24, 1998	George Burks	11386	114	124
May 22, 1998	George Burks	11495	76	82
September 11, 1998	Forest Middlebrook	11937	343	412
Total			<u>\$1,272</u>	<u>\$1,484</u>

Initially, Mr. Middlebrook stated that the payees endorsed the checks and his signature was a second endorsement required to cash the checks for the payees. In a second statement, he stated that he never kept the cash for himself, he signed the payees' names to the back of the checks with the payees' permission, and he used the proceeds to pay officers who the Board of Aldermen would not approve paying.

We interviewed five of the people who Mr. Middlebrook identified as possible recipients of the proceeds from the six checks noted above. All five individuals stated that they had not received any cash from the six checks and that Mr. Middlebrook never gave them cash for work that they performed.

In a third statement, Mr. Middlebrook stated that he kept the proceeds from the six checks for his own use. Mr. Middlebrook said that he was overworked and underpaid and deserved the additional funds. Mr. Middlebrook stated that he is willing to pay back the \$1,272, which is the net amount of the six checks.

These actions indicate that Mr. Middlebrook may have violated one or more of the following provisions of Louisiana law:

- R.S. 14:67, "Theft"
- R.S. 14:68, "Unauthorized Use"
- R.S. 14:72, "Forgery"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 42:1461(A), "Obligation Not to Misuse Public Funds"

We recommend that the Town of Lake Providence implement policies and procedures to ensure that employees are working the hours for which they are being paid. We also recommend that the District Attorney for the Sixth Judicial District of Louisiana review this matter and take appropriate legal action, to include seeking restitution.

**POLICE OFFICER INFORMS AUDITOR THAT
FORMER CHIEF OF POLICE PAID HIM FOR
HOURS HE DID NOT WORK AND THEN
REQUIRED HIM TO RETURN PART OF THE
PROCEEDS OF EACH CHECK TO HIM**

Mr. Earl Lyons, a part-time police officer, identified five checks payable to him as checks he cashed, kept \$40 from each check for himself, and gave the balance of the proceeds to former Chief of Police, Mr. Timothy Middlebrook. Mr. Lyons further stated that the \$200 that he kept was for time he worked but that he returned the remaining \$1,035 to Chief Middlebrook.

The checks that Mr. Lyons identified are as follows:

<u>Date</u>	<u>Check Number</u>	<u>Amount</u>
July 3, 1997	10344	\$140
July 18, 1997	10397	234
August 1, 1997	10447	205
November 6, 1998	12155	343
December 31, 1998	12377	313
Total		<u>\$1,235</u>

Mr. Lyons stated that he received \$40 for one day's work out of each pay period represented by the checks. Ms. Latisa Keys, payroll clerk and radio dispatcher, put the hours on the time sheets. Mr. Lyons stated that it was his understanding that Mr. Middlebrook used the remaining \$1,035 in cash to pay other officers. We interviewed six officers who stated that they did not receive cash from Mr. Middlebrook from the above checks. Furthermore, all six officers stated that they never received cash from Mr. Middlebrook.

Mr. Middlebrook, relying on the advice of his attorney, has declined to speak with us.

Mr. Middlebrook may have violated one or more of the following provisions of Louisiana law:

- R.S. 14:67, "Theft"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:138, "Payroll Fraud"
- R.S. 42:1461(A), "Obligation Not to Misuse Public Funds"

We recommend that the Town of Lake Providence implement policies and procedures to ensure that employees are working the hours for which they are being paid. We also recommend that the District Attorney for the Sixth Judicial District of Louisiana review this matter and take appropriate legal action, to include seeking restitution.

**FORMER CHIEF OF POLICE PAID TWO
INDIVIDUALS WHO WERE TERMINATED BY
THE BOARD OF ALDERMEN BY GENERATING
PAYCHECKS FOR AUTHORIZED EMPLOYEES**

During 1998, Mr. Timothy Middlebrook, former Chief of Police for the Town of Lake Providence, paid two employees who had been terminated by the Board of Aldermen; Mr. Lonzo Oney was paid \$466 and Mr. Edward Kennedy was paid \$879. The payments were accomplished by generating paychecks using the names of authorized employees, cashing the checks, and then giving cash to Mr. Oney and Mr. Kennedy. The payments to Mr. Oney were made without the authorized employees' knowledge. The payments to Mr. Kennedy were made using Mr. Earl Lyons' name. Furthermore, Mr. Kennedy paid Mr. Lyons \$50 each for three paychecks intended to compensate Mr. Kennedy but made payable to Mr. Lyons. Mr. Lyons did no work for the \$150 in payments he received.

MR. LONZO ONEY

The Board of Aldermen terminated Mr. Lonzo Oney's employment on June 20, 1996. Mr. Oney stated that he continued to work as a substitute after his termination. Mr. Oney identified his signature on two checks dated April 9 and May 8, 1998, payable to Mr. Earl Lyons for \$220 and \$38. He also identified his social security number on the back of the April 9 check.

Mr. Oney stated that he worked the hours that the paychecks to Mr. Lyons represented. According to Mr. Oney, Mr. Lyons told him that he did not mind using his name for payment purposes. Mr. Oney stated that he signed Mr. Lyons' name to the back of one check and used his own social security number to cash the check. According to Mr. Oney, he was able to cash one check by just signing his own name to the back of the check.

Mr. Oney further stated that he cashed one check dated December 18, 1998, for \$208 and made payable to Virge Hawkins. Mr. Oney stated that he might have signed Mr. Hawkins' name to the back of the check.

Both Mr. Lyons and Mr. Hawkins stated that they did not know that paychecks were generated in their names to pay Mr. Oney. Mr. Middlebrook stated that he knew Mr. Oney was paid using authorized employees' names, but he needed Mr. Oney's help and the board would not authorize payments to Mr. Oney.

Mr. Oney received payments of \$466 even though the Board of Aldermen had terminated his employment.

MR. EDWARD KENNEDY

The Board of Aldermen terminated Mr. Edward Kennedy on May 21, 1998. Mr. Kennedy stated that he cashed three checks dated November 20, 1998, December 4, 1998, and December 18, 1998, respectively. All three checks were payable to Mr. Earl Lyons for a total of \$1,029 or

\$343 each. According to a statement by Mr. Kennedy and confirmed by Mr. Lyons, Mr. Kennedy gave Mr. Lyons \$50 per check for a total of \$150 and kept \$293 per check for a total of \$879. According to Mr. Lyons and Mr. Kennedy, Mr. Kennedy paid Mr. Lyons for the use of his name. Mr. Lyons did no work for the \$150 in public funds he received.

Mr. Kennedy stated that Mr. Middlebrook arranged for him to work the shifts for which Mr. Lyons was paid. Mr. Middlebrook also asked Mr. Kennedy to substitute for other officers. The other officers paid Mr. Kennedy cash for working their shifts. Mr. Kennedy specifically remembered substituting for Ms. Ladonna Nichols who paid cash to him. Mr. Kennedy could not recall exactly when he substituted nor how much he was paid. Mr. Middlebrook stated that he knew of Mr. Kennedy's substitutions and how he was paid, but he needed Mr. Kennedy's help and wanted him to be paid. Mr. Kennedy received \$879 that was not authorized by the board.

These actions indicate possible violations of one or more of the following Louisiana laws:

- R.S. 14:72, "Forgery"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:138, "Payroll Fraud"
- R.S. 42:1461(A), "Obligation Not to Misuse Public Funds"

We recommend that the Town of Lake Providence implement policies and procedures to ensure that employees are actually working the hours for which they are being paid. We also recommend that the District Attorney for the Sixth Judicial District of Louisiana review this matter and take appropriate legal action, to include seeking restitution.

Attachment I

Management's Response

Town of Lake Providence

Robert N. Amacker, Jr.
Mayor
Lee Ann W. Clement
Clerk

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Ray Frazier
Michael Kelly
Sherry Kirksey
Amos Wright
Alfred Young

Town Attorney:
Louis Scott

June 18, 1999

Daniel G. Kyle, CPA, CFE
Legislative Auditor
P.O. Box 64397
Baton Rouge, Louisiana 70804-9397

RE: Investigative Report on the Town of Lake Providence

Dear Dr. Kyle,

According to the recommendations of the above referenced report, the Town of Lake Providence is implementing the following policies and procedures.

1. The Town of Lake Providence has purchased a time clock, and all hourly paid employees will be required to punch in and out each day.
2. Each employee will be required to sign the time card to ensure that no one punches in or out for him or her.
3. Any employee that punches in for someone else will be immediately terminated.
4. Employees will be paid only for time worked with the exception of sick leave, vacation pay, holiday pay, funeral leave, and jury duty.

If you have any questions or comments, please call me at (318) 559-2288.

Sincerely,



Robert N. Amacker, Jr.
Mayor
Town of Lake Providence

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

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

R.S. 14:68 provides that unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently.

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

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

R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

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

