

January 24, 2024

Paul Fleming, District Defender
Twenty-Fifth Judicial District Public Defender's Office
18055 Highway 15
Pointe A La Hache, LA 70082

Dear Mr. Fleming:

As you are aware, my Investigative Audit staff visited the Twenty-Fifth Judicial Public Defender's Office (District) to assess the validity of certain complaints we received. This letter briefly summarizes the results of our work. We stress the importance of addressing these issues and encourage you to consider our recommendations as you work to resolve the following:

Unauthorized Student Loan Assistance Payments

Records show that former District Defender Chanel Long entered into several contracts for Public Defender Services with the Louisiana Public Defender Board (Board) to serve as the District Defender for the District. Each of the contracts that we reviewed¹ sets Ms. Long's compensation and provides that the Board, "...has the sole authority, but not obligation, to increase the salary and/or other compensation payable to the District Defender.... District Defender shall not use funds from any source to supplement his or her Board-approved salary." The contracts also authorized Ms. Long to use District funds to provide two benefits to District personnel: the payment of the employer's portion of public retirement and health insurance premiums. The contracts further stated that the "District Defender is not and will not be entitled to any of the benefits which the LPDB makes or may make available to its employees...."²

According to District records, Ms. Long authorized student loan assistance payments, totaling \$15,619, to herself and three District employees from May 13, 2022 to June 30, 2022. These payments were included on regular payroll checks and categorized as "tuition assistance." Ms. Long told us the District is one of the hardest to recruit for and, as such, she developed the student loan assistance benefit to retain and attract staff. Ms. Long stated that the Coronavirus Aid, Relief, and Economic Security (CARES) Act gave her authorization to issue the student loan assistance payments and provided a copy of the District's student loan

¹ Contracts for Public Defender Services cover the District's fiscal year which runs from July 1 to June 30. We reviewed the contracts for fiscal years 2020, 2021, and 2022.

² These contracts refer to the Louisiana Public Defender Board as the "LPDB."

assistance policy, titled "Plaquemines Parish Public Defender Employer Paid Student Loan Assistance Policy." This policy, which appears to have been approved by Ms. Long on May 11, 2022, states:

Pursuant to 26 U.S. Code Sec. 127, Plaquemines Parish Public Defender will pay up to \$5,200 in student loan repayment assistance. The payment is not income, it is a benefit. All payments shall be made yearly. The employee must be on staff on May 15 of each calendar year and employed with the office for at least 90 days in order to qualify for the payment. The employee must provide a forecast or estimate of student loan payments. Plaquemines Parish Public Defender agrees to pay for 12 payments and in no event more than \$5,200. Payment will be made directly to the employee. The employee is responsible for making said payments to his/her student loan provider.

Although Internal Revenue Code Section 127 may exclude student loan repayments from the recipient employee's gross income, neither that law nor Ms. Long's contract with LPDB authorized her to make those payments. Moreover, she did not seek approval from the Board to modify her contract or make those payments. Rather, Ms. Long's contract for Public Defender Services only authorized her to provide District employees with the employer's portion of public retirement and health insurance premiums. In addition, Ms. Long's contracts provided that she shall not use funds from any source to supplement her Board-approved salary and that she was not entitled to any benefits that the Board makes available to District employees. By authorizing student loan assistance payments to herself and district employees, Ms. Long may have violated her contract with the Board, state law³, and the Louisiana Constitution⁴.

³ **Louisiana Revised Statute (La. R.S.) 42:1461(A)** states, "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 thing of value belonging to or under the custody or control of the public entity in which they hold office or are employed."

La. R.S. 42:1111(A) states, "Payments for services to the governmental entity. (1)(a) No public servant shall receive anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position."

⁴ **Louisiana Constitution Article VII, Section 14(A)** provides, in part, "Prohibited Uses. Except as otherwise provided by this constitution, 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, public or private."

Recommendations

We recommend that the District consult with legal counsel to determine the appropriate actions to be taken, including recovering funds related to student loan assistance payments to Ms. Long and other District employees. We further recommend that the District provide employee benefits, pending available funds, as established by the contract between the Board and the District Defender.

This correspondence represents our findings and recommendations, as well as management's response. This correspondence is intended primarily for the information and use of management of the Twenty-Fifth Judicial District of the Public Defender's Office. I trust this information will assist you in the efficient and effective operations of the Twenty-Fifth Judicial District of the Public Defender's Office. If you have any questions, please contact Greg Clapinski or Kunta Osberry at (225) 339-3800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Waguespack", with a stylized flourish extending to the right.

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

MJW/aa

25THJDCPD

APPENDIX A

Management's Response

Twenty-Fifth Judicial District Court
Public Defenders Office
301 Main St.
Belle Chasse, Louisiana 70037
Telephone (504) 934-6921 Facsimile (504) 934-6929

Paul C Fleming Jr, Interim District Defender
Jasmine Barthelemy, Investigator/Office Manager

Fabienne Keenum, Administrator

December 29, 2023

Hon. Michael J Waugespack
Legislative Auditor
Louisiana
1600 North Third Street
Baton Rouge, LA 70802

Re: 25th Judicial District Public Defender Office
Ageny # 1631
Response to Preliminary Report

Dear Mr. Waugespack:

I am the Interim District Defender for Plaquemines Parish, and was appointed as such effective July 1, 2023. I am in receipt of the Preliminary Draft Report of your office regarding the 25th Judicial District Public Defenders Office.

By statute I answer to the State Public Defender and the Louisiana Public Defender Board. As such once the report becomes final and public, I will discuss the contents of the report with them and recommend that we follow the recommendations of your office. The Board's next scheduled meeting is Thursday, February 29, 2024. I will forward a copy of the final report to the State Public Defender as soon as permissible. I see no reason why the State Public Defender and the Louisiana Public Defender Board would not follow the recommendations of your office.

Thank you. With kindest regards, I remain

Sincerely


Paul C Fleming, Jr.
Interim District Defender

APPENDIX B

Chanel Long's Response

DiGIULIO UTLEY, LLC
ATTORNEYS AT LAW

530 Powder Street, Ste. 3
New Orleans, LA 70114

T. (504) 524-4080
F. (504) 571-5437
M. (504) 812-8490
EMAIL: dylan@dylanutley.com

January 5, 2024

VIA: EMAIL

Michael J. "Mike" Waguespack, CPA
Louisiana Legislature Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Long, Chanel—Response to LLA's investigative letter report

Dear Mr. Waguespack:

I represent Chanel Long and this letter serves as her response to the Louisiana Legislative Auditor's (LLA) investigative letter report that was forwarded to her via email on December 18, 2023.

As such, and after careful review of the LLA's draft investigative letter report, it is Mrs. Long's position that the findings and recommendations of the LLA lack a basis in fact and law. Accordingly, the recommendations and findings of the LLA are respectfully denied.

Please call me at (504) 524-4080 or (504) 812-8490 if you have any questions or concerns. Thank you for your time.

Sincerely,



Dylan C. Utley