



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

DEPARTMENT OF ELECTIONS

**Report by
Inspector General Bill Lynch**

**Prepared for
Governor Kathleen Babineaux Blanco**

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State of Louisiana

OFFICE OF
STATE INSPECTOR GENERAL

Department of Elections

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Approved by

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2/22/05

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Department of Elections

The Department of Elections and Registration, prior to its Jan. 12, 2004, merger with the Department of State, failed to establish policies, procedures, or practices which ensured more than \$84,000 of payments for employee overtime and \$12,000 of travel expenses paid to one employee were adequately supported by documentation.

Election's paid meal per diems in violation of the state travel regulations when it erroneously applied its "special meal" authority to routine work expenses.

Background

The Department of Elections and Registration was established on Jan. 1, 1975, with the Commissioner of Elections chosen through a statewide election in 1979. The Department of Elections and Registration remained in existence until Jan. 12, 2004, when Elections was merged with the Department of State. Ms. Suzanne Haik Terrell served as the last elected Commissioner of Elections.

The Department of Elections and Registration was responsible in part for prescribing rules, regulations, forms and instructions which were applied by each registrar of voters in the state. In addition, Elections administered laws relating to custody of voting machines and collection of voter registration data. These along with other duties, functions and responsibilities were transferred to the Department of State.

Compensatory Time

A review of the January, 2004 compensatory time payments revealed problems associated with two employees. The two employees, Charles Bergeron and Gregory Malveaux, were paid more than \$51,000 of the \$84,000 paid for accumulated compensatory time. The problems were:

- The employees may not have qualified to earn compensatory time under the guidelines for earning overtime.
- Reliance could not be placed on Mr. Malveaux's payroll time records.

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Just prior to the merger with the Department of State, unclassified employees of Elections were paid more than \$84,000 for compensatory time recorded as of Jan. 7, 2004. State classified employees with compensatory time balances were not paid.

The following four unclassified employees received approximately 95% of the \$84,000 paid for compensatory time:

Ann Reynolds, Assistant Director of Community Outreach Programs	\$ 9,054.83 (10.68%)
Charles Bergeron, Chief of Staff	13,574.90 (16.00%)
Stephen Watts, Fraud Investigator	20,460.66 (24.12%)
Gregory Malveaux, Election and Registration Fraud Liaison Director	37,655.26 (44.39%)

Much of the compensatory time was claimed as earned during the four months preceding the transfer of Elections to the Department of State. After the merger, only Mr. Watts remains employed in his previous position with the Department of State.

Compensatory time is hours credited to a classified state employee in lieu of payment for overtime worked in excess of the employee's regular duty hours in a regularly scheduled workday. Compensatory time can be accumulated and used in lieu of annual leave or sick leave. State employees may also be paid for compensatory time at their regular hourly pay rate if approved by the appointing authority. The actual payment for compensatory overtime is dependant upon the provisions of the Fair Labor Standards Act and certain Civil Service Commission Rules.

Former Governor Mike Foster issued Executive Order MJF 98-23 which addressed leave and the earning of compensatory time for unclassified employees. The executive order did not require elected officials or their unclassified employees to follow the rules established by the order. However, the executive order does allow elected officials to adopt the rules outlined.

Department of Elections officials stated the department generally followed Executive Order MJF 98-23 but did not officially adopt it.

Additionally, Elections officials stated the personnel policy manual written by the prior administration, Commissioner of Elections Jerry Fowler, was also used by its employees.

Payroll records submitted by the employees in question did not indicate the work accomplished or the necessity for overtime work. The employees recorded only the date and hours of compensatory time claimed. Additionally, one employee's payroll records failed to account for absences while the employee attended classes in an effort to obtain a criminal justice degree from Delgado Community College. Therefore, employee interviews were conducted and travel vouchers, vehicle mileage logs and cellular telephone records for the period January, 2003, through January, 2004, were compared to

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payroll records. This was done in an attempt to correlate the records and substantiate the overtime claimed.

The review was limited to the individuals receiving 95% of the compensatory time paid.

Results of the review are detailed below.

Charles P. Bergeron

In accordance with Executive Order MJF 98-23, Chief of Staff Charles Bergeron may not have qualified to earn compensatory time. He was paid more than \$13,000 for accumulated compensatory time recorded on the books as of Jan. 7, 2004.

According to Mr. Bergeron, the Department of Elections generally followed Executive Order MJF 98-23 but they did not formally adopt the executive order. The executive order prohibits employees serving in executive staff positions from earning compensatory time. Mr. Bergeron was employed in an unclassified executive level position and as such, under the executive order, would have been prohibited from earning compensatory time. Mr. Bergeron stated the majority of his overtime was earned performing routine duties as the chief of staff.

Mr. Bergeron stated unclassified Elections employees did not record compensatory time for approximately the first year of Ms. Haik Terrell's administration. He further stated several elections were held on Saturdays and the staff worked 16 hour days. Mr. Bergeron said the attorney for Elections researched a means for compensating the staff for such long hours. He said the attorney advised him and other staff members that it would be proper for them to earn compensatory time. Mr. Bergeron further stated overtime worked during the last few months before the merger involved transition issues associated with the merger.

According to payroll records, Mr. Bergeron recorded approximately 200 hours of compensatory time each year commencing in calendar year 2001.

An examination of Mr. Bergeron's cellular telephone records and travel vouchers, for the period under review, did not disclose any significant discrepancies when compared to his payroll records.

Gregory Malveaux

Unreliable time records and a lack of files documenting Mr. Malveaux's work activities renders more than \$37,500 of paid compensatory time as questionable.

Additionally, Mr. Malveaux's position may be considered in the unclassified executive staff capacity at Elections and therefore, would have been prohibited from earning compensatory time under Executive Order MJF 98-23.

In an effort to verify Mr. Malveaux's compensatory time, we attempted to reconcile his cellular phone records, mileage logs, travel vouchers, payroll records, and class schedule at Delgado Community College.

Problems associated with Mr. Malveaux's time records include:

1. Time spent attending classes at Delgado Community College was not recorded on payroll records as educational or other leave bringing into question some payroll records for Mr. Malveaux.

During the audit period January, 2003 through January, 2004, Mr. Malveaux was enrolled in 3 classes during the spring semester, 2 classes during the summer semester and 4 classes during the fall semester.

During the fall semester, Mr. Malveaux scheduled classes which would have taken 12 hours during a work week to attend all the classes, 8 hours on Tuesday, 8 a.m. through 4 p.m. which includes a 1 hour and 45 minute break between morning and evening classes and 4 hours on Thursday, 8 a.m. through 12:15 p.m.

Mr. Malveaux did not request any educational or other leave for attending classes. He stated he did attend class but did not turn in leave.

Mr. Malveaux claimed 81 hours of compensatory time on Monday through Friday work days in which classes were also scheduled during the fall 2003 semester.

2. A lack of correlation between payroll records and other work activity records calls into question the reliability for Mr. Malveaux's internally created documents.

In our attempt to reconcile other documents with payroll records, we found inconsistencies between all documents reviewed. On many occurrences, departure and arrival times recorded on travel vouchers did not agree with work hours claimed on payroll records, occasionally mileage log destinations did not agree with destinations recorded on travel vouchers, and cellular telephone records provided conflicting information with travel vouchers regarding times of departure recorded on the vouchers.

Mr. Malveaux was employed by Elections on Jan. 11, 2000 as Election and Registration Fraud Liaison Director. His job description, as the Director, provided Mr. Malveaux with

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the authority to investigate complaints concerning possible election and registration fraud. However, if the evidence of fraud existed, he was required to refer complaints to the appropriate governing body having jurisdiction.

During the review, we were able to locate very few files containing reports of investigations to authorities, summaries of investigations completed, contacts made, or a calendar or schedule of meetings.

Mr. Malveaux stated the last few months of his employment was spent primarily tying up loose ends and packing material in his office. Mr. Malveaux said that two full file cabinet drawers of files and approximately six large size boxes of files were left in his Baton Rouge office. Mr. Malveaux contends all files remained in the Baton Rouge office and he does not have any Department of Election files in his possession. He further stated he did not maintain a daily log or planner showing contacts and activities performed.

A Department of Elections employee stated she and a part time student worker copied files for Mr. Malveaux. The files copied included the contents of the file cabinet and 3 standard size boxes, approximately 12" x 15" located behind Mr. Malveaux's desk. She further stated, she does not know the location of the originals or the copies at this time.

Johnny Newton, Director, Elections Compliance Unit, stated neither he nor several Election employees found boxes of files in Mr. Malveaux's office. He said there were files located in a file cabinet.

Our examination of the files found by Mr. Newton in the file cabinet, revealed the documents were unorganized and incomplete.

Mr. Malveaux was paid more than \$37,500 for 875.5 hours of compensatory time. Of the 875.5 hours, 613 were recorded during the period of this review starting Jan. 11, 2003 and ending Jan. 11, 2004. During the last 3 ½ months beginning Oct. 1, 2003, Mr. Malveaux recorded 313 hours of compensatory time. Between October, 2003, and January, 2004, Mr. Malveaux averaged about 22 hours of overtime for every 40 regular hours worked.

Undoubtedly there is a strong possibility Mr. Malveaux may have earned compensatory time on election days, especially Saturdays. However, when considering the unreliability of many of the documents along with a lack of files supporting the work of Mr. Malveaux, we could not verify the accuracy of the compensatory time claimed by Mr. Malveaux.

Ann Reynolds / Stephen Watts

A comparison of cellular phone records, travel vouchers, vehicle logs and payroll records disclosed no major discrepancies. However, the hours of compensatory time claimed during the last 6 months before the merger increased substantially.

For example, Ms. Reynolds recorded 285.5 hours of compensatory time during a 7 week period from Nov. 24, 2003, through Jan. 7, 2004, an average of 40 hours of overtime for every 40 hours worked. Ms. Reynolds was paid over \$9,000 for the compensatory time.

Ms. Reynolds' recorded compensatory time included 10 hours on Thanksgiving day and 16 hours on a Saturday.

Previous compensatory earnings by Ms. Reynolds averaged approximately 200 hours per year and prior to Nov. 23, 2002, the time was used in lieu of annual leave.

Ms. Reynolds stated compensatory time earned prior to November, 2003, was generally associated with absentee voting, election days and programs presented to groups in association with the outreach program. She further stated compensatory time earned during the period November, 2003, through January, 2004, was primarily due to packing up material in the Baton Rouge office in addition to performing her normal duties.

Mr. Watts, Fraud Investigator, was paid for 638 hours of accumulated compensatory time amounting to more than \$20,000. When compared to previous years, Mr. Watts recorded a disproportionate amount of compensatory hours in the last 6 months of 2003. Mr. Watts recorded 127 hours of compensatory time in calendar year 2001, 260 hours in 2002, and 419 total hours in 2003. During the last 6 months of calendar year 2003, he recorded 311 hours of compensatory time.

Prior to June, 2003, payroll records show a large percentage of compensatory hours recorded by Mr. Watts were on election days in which he typically reported working 15 to 17 hours.

Mr. Watts stated Elections employees such as himself always worked long hours on election days. Mr. Watts further stated Elections officials wanted a high level of public exposure both immediately before and during the fall elections of 2003. Compensatory time was needed to accomplish the travel required to visit virtually all the parishes north of Alexandria during this period.

Failure To Follow State Travel Regulations

The Department of Elections failed to follow state travel regulations governing reimbursement of special meals:

1. It improperly used the approval for special meals to deviate from the normal state travel regulations when it paid employees meal expenses for performing 12 hours of routine work.
2. It failed to report all special meals to the commissioner of administration in a semi-annual report as required.
3. Elections management did not require receipts for special meals as required by state travel regulations.

Special meals are those meals allowed when state employees are required to work extraordinary situations but not eligible for meal reimbursement under normal circumstances. Reimbursement for special meals require prior approval from the commissioner of administration unless authority has been delegated to the department head.

In a letter dated June 15, 2000, former Commissioner of Elections Suzanne Haik Terrell asked former Commissioner of Administration Mark Drennen to approve reimbursement of meals in accordance with Section VIII of the state travel regulations for Election employees who work more than a twelve-hour weekday or six-hour weekend on days in which elections are held. The request was approved June 20, 2000, by Commissioner Drennen.

The same request was approved each fiscal year with the exception of a request submitted Nov. 8, 2002, which changed the wording from “on days in which elections are held” to “performing election related activities.” This request was also approved.

According to an official within the Division of Administration, the special meal provision is intended to give the department head an option for paying meals when employees work in extraordinary situations such as meeting crucial deadlines. The special meal provision is not intended to replace state travel regulations governing meal reimbursement when an employee works a normal day.

1. Deviation From Normal Travel Regulations

Elections misapplied its special meals authority when it paid employees for meals associated with routine work.

State travel regulations has a provision for “Special Meals” when state employees are required to work extraordinary situations and not eligible for meal reimbursement under normal circumstances.

Some Elections employees incorrectly received reimbursement for 3 meals per day under the special meals provision when they reported working a 12 hour day. The work performed was generally of a routine nature and any associated travel expense should have been claimed using the general provisions of the state travel regulations. One employee, Greg Malveaux, routinely received reimbursement for 3 meals when reporting a 12 hour travel status.

2. Failure to Report

Elections failed to submit, to the Division of Administration, semi-annual reports detailing special meals paid.

State travel regulations require the department head report on a semi-annual basis, to the commissioner of administration, all special meal reimbursements made during the previous six months. State travel regulations mandate the report include the name and title of the person receiving the meal, cost of the meal and an explanation as to why the meal was in the best interest of the state.

3. Failure to Require Receipts

Elections employees were paid for meals using the special meal authorization without receipts as required by the state travel regulations.

Elections employees were paid for meals using the maximum amount allowed in the state travel regulations for in-state travel. State travel regulations do not require receipts for meal reimbursement incurred during routine travel. However, state travel regulations for special meals require the department head or their designee receive prior to reimbursement a detailed breakdown of all expenses incurred by the employee including receipts for meals.

Additionally, the form used by Elections for claiming travel expenses has a printed statement informing employees that receipts are required for special and high cost area meals.

Travel Expenses Paid Gregory Malveaux

Gregory Malveaux was improperly paid \$1,850 for travel expenses which did not comply with state travel regulations. Additionally, \$10,941 of travel expenses paid Mr. Malveaux is questionable due to inconsistencies between travel voucher information and information obtained from various other documents.

Specifically Elections:

1. Paid \$1,850 for meals not allowed by regular travel rules.
2. Failed to adequately review expense vouchers submitted by Mr. Malveaux.
3. Allowed Mr. Malveaux to record his travel time when leaving his home instead of his official domicile.

1. Improper Reimbursement

Mr. Malveaux was paid \$1,850 for meals which did not meet state travel regulations and did not fall under the special meal exemption granted the Department of Elections. These meals were paid for routine travel reported by Mr. Malveaux.

The vast majority of meal reimbursements were paid for single day trips departing and arriving from his home in Jefferson Parish, La., even though Mr. Malveaux's official domicile was Baton Rouge, La.

Mr. Malveaux typically claimed a 12 hour or greater travel status with a departure time of 6:00 a.m. On approximately 165 separate occasions, meal reimbursements were not in compliance with state travel regulation requirements for travel status. Mr. Malveaux was paid \$1,850 for these meals.

For the period July, 2000, through June, 2003, state travel status requirements for meal reimbursement on single day trips were as follows:

- Breakfast: Travel must begin before 6 a.m. and extend past 9 a.m.
- Lunch: Employee must be on travel status for a total of 12 hours.
- Dinner: Travel must begin before 4 p.m. and extend past 8 p.m.

State travel regulations were changed commencing July 1, 2003, requiring a 12 hour travel status for all meals in addition to the required departure and arrival times. Single day meal reimbursements were also reduced to \$20 per day.

The following is one example of 165 similar occurrences:

Tuesday, June 10, 2003

On this day Mr. Malveaux claimed \$26 meal expense on his travel voucher for a trip departing Jefferson Parish at 6 a.m. traveling to St. John Parish and St. James Parish before returning to Jefferson Parish at 6:30 p.m.

There were no documents presented indicating this travel was associated with anything other than routine duties. Normal rules in the state travel regulations apply which required travel begin at or before 6 a.m. and extend beyond 8 p.m. Therefore, Mr. Malveaux's stated arrival time did not qualify for reimbursement of the \$12 dinner meal.

Mr. Malveaux stated, while he was in possession of the state travel regulations, he did not read the times of departure and arrival requirements listed in the document. Mr. Malveaux was aware meals could be claimed if he was on travel status for at least 12 hours. He relied on finance employees to know the rules and inform him if there was a problem.

2. Inadequate Oversight and Review

The Department of Elections failed to adequately review expense vouchers submitted by Mr. Malveaux.

Elections Chief of Staff Patrick Bergeron approved expense vouchers submitted by Mr. Malveaux. Expense vouchers were approved which lacked all information required or contained information which should have stimulated questions about the information presented. However, Mr. Bergeron did not verify or question any information or lack of presented on Mr. Malveaux's travel vouchers.

Inconsistencies between Mr. Malveaux's time and attendance sheets, cellular phone records, vehicle mileage logs and travel vouchers render questionable the expenses he received for travel. The period reviewed was January, 2002, through December, 2003.

- A. Mr. Malveaux reported on an inordinate number of days a departure time of 6 a.m. and a travel status of 12 hours or greater. Mr. Malveaux claimed 304 days of

travel during the audit period. Of the 304 days, he recorded a 6:00 a.m. time of departure on 254 days approximately 83% of days claimed.

On at least 56 occasions, he recorded a 6 a.m. departure from his home to travel to New Orleans, a distance of approximately nine miles. Given the nature of Mr. Malveaux's work as a chief investigator, Mr. Bergeron never questioned the need for Mr. Malveaux to be in New Orleans at such an early hour.

Mr. Bergeron stated he did not verify or question the hours reported on Mr. Malveaux's expense vouchers. Elections accounting employees stated they also did not question Mr. Malveaux consistently reporting 6 a.m. for the departure time and 12 hour travel status as he primarily worked out of his house and set his own hours.

When asked about the times reported for departure and arrival on expense vouchers, Mr. Malveaux stated he almost always started at 6 a.m. and the times on the expense vouchers are accurate.

Several records were compared including expense accounts, vehicle logs and cellular telephone records. The cellular telephone records show, on numerous occasions, the cellular telephone remained in the area serviced by the New Orleans towers long after the recorded time of departure, for example:

Monday, March 10, 2003

Mr. Malveaux's expense voucher records a departure time of 6 a.m. from his home in Jefferson Parish to New Orleans and returning to his Jefferson Parish home at 3:30 p.m. New Orleans is approximately 9 miles from Mr. Malveaux's home in Marrero, La. located in Jefferson Parish.

The vehicle mileage log shows 202 miles with New Orleans and Baton Rouge destinations. However the travel expense voucher does not show a Baton Rouge destination.

The cellular telephone invoice shows 7 calls in the New Orleans area from 7:55 a.m. through 10:01 a.m. before entering the Baton Rouge area towers at 10:46 a.m. The cellular telephone returned to New Orleans area towers at 5:29 p.m.

Thursday, May 23, 2003

The expense voucher shows a Jefferson Parish departure time of 6 a.m. with destinations of New Orleans and Lafayette returning to Jefferson Parish at 10 p.m.

The vehicle mileage log shows 289 miles to Lafayette.

The cellular telephone shows 19 separate calls using New Orleans area towers from 9:33 a.m. through 5:58 p.m. before recording a call in the Baton Rouge tower area at 7 p.m. Calls remained in the Baton Rouge area until 8:05 p.m. before using New Orleans area towers at 8:47 p.m. Cellular telephone records do not indicate calls made or received from towers other than New Orleans and Baton Rouge.

During the audit period, Mr. Malveaux recorded 199 travel days which were 12 hours or greater in length. On numerous occasions, Mr. Malveaux's time and attendance did not agree with his recorded time on his travel voucher.

The audit revealed inconsistencies, for example:

Wednesday, Feb. 12, 2003

Mr. Malveaux's expense voucher records a 6 a.m. departure from Jefferson Parish to Plaquemine and New Orleans, returning to Jefferson Parish at 6:30 p.m.

While the expense voucher indicates a 12 ½ hour work day, Mr. Malveaux did not claim compensatory time for this day.

His vehicle mileage log shows 121 miles driven from Jefferson Parish to Plaquemine and New Orleans.

Cellular telephone records indicate calls from 8:16 a.m. through 4:47 p.m. all in the New Orleans area. The telephone records indicate a gap in the calls from 8:18 a.m. through 1:30 p.m. which would allow time for Mr. Malveaux to drive to and return from Plaquemine, La.

While the documents support a trip to Plaquemine, La., they do not support a 6 a.m. departure and 6:30 p.m. arrival as recorded on the expense voucher.

- B. On 7 occasions, meals were reimbursed when either the required time of departure or arrival was missing. When the time elements are missing from a travel claim, it cannot be determined from the voucher if expenses claimed are allowed by state travel regulations.

For example:

Friday, Jan. 25, 2002

On this day Mr. Malveaux records a 6 a.m. departure time for a trip from Jefferson Parish to Calcasieu Parish returning to Jefferson Parish. He was paid \$26 for meals, however, he did not record an arrival time.

Mr. Malveaux did not record compensatory time earned on his payroll record. His vehicle mileage log indicates 471 miles driven from Jefferson Parish to Calcasieu Parish and return.

While Mr. Malveaux may have qualified for meals on this day, the expense voucher and payroll records do not indicate he qualified for the 3 meals paid.

- C. Mr. Malveaux recorded on his expense vouchers 19 overnight trips without lodging expenses or an explanation. These expense claims were approved and paid without any questions. These trips were reported on expense vouchers during the period January, 2002, through September, 2003.

In most cases, the destination shown on the vehicle mileage log agrees with the expense voucher. However, listed below are 2 occasions in which overnight travel is indicated on the expense voucher and supporting documents such as vehicle mileage logs and cellular telephone records do not agree.

March 14 – 15, 2003

Expense voucher indicates an overnight trip to Alexandria, La.

The vehicle mileage log for March 14, 2003, shows 273 miles from Jefferson, La. to Baton Rouge and return to Jefferson. The vehicle log for March 15, 2003, lists 391 miles driven with no destination.

Cellular telephone records for March 14, 2003, show calls using New Orleans area towers from 9:43 a.m. through 6:11 p.m. before recording calls using Lake Charles area towers. Lake Charles, La. is approximately

215 miles from Jefferson Parish which agrees with the vehicle mileage log which records 273 miles on March 14, 2003.

Cellular records for March 15, 2003, indicate calls originating in the Lake Charles area from 9:06 a.m. through 5:58 p.m. before arriving in the New Orleans tower area at 9:15 p.m.

These facts support an overnight stay in Lake Charles but not Alexandria.

Sept. 26 – 27, 2003

Expense voucher indicates an overnight trip to Lafayette, La.

The vehicle mileage log for Sept. 26, 2003, shows 164 miles from Jefferson Parish to Baton Rouge. For Sept. 27, 2003, the vehicle mileage log shows 193 miles traveled from East Baton Rouge Parish to West Baton Rouge Parish and Iberville Parish before returning to Jefferson Parish.

Cellular telephone records support the vehicle mileage log by recording calls on Sept. 26, 2003, using New Orleans area towers from 7:43 a.m. through 1:38 p.m. before using Baton Rouge area towers where calls ended at 9:45 p.m. The cellular telephone records show calls on Sept. 27, 2003, starting at 6:58 a.m. in the Baton Rouge area and staying in the Baton Rouge tower area until 3:05 p.m. before entering the New Orleans area towers at 3:07 p.m.

The cellular telephone does not record any calls in the Lafayette area for these 2 days.

- D. Mr. Malveaux submitted documents to Elections with times and information which do not agree and could not be reconciled. Times of departure and arrival recorded on expense vouchers often do not agree with hours reported on payroll records. In addition, cellular telephone records and vehicle reports often do not back up information recorded on expense vouchers.

Times of departure and arrival recorded on an expense voucher are used to determine in part which individual meals are reimbursable to employees on travel status. Mr. Malveaux routinely records a departure time of 6 a.m. and shows a travel period of at least 12 hours.

Classified Elections employees were required to attach their time and attendance record to their travel voucher when claiming travel expenses. Mr. Malveaux was not.

When comparing Mr. Malveaux's expense vouchers to other documents such as cellular telephone records and payroll records we found the documents often did not agree. For example:

Tuesday, April 15, 2003

Mr. Malveaux was paid \$26 for meals on a trip departing at 6 a.m. from Jefferson Parish to Iberville Parish and arriving back in Jefferson Parish at 7:30 p.m.

Mr. Malveaux did not record compensatory time for this day.

Mr. Malveaux's vehicle mileage log indicates 79 miles roundtrip from Jefferson Parish to St. Gabriel, La. However, St. Gabriel is located approximately 75 miles from Mr. Malveaux's home in Marrero, La. making a round trip approximately 150 miles.

Cellular telephone records indicate the phone did not leave the New Orleans area with 39 calls made or received from 8:33 a.m. through 6:42 p.m.

Tuesday, April 22, 2003

Mr. Malveaux was paid \$26 for meals for a trip to Iberville Parish departing 6 a.m. from Jefferson Parish and arriving back in Jefferson Parish at 6:30 p.m.

Mr. Malveaux did not record compensatory time for this day.

The vehicle mileage log shows a 311 mile roundtrip from Jefferson Parish to St. Gabriel, La. and New Orleans, La.

Cellular telephone records indicate the phone was using towers in the New Orleans area from 7:36 a.m. through 2:09 p.m. before using towers in the Baton Rouge area at 2:13 p.m. St. Gabriel is approximately 15 miles south of Baton Rouge. Telephone records show the phone began using New Orleans towers at 5:47 p.m.

Listed above are just a couple of examples of numerous occurrences in which the cellular telephone records do not agree with departure and arrival times listed on the expense vouchers.

- E. On at least 5 occasions Mr. Malveaux submitted expense account vouchers containing expenses which were previously reimbursed. They were as follows:

Sept. 4, 2001

Meal expenses totaling \$26 for a trip to St. Helena Parish. Expenses for this trip were paid on Sept. 13, 2001, and again on Oct. 5, 2001.

Sept. 6, 2001

Meal expenses totaling \$26 for a 1 day trip were paid on Sept. 13, 2001, and again on Oct. 5, 2001. The destination listed on the first expense voucher was St. Charles "Parish" while the second expense voucher showed Lake Charles. The vehicle log shows 462 miles traveled on Sept. 6, 2001, round trip to Lake Charles, La.

Jan. 19, 2002

Meal expenses totaling \$26 for a 1 day trip with the destination blank was paid on Jan. 29, 2002. The Jan. 19, 2002 travel was shown again on an expense voucher paid March 1, 2002, with a destination listed as St. Bernard, however the meal reimbursement was shown as \$6 on the second expense voucher. The vehicle log for Jan. 19, 2002, shows 176 miles traveled round trip to St. Bernard.

May 8, 2003

Travel for May 8, 2003, is shown twice on the same expense voucher each claiming \$6 for breakfast with both showing a New Orleans destination. The expense voucher was paid on June 11, 2003.

Aug. 14, 2003

Hotel expenses incurred Aug. 14, 2003, in St. Charles Parish totaling \$60.51 was claimed on 2 expense vouchers and paid on Oct. 2, 2003, and again on Nov. 19, 2003.

3. Official Domicile

Mr. Malveaux began his work day and recorded departure and arrival times on his expense voucher from his residence in Marrero, La. instead of his official domicile, Baton Rouge.

Mr. Malveaux was assigned a domicile in Baton Rouge due to the location of Elections office. However, Mr. Malveaux only occasionally reported to the Baton Rouge office electing to work out of his residence in Marrero, La.

State travel regulations require the domicile be the city or town nearest the area where the majority of work is performed or as designated by the department head. The travel regulations further state in all cases the designation of the domicile must be in the best interest of the agency and not for the convenience of the person.

The best interest of the agency would have been to domicile Mr. Malveaux at his home as an employee who works in the field. As such, Mr. Malveaux would have been prohibited, by the state travel regulations, from receiving travel expenses while working in the New Orleans area.

Travel regulations do not allow for the payment of expenses while the traveler is in route to or from their assigned domicile.

During the last 2 years of his employment at Elections, Mr. Malveaux recorded at least 37 trips to areas surrounding his Baton Rouge office. However, his expense accounts indicate departure and arrival from his Jefferson Parish home as do all of his daily travel expenses. By recording departure and arrival times from his home, he received credit for time worked or for travel expenses while he was commuting to his domicile. Generally, state employees do not receive work time credit for commuting to and from their domicile.

Delgado Community College

The Department of Elections failed to ensure the proper use of state funds when:

1. It paid \$2,553 for tuition expenses incurred by Mr. Malveaux to work towards a criminal justice degree and not for enhancing current job skills as required by its Personnel Policy Manuel.
2. Failed to ensure educational leave or other leave was taken by Mr. Malveaux when he attended classes.

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3. Paid twice for the same course for Mr. Malveaux without obtaining reimbursement for one of the payments.

The Department of Elections paid directly to Mr. Malveaux or Delgado Community College \$2,553 for tuition expenses. According to Delgado records, Mr. Malveaux has taken classes at the college since September, 2001; however, Elections has paid for classes from August, 2002, through December, 2003.

Mr. Malveaux stated his major field of study is Criminal Justice and as of the date of this review he has not completed the degree program.

Mr. Malveaux was employed by Elections on Jan. 11, 2000, with an annual salary of \$78,165. He remained employed by Elections until Jan. 12, 2004, with an annual salary of approximately \$89,400. During the majority of his employment with Elections, Mr. Malveaux was enrolled in Delgado Community College taking the following classes:

Fall semester 2001

Juvenile Delinquency	Wednesday	2 p.m. – 5 p.m.
Criminal Law	Friday	11 a.m. – 2 p.m.

Spring semester 2002

Criminology	Monday	11:00 a.m. – 2:00 p.m.
Evidence	Friday	11:00 a.m. – 2:00 p.m.

Fall semester 2002

Criminal Justice	Tuesday	11:00 a.m. – 2:00 p.m.
Drug Abuse (Dropped Class)	Tuesday/Thursday	9:30 a.m. – 10:45 a.m.

Spring semester 2003

English Composition II	Monday/Wednesday	5:30 p.m. – 6:45 p.m.
Corrections Process	Wednesday	11:00 a.m. – 2:00 p.m.
The Judicial Process	Thursday	11:00 a.m. – 2:00 p.m.

Summer semester 2003

Constitutional Law	Monday/Wednesday	12:30p.m. – 3:30 p.m.
Introductory Sociology	Monday thru Thursday	11:00 a.m. – 12:15 p.m.

Fall semester 2003

Criminal Justice	Tuesday	2:00 p.m. – 4:00 p.m.
	Saturday	8:00 a.m. – 2:00 p.m.
Math Survey	Tuesday/Thursday	8:00 a.m. – 9:15 p.m.
Drug Abuse	Tuesday/Thursday	9:30 a.m. – 10:45 p.m.
General Psychology	Tuesday/Thursday	11:00 a.m. – 12:15 p.m.

1. Tuition Expenses

The Department of Elections paid \$2,553 for Mr. Malveaux's tuition of which part was in violation of its policy. Elections paid for courses taken by Mr. Malveaux which were necessary to obtain a degree but were not intended to directly enhance his ability to perform his State job as required by Elections' policy.

The Elections Policy and Procedure Manual states "Employees are encouraged to apply for training which can improve their advancement opportunities through enhancing their competence in their current job."

Mr. Malveaux's job description states, as the Director he has the authority to investigate complaints concerning possible election and registration fraud. However, if the evidence of fraud exists, the Director shall refer complaints to the appropriate governing body having jurisdiction in this matter.

Several of the courses taken by Mr. Malveaux are related to his job description, however, courses such as "Drug Abuse," "Introductory Sociology" and "Math Survey" have no direct bearing on his State service. Courses such as these are necessary to obtain a degree, but do not directly increase Mr. Malveaux's competence in his job.

2. Failure To Account For Time

Mr. Malveaux did not submit leave slips to record educational leave or other leave taken while attending classes.

Additionally, Mr. Malveaux's work schedule was not amended to accommodate scheduled classes. In fact, on several days when Mr. Malveaux had classes scheduled, he recorded earning compensatory time which was paid at the rate of \$43.01 per hour.

Mr. Malveaux stated he attended classes during the day, however working for Elections always came first.

A review of Mr. Malveaux's vehicle mileage logs for scheduled class days during the period August, 2001, through December, 2003, shows the vehicle was not used or stayed in New Orleans on 70 of 180 class days or approximately 40%.

A review of Mr. Malveaux's cellular telephone records for calendar year 2003 shows the cellular telephone using New Orleans towers on scheduled work days during class hours on at least 70 days out of a possible 94 days. These records suggest Mr. Malveaux's cellular telephone was in the New Orleans area during scheduled class hours.

3. Failure To Reimburse For Dropped Course

Mr. Malveaux failed to reimburse the Department of Elections for a course he dropped.

Elections paid twice for a "Drug Abuse" course scheduled during the 2002 Fall semester and again for the 2003 Fall semester.

The Department of Elections employee manual states, if an employee elects to withdraw from the course or does not complete the course with a passing grade, the employee will reimburse the Department for all fees.

Mr. Malveaux did not reimburse Elections for the dropped class.

Mr. Malveaux stated, he dropped the "Drug Abuse" course due to missing a number of classes in order to work his assigned Elections duties.

Conclusions:

1. The Department of Elections' policies, procedures, and practices regarding the accumulation of compensatory time and documentation of support does not provide a clear and precise audit trail. The Department's ambiguity of its use of Executive Order MJF 98-23 as a guideline along with unreliable time records has resulted in the questionable payment of \$51,000 of compensatory time recorded by two employees, Charles Bergeron and Gregory Malveaux.
2. The Department of Elections failed to follow travel regulations governing reimbursement of meal expenses when it:
 - Improperly paid employee meals expense using the special meal exemption when normal travel rules should have applied.
 - Failed to submit the required reports to the commissioner of administration.

- Failed to require receipts for special meals paid.
3. Gregory Malveaux was paid \$1,850 for meals which did not comply with travel regulations.
 4. The Department of Elections did not adequately review or question expense accounts submitted by Mr. Malveaux.
 5. The Department of Elections paid \$2,553 for Mr. Malveaux's tuition expenses which included courses not related to his job duties.
 6. The Department of Elections failed to require educational or other leave from Mr. Malveaux while attending class.
 7. Mr. Malveaux failed to reimburse Elections for a course which he dropped.

Recommendations:

1. The Department of State should review this report and determine the feasibility of pursuing the reimbursement of questionable payments made to current or former Elections Employees.
2. The Department of State should adopt clear policies regarding the ability of unclassified personnel to accumulate and utilize compensatory leave.

Management Response:

See Attached.

IG Comment:

In her written response dated January 13, 2005, Ms. Suzanne Haik Terrell states it is difficult to comment on the contents of the draft report as she was neither contacted nor interviewed. This office suspended the project between December 17, 2004 and February 9, 2005 while attempting to arrange an interview with Ms. Terrell. During this period, communications from this office were routed through attorney Walter Becker representing Ms. Terrell. On February 9, 2005, Mr. Becker informed us that Ms. Terrell's written response even though marked personal and confidential would suffice and could be attached to the report.

Suzanne Haik Terrell
170 Audubon Boulevard
New Orleans, LA 70118

January 13, 2005

Personal & Confidential

Mr. Ken Albarez
Office of State Inspector General
P.O. 94095
224 Florida Street
Suite 303
Baton Rouge, LA. 70804

Dear Mr. Albarez:

Thank you for your letter of December 28, 2004 and the accompanying "draft" report. Per your request I have read the report but find it difficult to comment on its contents as I was neither contacted nor interviewed in connection with the investigation and I have not reviewed the referenced documents. Consequently, I find it difficult to respond as I do not know the scope and extent of the inquiries or who was interviewed during the compilation of the "draft" report.

There are, however, a few matters that I would like to make you aware of:

- 1) It was my understanding that the Department of Elections had adopted and was following the policies of the Executive Branch as established by Governor Foster;
- 2) The policies of the Department of Elections were reviewed by the Department's executive counsel, formerly a labor specialist with a large Baton Rouge firm, to assure compliance with state and federal guidelines;
- 3) The Department of Elections was regularly audited by the legislative auditor and had an internal auditor. Neither the internal auditor nor the legislative auditor flagged or informed me of any of the problems noted in the "draft" report;
- 4) It was my understanding that the policies adopted covered all unclassified employees and all departing employees were compensated under the guidelines with funds approved by the Division of Administration and the appropriate legislative committees;
- 5) Prior to my leaving office, several attempts were made to transfer my office files and investigation files to the Secretary of State. When a time could not be set, I instructed my staff to label all boxes and leave them for pick up. When we vacated my office at the end of my term, the files and furnishings were left for pick up and transfer to appropriate parties within the Secretary of State's office;
- 6) Most investigations were worked with local, state and federal authorities including but not limited to the State Police, United States Attorneys, District Attorneys, City Prosecutors, and local police. The department was successful in investigating and prosecuting voter fraud;

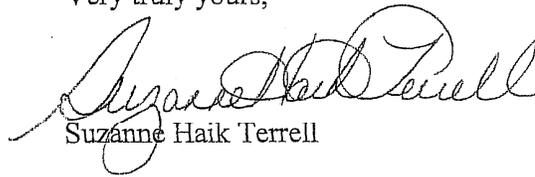
January 13, 2005

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- 7) During my term the state of Louisiana averaged more than one election a month as well as absentee voting periods for each election, resulting in extra work hours for department employees.

Again, I regret that I was not contacted during your investigation and hope that these brief points can help clarify a few matters.

Very truly yours,



Suzanne Haik Terrell

SHT/gf

Charles Bergeron
6344 Peggy Street
Baton Rouge, Louisiana 70808

January 20, 2005

Ken Alvarez
State Auditing Acting Director
Office of State Inspector General

Reference: File No. 1-04-0038

Dear Mr. Alvarez:

Please accept this statement as my response in writing to the findings in your draft report regarding my compensatory time with the State Department of Elections and Registration:

I respectfully ask that you do not include the specific section and other references that I "may not have qualified to earn compensatory time." Clearly, these findings are misleading to the reader and mere conjecture on your part, not a statement of fact.

Obviously, our staff attorney (an expert in labor law), internal auditor, veteran human resources staff and the State Division of Administration would have put a halt to the policy early on if there was a problem with it. I can say with certainty that over my four years and one month service with the State of Louisiana that I worked many more hours than I ever claimed for compensatory time.

During those four years the Department was cited in a national publication for being the "Best Elections Department in the South," and won the top honor at our national convention for having the "Best Voter Registration System in America." Our mission initially was to clean up a scandal rocked agency and find the most efficient way to run it. We began by revamping the organizational structure, canceling unneeded contracts, downsizing the workforce and streamlining operations. We even physically moved the location of the department. By the final year we were able to save the taxpayers of the State approximately \$25 million and successfully merge the office with the Secretary of State.

Thank you for this opportunity to respond.

Sincerely,



Charles Bergeron