

JEANERETTE CITY MARSHAL



INVESTIGATIVE AUDIT
ISSUED FEBRUARY 23, 2022

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LOUISIANA LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK

February 23, 2022

HONORABLE FERNEST MARTIN, MARSHAL
JEANERETTE CITY MARSHAL
Jeanerette, Louisiana

We are providing this report for your information and use. This investigative audit was performed in accordance with Louisiana Revised Statutes 24:513, *et seq.* to determine the validity of complaints we received.

The procedures we performed primarily consisted of making inquiries and examining selected financial records and other documents and do not constitute an examination or review in accordance with generally accepted auditing or attestation standards. Consequently, we provide no opinion, attestation, or other form of assurance with respect to the information upon which our work was based.

The accompanying report presents our findings and recommendations, as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the 16th Judicial District of Louisiana and others, as required by law.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "Mike Waguespack", written over a circular stamp or mark.

Michael J. "Mike" Waguespack, CPA
Louisiana Legislative Auditor

MJW/aa

JEANERETTECITYMARSHAL

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EXECUTIVE SUMMARY

Marshal's Office Paid Deputy Marshals Their Regular Wages/Salaries While They Were Working Private Off-Duty Security Details

Records and statements obtained from third parties with knowledge of the Jeanerette City Marshal's Office (JCMO) show that Jeanerette City Marshal Fernest Martin instructed employees to work private security details in Texas and Lake Charles, Louisiana in the aftermath of Hurricane Harvey. From August 30, 2017 to September 26, 2017, the full-time employees that worked private security details were paid their regular wages/salaries, totaling \$10,925, without taking leave; used JCMO vehicles to travel to and from these details; and used JCMO fuel cards to purchase fuel totaling \$1,790. In addition, it appears that Marshal Martin previously loaned money to the private security company's representative, who offered to repay the loan with proceeds from the security details JCMO employees worked in Texas and Lake Charles, Louisiana. By allowing JCMO employees and resources to be used for private security details and entering into a transaction with the security company's representative, Marshal Martin may have violated state law.

Marshal Received Improper Compensation

From January 2012 through June 2021, JCMO improperly paid Marshal Martin \$119,639 in overtime and auto allowance payments. State law prohibits a city marshal from using his office's funds to fix or supplement his own salary. By using JCMO funds to supplement his salary, Marshal Martin may have violated state law.

Possible Dual Office Holding and Dual Employment

From August 7, 2017 to February 24, 2020, Marshal Martin simultaneously held positions as the elected Jeanerette City Marshal, the appointed police chief for the City of Jeanerette (City), and a full-time employee of the Iberia Parish School Board. State law prohibits an elected official from holding a full-time appointed position in a political subdivision. State law further prohibits a person holding a full-time appointed position in a political subdivision from holding other full-time employment in a political subdivision. Because Marshal Martin appears to have worked full-time as the appointed police chief for the City, he may have violated state dual employment laws by simultaneously holding an elected office and full-time employment in a political subdivision.

Improper Christmas Bonuses

From December 2013 through November 2018, JCMO improperly paid Christmas bonuses totaling \$19,450 to employees, including \$4,400 to Marshal Martin. The payment of

Christmas bonuses may have violated the Louisiana Constitution, which prohibits the donation of public funds, and state law.

Marshal Participated in Two Publicly-Funded Retirement Systems in Possible Violation of State Law

Since January 2009, Marshal Martin has participated in two publicly-funded retirement systems; the Teacher's Retirement System of Louisiana (TRSL) and the Municipal Employees' Retirement System of Louisiana (MERS). The state laws that established MERS prohibit its members from participating in another publicly-funded retirement system. By participating in TRSL and MERS, Marshal Martin may have violated state law.

BACKGROUND AND METHODOLOGY

State law provides that there shall be an elected city marshal or constable for each city court within the state. Each marshal shall be elected at the congressional election and every succeeding six years thereafter, shall serve a term of six years, and shall take office and begin his term on the first day of January following election. The city marshal is the executive officer of the city court and is responsible for executing the orders and mandates of the city court. The city marshal has the same powers and authority of a sheriff in executing the orders of the city court, in making arrests, and in preserving the peace. In 2008, Fernest Martin was elected City Marshal for the Jeanerette City Court and was reelected in 2014 and 2020.

In August 2021, the Louisiana Legislative Auditor (LLA) received a complaint alleging Marshal Fernest Martin sent Jenerette City Marshal's Office (JCMO) deputies to work private security details in Texas in the aftermath of Hurricane Harvey, and that those deputies were paid both their regular salaries and for working the private security details for the same time period. LLA initiated this audit to determine the validity of the complaint.

The procedures performed during this audit included:

- (1) interviewing Jeanerette City Marshal Martin and other JCMO employees;
- (2) interviewing other persons, as appropriate;
- (3) examining selected documents and records;
- (4) gathering and examining external parties' documents and records; and
- (5) reviewing applicable state and federal laws and regulations.

FINDINGS AND RECOMMENDATIONS

Marshal's Office Paid Deputy Marshals Their Regular Wages/Salaries While They Were Working Private Off-Duty Security Details

Records and statements obtained from third parties with knowledge of the Jeanerette City Marshal's Office (JCMO) show that Jeanerette City Marshal Fernest Martin instructed employees to work private security details in Texas and Lake Charles, Louisiana in the aftermath of Hurricane Harvey. From August 30, 2017 to September 26, 2017, the full-time employees that worked private security details were paid their regular wages/salaries, totaling \$10,925, without taking leave; used JCMO vehicles to travel to and from these details; and used JCMO fuel cards to purchase fuel totaling \$1,790. In addition, it appears that Marshal Martin previously loaned money to the private security company's representative, who offered to repay the loan with proceeds from the security details JCMO employees worked in Texas and Lake Charles, Louisiana. By allowing JCMO employees and resources to be used for private security details and entering into a transaction with the security company's representative, Marshal Martin may have violated state law.^{1,2,3,4,5,6,7,8,9,10,11}

In August 2021, the LLA received a complaint alleging Marshal Martin sent JCMO deputies to work private security details in Texas after Hurricane Harvey,^A for which the deputies were paid their regular salaries and used JCMO vehicles. The complaint included copies of JCMO fuel card records; copies of text messages between a former JCMO employee and Marshal Martin; and copies of text messages between the same former JCMO employee and "Doc," an individual later determined to be Leonard Verni, the security company representative who sought JCMO deputies to work the security details. The text messages contained information about the private security details, including locations, names of JCMO deputies working details, dates worked, hours worked, amounts owed, and amounts paid. According to the text messages, the security company Mr. Verni represented paid \$54,991 to more than 12 individuals, including six full-time JCMO employees, who worked private security details in August and September 2017, after Hurricane Harvey struck Texas and western Louisiana.

Agency Resources Used For Private Security Details

We compared these text messages with payroll records,^B fuel card records, call logs, and activity records. These records show six full-time JCMO employees were paid a total of \$10,925 in regular JCMO wages/salaries on days they were paid to perform private security details in Texas and Lake Charles, Louisiana. JCMO and City of Jeanerette accounting records did not include any time sheets for that timeframe, any documentation of leave balances/leave used, or any documentation that the employees had available leave and/or used approved leave during

^A Hurricane Harvey made landfall in Texas on August 25, 2017, causing widespread damage and flooding, and again made landfall in western Louisiana on August 28, 2017.

^B Salaried JCMO employees are paid their regular salaries by the City of Jeanerette.

this period. In addition, fuel card records show that JCMO employees used six different JCMO vehicles, as well as their JCMO fuel cards to purchase fuel totaling \$1,709, while traveling to and from these private security details. Louisiana Revised Statute (La. R.S.) 42:1123(15)¹¹ permits law enforcement personnel to use agency vehicles to work private security details if the policy allowing such use is published in the official journal of the parish prior to becoming effective, the policy sets forth the appropriate charges for the use of public vehicles for private employment, vehicle usage is in accordance with the agency's policy, and the agency is reimbursed for the private use of its vehicles. However, the exception set forth in La. R.S. 42:1123(15) was not applicable in this case because the JCMO does not have a written policy for private security details and was not reimbursed for the usage of its vehicles.

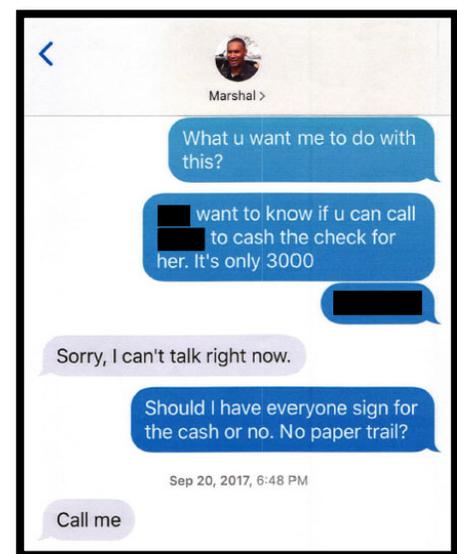
We spoke with former JCMO deputies and employees who confirmed they:

- Worked private security details in Texas and Lake Charles, Louisiana;
- Were instructed by Marshal Martin to work those details using JCMO vehicles and fuel cards;
- Were paid their regular JCMO salaries while working the details and were also paid money from another source to work the details;
- Were not required to use or take leave to work the details; and
- Brought concerns to Marshal Martin about receiving their salaries for periods they worked security details.

Marshal Martin told us he approved the use of JCMO vehicles for those security details, and JCMO was supposed to be reimbursed for the fuel used, but his former secretary did not submit invoices for reimbursement. Marshal Martin also told us JCMO employees were supposed to use leave but his former secretary failed to document leave taken by the employees. Mr. Martin also stated that former deputies lied to us about not being required to use leave, and if the former secretary didn't take their leave, that was his first time hearing it. However, a statement Marshal Martin made during a September 2018 JCMO departmental meeting (approximately a year after the details) suggests JCMO employees were not required to use leave to work the security details. During the meeting, Marshal Martin asked, "what boss gonna come there and allow your [expletive] to leave his office undone, let you go to Texas, make some money, and then give you a check from here?"

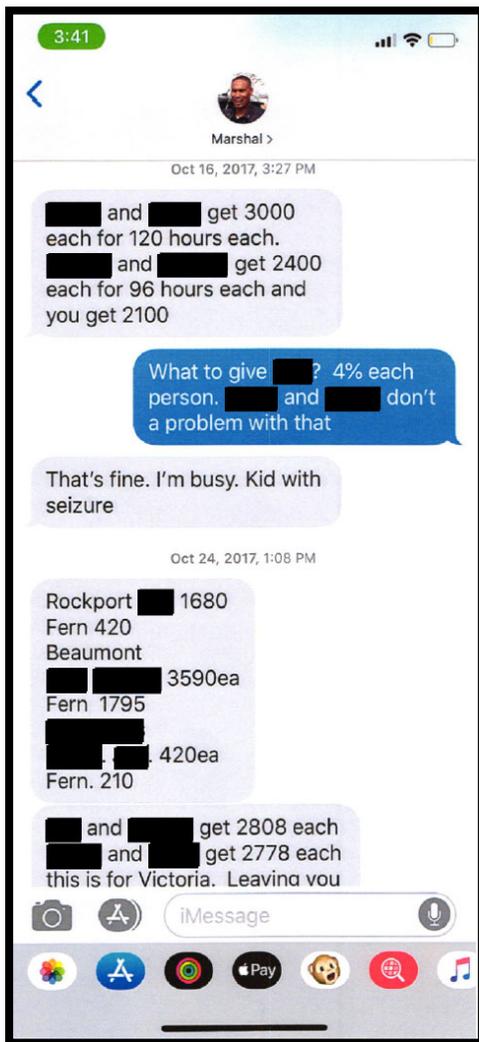
Payments from Private Security Company

JCMO employees who worked the private security details were paid by the private security company Mr. Verni represented. Mr. Verni mailed checks to a former JCMO employee who told us she cashed the checks and brought the



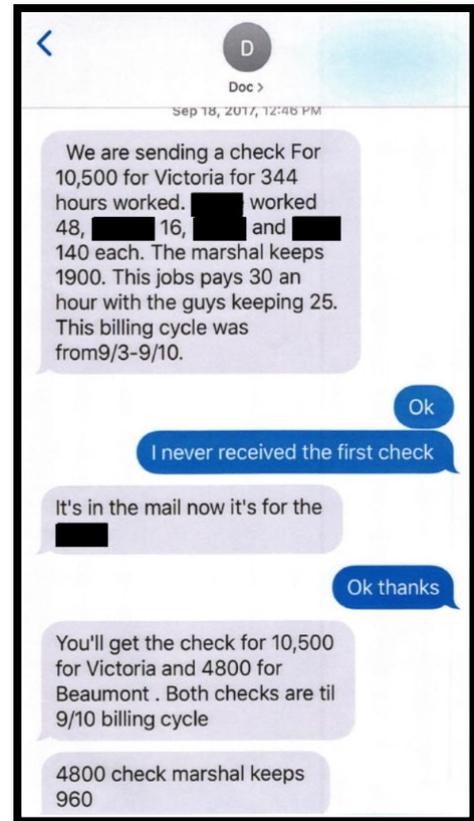
cash to the JCMO. Marshal Martin gave her advance notice when checks were coming so they would not be stolen.

According to JCMO employees we spoke with, Marshal Martin, the former secretary, or the former employee who cashed the checks, would pay them for the private security details. The JCMO employees working the details said they received less money than they were promised. The former employee who cashed the checks told us she received between \$500 and \$1,000 to cash the checks. Text messages between Marshal Martin and the former secretary appear to discuss the former employee cashing checks and receiving four percent of the proceeds (see text message to bottom right of previous page and bottom left).



Mr. Verni told us he sent the payments to either the former employee that cashed the checks or the former secretary.

Mr. Verni also told us Marshal Martin had previously loaned him money, and portions of the payments for the security details were loan repayments for Marshal Martin. Mr. Verni told us he doesn't know if Marshal Martin received the payments, but he did not pay Marshal Martin to administer the details because that would be illegal. Text messages also appear to show that portions of the security detail payments were payments for the benefit of Marshal Martin (see text message at top right). According to these messages, \$10,579 out of the \$54,991 total payments appear to have been paid for the benefit of Marshal Martin. Text messages from Mr. Verni to the former secretary (see text messages to top right) discussed payment to Marshal Martin and stated deputies would be paid \$30 per hour but receive only \$25 per hour for the Victoria, Texas detail. The \$1,900 supposedly kept by Marshal Martin from the Victoria, Texas detail equated to a little



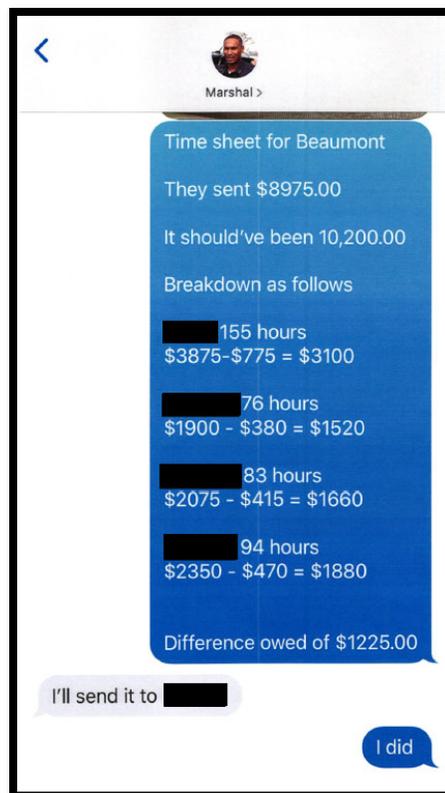
over \$5 per hour.^C According to the former secretary, Marshal Martin received \$5 per security detail hour worked.

Text messages between Marshal Martin and the former secretary appear to discuss payments to Marshal Martin and his deputies. For example, text messages to the bottom left on the previous page showed the former secretary and another former JCMO deputy would receive \$3,590 each in relation to details in Beaumont, Texas and “Fern” (an apparent reference to Marshal Martin) would receive \$1,795. Those three amounts (\$3,590 + \$3,590 + \$1,795) totaled \$8,975. A subsequent text message from the former secretary to Marshal Martin (see text messages to right) showed the \$8,975 payment related to Beaumont, Texas should have been for \$10,200, and the amounts deducted for each individual equated to \$5 per hour.^D

Marshal Martin told us Mr. Verni called him after Hurricane Harvey and said he (Mr. Verni) could use JCMO deputies to help with a job in Texas for a day or two. According to Marshal Martin, the deputies initially went to Texas on JCMO’s behalf to assist, but when asked what the deputies did in Texas, Marshal Martin told us the deputies were guarding stores, and all he knows is that it was private security. Marshal Martin stated that while his deputies were in Texas, Mr. Verni called him again asking to use the deputies longer and told him what Mr. Verni could pay the deputies. According to Marshal Martin, he told Mr. Verni there was nothing going on in Jeanerette, and he did not have a problem with the deputies staying in Texas. Marshal Martin said he told Mr. Verni he wanted nothing to do with the details because the deputies were on their own time.

Marshal Martin told us that he previously loaned Mr. Verni between \$6,000 and \$8,000 by paying Mr. Verni’s house notes and child support. Marshal Martin told us that Mr. Verni tried to pay him \$10,000 while paying the deputies for the Texas security details, but he refused and told Mr. Verni that was too much money and that was not what he lent Mr. Verni. Marshal Martin told us that Mr. Verni sent text messages to the former secretary offering to pay Marshal Martin, but he told the former secretary to refuse the money, which he refused because Mr. Verni needed the money more than him. Marshal Martin told us he was not paid anything in relation to the details, and he doesn’t know who got paid or what they were paid.

One of the former deputies who worked private security details in Texas provided us with an audio recording of a JCMO departmental meeting on September 10, 2018. During the meeting, Marshal Martin made statements which implied the details were not optional and



^C \$10,500 payment / 344 hours = \$30.5233 per hour - \$25 per hour for the deputies = \$5.5233 remainder per hour x 344 hours = \$1,900.

^D For example, the \$380 deducted for the former secretary’s 76 hours is \$5 per hour (\$380 / 76 = \$5).

everyone at JCMO had a financial interest in the details. During the meeting, Marshal Martin became upset with the former deputy and stated the following:

- “you pulled that [expletive] in Houston. You lied and swore to God that man sent you home, I talked that man, that man he said he ain’t never spoke to you. And cost everybody a [expletive] of money around here.”
- the man said “because of your guy, we lost \$75,000.”
- “I’ll show you what the man say. Because you said you told [the former chief deputy] they sent you home, they didn’t send you home, you came home.”

The former deputy told us this conversation related to a detail at a hotel in Houston, which he left when flood waters receded. According to the former deputy, his actions upset Marshal Martin because Marshal Martin believed the deputy cost them a security contract.

Conclusion

Records and statements from former JCMO employees show that Marshal Martin instructed JCMO employees to work private security details in Texas and Lake Charles, Louisiana in the aftermath of Hurricane Harvey. From August 30, 2017 to September 26, 2017, six full-time employees who worked out of town details were paid their regular wages/salaries totaling \$10,925 without taking leave; used JCMO vehicles to travel to and from these details; and used JCMO fuel cards to purchase fuel totaling \$1,790. In addition, it appears that Marshal Martin previously loaned money to the representative of the private security company who then offered to repay the loan with proceeds from the security details worked by JCMO employees in Texas and Lake Charles, Louisiana. By allowing JCMO employees and resources to be used for private security details and entering into a transaction with the owner of the security company, Marshal Martin may have violated state law.^{1,2,3,4,5,6,7,8,9,10,11}

Marshal Received Improper Compensation

From January 2012 through June 2021, JCMO improperly paid Marshal Martin \$119,639 in overtime and auto allowance payments. State law prohibits a city marshal from using his office’s funds to fix or supplement his own salary. By using JCMO funds to supplement his salary, Marshal Martin may have violated state law.^{4,7,12}

La. R.S. 13:1883(C) provides that in a jurisdiction of less than 10,000 inhabitants, the marshal's salary shall be paid by the governing body of the city and parish where the court is located, in such amounts as they may determine. In addition, La. R.S. 13:1881(B), provides that a city marshal may use funds available to his office to pay additional compensation to deputy marshals, but not to fix or supplement his own salary. Further, Louisiana Attorney General *Opinion (A.G. Op.) 18-0011* states, in part, that funds placed into a bank account for the exclusive use of a city marshal for the expenses of his office would not be available as additional compensation to the marshal because La. R.S. 13:1881 prohibits a marshal from supplementing his own salary. Therefore, it appears Marshal Martin’s salary is determined by the city and

parish, and he cannot use JCMO funds to supplement his own salary. However, records show that JCMO funds totaling \$119,639 were paid to Marshal Martin in the form of overtime and auto allowance payments from January 2012 through June 2021.

Improper Overtime

Marshal Martin's regular salary is paid by the City of Jeanerette (City) from funds appropriated by the City and Iberia Parish. As an elected official, Marshal Martin is not required to work a specified number of hours each week and does not complete time sheets to document regular hours worked. Further, according to the JCMO policy manual, management personnel are not eligible for overtime. However, records show that JCMO paid Marshal Martin \$35,636 in overtime from January 2012 through June 2020 using JCMO funds. JCMO did not have any documentation to support overtime hours or time sheets documenting that the overtime hours exceeded a minimum number of regular hours.

Marshal Martin told us that overtime was anything over 40 hours per week. When we asked Marshal Martin how he knew when he reached 40 hours per week, he told us that normal hours are 8:30 a.m. to 4:30 p.m. Monday through Friday, so anything after 4:30 p.m. is overtime. However, Marshal Martin also told us he was usually only at the Marshal's office from 6:00 a.m. to 8:30 a.m. and after 4 p.m. because he worked at the Iberia Parish Alternative Center for Education during the day. When we asked Marshal Martin how he could be working for JCMO if he was at the school most of the day, Marshal Martin told us he ran back and forth between the school and JCMO putting in his hours throughout the day.

Marshal Martin also told us he could not get overtime for working for JCMO, but if he performed a duty for the City, they had to pay him. Marshal Martin told us that came from *A.G. Op. No. 15-0089*, dated July 17, 2015, which he requested. In this opinion, the A.G. opined that:

[T]he Jeanerette City Marshal may enter into a cooperative endeavor agreement with the City of Jeanerette to provide administrative and management oversight services to the City's police department as long as the Jeanerette City Marshal is able to demonstrate that he will receive fair value for the services rendered, and the arrangement is not made to be an employment or appoint of a person to a city office.

Although Marshal Martin did not recall ever signing a cooperative endeavor agreement, he told us that he always worked overtime to assist the City, including for parades, other city events, and to work at night due to high crime. Marshal Martin told us that his former secretary was supposed to submit invoices to the City to get reimbursed for his overtime. According to Marshal Martin, his former secretary told him to pay overtime out of the JCMO account and the City would reimburse JCMO. Marshal Martin also told us up until now he always thought the City reimbursed JCMO for his overtime.

Conversely, Marshal Martin told us he requested payment from the city, he did not get paid, all he could do was ask, and the former mayor was not going to give him a dime. Marshal Martin further told us he oversaw the police department for a year without compensation while

waiting for the cooperative endeavor agreement. According to Marshal Martin, the City didn't pay him because it didn't have any money, and he told them not to worry about paying him. Furthermore, at the September 11, 2017, meeting of the City of Jeanerette Board of Aldermen (Board), while discussing his compensation as the recently appointed interim police chief, Marshal Martin told the Board "I've done it for free, as of this point. I've never asked for one dime nor have I been compensated for it."

Auto Allowance

Records show that JCMO issued \$84,003 in auto allowance payments to Marshal Martin between January 2009 and June 2021. These payments began at \$390 per month, increased to \$500 per month in late 2009, increased to \$600 per month in early 2015, and increased to \$650 per month in late 2015. Marshal Martin told us the previous city marshal had an auto allowance and that a former Jeanerette City Court Judge told him he should be compensated for the use of his personal vehicle. Marshal Martin also stated that the CPA who performs the review of JCMO's financial statements told him how much the vehicle allowance should be. Marshal Martin told us that he does not know what is included in the vehicle allowance and that he uses the vehicle allowance to pay for repairs and maintenance for his personal vehicle.

In addition to receiving an auto allowance, records show that Marshal Martin also used JCMO funds to purchase fuel totaling \$2,090 for his personal vehicle between November 18, 2019 and June 29, 2021. It appears that Marshal Martin used JCMO funds to purchase fuel for his personal vehicle prior to November 2019, but JCMO did not maintain records necessary to quantify those purchases. Marshal Martin told us he inherited the practice of using a JCMO fuel card to pay for fuel for his vehicle. He stated that he generally used the JCMO fuel card to fill up his personal vehicle every other time, and this was a practice he came up with because he wanted to be fair.

Possible Dual Office Holding and Dual Employment

From August 7, 2017 to February 24, 2020, Marshal Martin simultaneously held positions as the elected Jeanerette City Marshal, the appointed police chief for the City of Jeanerette (City), and a full-time employee of the Iberia Parish School Board. State law prohibits an elected official from holding a full-time appointed position in a political subdivision. State law further prohibits a person holding a full-time appointed position in a political subdivision from holding other full-time employment in a political subdivision. Because Marshal Martin appears to have worked full-time as the appointed police chief for the City, he may have violated state dual employment laws^{13,14} by simultaneously holding an elected office and full-time employment in a political subdivision.

Marshal Martin was hired by the Iberia Parish School Board on August 8, 2007, as a full-time drill instructor at the Iberia Parish Alternative Center for Education. Marshal Martin was subsequently elected the Jeanerette City Marshal, effective January 2009, an office Marshal Martin still holds. Therefore, since January 2009, Marshal Martin has served as the elected Jeanerette City Marshal and a full-time employee of the Iberia Parish School Board. Marshal

Martin was also appointed by the City as the interim police chief on or around August 7, 2017, at a special meeting of the Board. Marshal Martin held that position until a new police chief was appointed at the February 24, 2020, Board meeting. Therefore, Marshal Martin served as the interim police chief for the City for more than two years while also serving as the elected Jeanerette City Marshal and as a full-time employee of the Iberia Parish School Board.

The addition of the third position, interim police chief, raised two potential dual-officeholding issues. First, no person holding an elective office in a political subdivision of the state (here the Jeanerette City Marshal) shall at the same time hold a full-time appointive office in a political subdivision of the state (here the police chief for the City). Second, no person holding a full-time appointive office in a political subdivision of the state (here the police chief for the City) shall at the same time hold full time employment in a political subdivision of the state (here drill instructor for the Iberia Parish School Board). Because Marshal Martin appears to have worked full-time as the appointed police chief for the City, he may have violated state dual employment laws by simultaneously holding an elected office and full-time employment in a political subdivision.

Prior to the City's September 11, 2017, Board meeting, the City's attorney had requested an A.G. opinion about whether Marshal Martin could legally serve as the elected city marshal and appointed police chief. In *A.G. Op. No. 17-0116*, dated August 21, 2017, the A.G. opined that provisions of dual officeholding and dual employment law would prohibit Marshal Martin from serving as the full time police chief for the City of Jeanerette but not from serving as the part time police chief. The opinion, which cited La. R.S. 42:62(4), also states "...if the Chief of Police of the City of Jeanerette normally works or is expected to work at least seven hours per day of work and at least thirty-five hours per week of work, the position is classified as "full time" for the purposes of the Dual Officeholding and Dual Employment Laws."

Minutes show that the Board discussed *A.G. Op. No. 17-0116* during the City's Board meeting on September 11, 2017, which Marshal Martin attended. The recording of that meeting reflects that, while discussing the AG opinion, Marshal Martin told the Board "if you ask me to give 34 hours, I'll probably give you 45 hours, probably give you 54 hours..." During the meeting, the Board discussed possible arrangements to ensure Marshal Martin did not work more than 35 hours per week, including having Marshal Martin clock in. Marshal Martin told the Board "if you ask me, I would tell you I never want to punch in."

The Board later offered Marshal Martin half of the previous full-time police chief's salary to work 35 hours per week, to which Marshal Martin responded:

Honest answer. No. You're gonna pay me half of the chief's salary for part time, but y'all are asking me to come up there really through five hours less of the work. I would tell you show me the chief's salary for 40 hours and give me that salary payment for 34 hours. If you broke down the chief's salary and say this is how much he make an hour for 40 hours per week, I say well give me that salary for 34 hours per week.

The Board voted to pay Marshal Martin the hourly salary for the police chief approved in the budget for up to 35 hours worked and required Marshal Martin to clock in. The City could not provide any time sheets for Marshal Martin, but payroll records show that Marshal Martin was paid for 32 hours each week from June 28, 2018 to March 5, 2020. Although Marshal Martin was paid for 32 hours per week, he repeatedly told us that he worked full-time as the police chief, and told us the City expected him to work full-time as the police chief. Therefore, it appears that Marshal Martin was a full-time police chief for the City in possible violation of dual-officeholding laws.^{13,14}

Improper Christmas Bonuses

From December 2013 through November 2018, JCMO improperly paid Christmas bonuses totaling \$19,450 to employees, including \$4,400 to Marshal Martin. The payment of Christmas bonuses may have violated the Louisiana Constitution,⁶ which prohibits the donation of public funds, and state law.^{7,12}

Records show that 20 JCMO employees and Marshal Martin were paid \$19,450 in bonuses from December 2013 through November 2018, including \$4,400 paid to Marshal Martin. During this period, Marshal Martin was paid bonuses ranging from \$500 to \$850 and employees were paid bonuses ranging from \$100 to \$750. A review of the checks issued to these employees shows that the checks were processed in the same manner as payroll checks with deductions for state and federal taxes.

Marshal Martin told us that these payments were not actually bonus payments. He explained that JCMO employees take a trip to Florida every year, part of which is to attend a conference and part of which is a vacation for employees and their relatives. Marshal Martin told us that the trip is partially funded by JCMO and partially funded with personal funds from employees and their relatives. Marshal Martin told us that sometimes the employees put up more funds than necessary to fund the trip and the excess was refunded to those employees as so-called “Christmas bonuses.”

We spoke with five former full-time JCMO deputies and the former secretary, all of whom told us these payments were actually bonus payments. These individuals all told us they never received a refund from the Florida trip, and that the payments they received were bonuses. One former deputy told us that the bonuses were based on performance, and another former deputy told us the Marshal referred to his bonus as a safety award. The payment of Christmas bonuses may have violated the Louisiana Constitution,⁶ which prohibits the donation of public funds, and state law.^{7,12}

Marshal Participated in Two Publicly-Funded Retirement Systems in Possible Violation of State Law

Since January 2009, Marshal Martin has participated in two publicly-funded retirement systems; the Teacher’s Retirement System of Louisiana (TRSL) and the Municipal Employees’ Retirement System of Louisiana (MERS). The state laws that established MERS prohibit its members from participating in another publicly-funded retirement system. By participating in TRSL and MERS, Marshal Martin may have violated state law.¹⁵

TRSL is a publicly-funded retirement system that requires all teachers^E to become members as a condition of their employment. Records show that Marshal Martin has participated in TRSL since August 2007 as a result of his employment with the Iberia Parish School Board. City of Jeanerette records show that Marshal Martin also enrolled in MERS in November 2008 and began participating in MERS after taking office as the Jeanerette City Marshal on January 1, 2009. Records from both systems show that Marshal Martin has participated in both since January 2009.

According to La. R.S. 11:1752(A), persons who are members of another publicly funded retirement system shall not be entitled to membership in MERS. In order to determine if prospective members are eligible, MERS requires them to complete a Personal History Form which asks if the prospective member is a member of another public retirement system. We obtained the MERS Personal History Form filed on behalf of Marshal Martin in November 2008. The form appears to be signed by Marshal Martin and shows a negative response to the question “Are you a member of another public [sic.] funded retirement system.” MERS provided us with a copy of the same Personal History Form (filed in November 2008) as documentation of Marshal Martin’s enrollment in MERS. A MERS representative told us that Marshal Martin is an active member of MERS and that he has not notified MERS that he is a member of another publicly funded retirement system. By participating in MERS while also participating in TRSL, Marshal Martin may have violated state law.¹⁵

Recommendations

We recommend the Marshal’s Office:

- (1) Adopt detailed policies and procedures to ensure that public funds are spent in accordance with state law;
- (2) Create a policy for paid security details, including reimbursement for the usage of JCMO vehicles, as required by state law;

^E La. R.S. 11:701(35)(a) provides, in part that, "Teacher", except as provided in Subparagraph (b) of this Paragraph, shall mean any of the following: (i) Any employee of a city, parish, or other local school board, any parish, city, or other local superintendent, or any assistant superintendent of public schools.

- (3) Require third parties to reimburse JCMO for the usage of its vehicles to perform paid security details, in compliance with state law;
- (4) Cease payment of salaries or wages to employees while working paid security details, unless paid leave is properly used and documented;
- (5) Properly document and maintain leave records, including leave balances, leave usage, and approval;
- (6) Cease providing JCMO resources to entities in which the Marshal has a financial interest;
- (7) Require the Marshal and all JCMO employees to comply with Louisiana ethics laws;
- (8) Cease payment of additional compensation to the Marshal using JCMO funds;
- (9) Document all compensation to the Marshal, including approval by the City of Jeanerette and/or the Iberia Parish Government;
- (10) Prohibit payment of overtime to the Marshal unless approved and paid by the City of Jeanerette and/or the Iberia Parish Government and properly documented with timesheets;
- (11) Prohibit payment of vehicle allowances to the Marshal unless approved and paid by the City of Jeanerette and/or the Iberia Parish Government;
- (12) Prohibit the use of JCMO funds to purchase fuel for personal vehicles;
- (13) Cease payment of bonuses and donations of public funds, which are prohibited by the Louisiana Constitution; and
- (14) Notify MERS that Marshal Martin is a member of MERS and a second public pension system.

LEGAL PROVISIONS

¹ **La. R.S. 14:26(A)** states, “Criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing any crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.”

² **La. R.S. 14:118(A)** states, in part, “public bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any of the following persons, with the intent to influence his conduct in relation to his position, employment, or duty: (a) Public officer, public employee, or person in a position of public authority...(e) Any person who has been elected or appointed to public office, whether or not said person has assumed the title or duties of such office. (2) The acceptance of, or the offer to accept, directly or indirectly, anything of apparent present or prospective value, under such circumstances, by any of the above named persons, shall also constitute public bribery.”

³ **La. R.S. 14:134.3(A)** states, “No public officer or public employee shall knowingly and intentionally use the authority of his office or position, directly or indirectly, to compel or coerce any person to provide the public officer, public employee or any other person with anything of apparent present or prospective value when the public officer or employee is not entitled by the nature of his office to the services sought or the object of his demand.”

⁴ **La. R.S. 14:134(A)** states, “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; or (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.”

⁵ **La. R.S. 14:138(A)** states, in part, “Public payroll fraud is committed when: (1) Any person shall knowingly receive any payment or compensation, or knowingly permit his name to be carried on any employment list or payroll for any payment or compensation from the state, for services not actually rendered by himself, or for services grossly inadequate for the payment or compensation received or to be received according to such employment list or payroll; or (2) 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.”

⁶ **Article VII, Section 14(A) of the Louisiana Constitution** states, 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.”

⁷ **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.”

⁸ **La. R.S. 42:1112** states, in part, “A. No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity. B. No public servant, except as provided in R.S. 42:1120, shall participate

in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest: ... (2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know.”

⁹ **La. R.S. 42:1116** states, “No public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself, any other public servant, or other person with any thing of economic value. This Subsection shall not be construed to limit that authority authorized by law, statute, ordinance, or legislative rule in carrying out official duties.”

¹⁰ **La. R.S. 42:1117** states, “No public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of this Part.”

¹¹ **La. R.S. 42:1123** provides, in pertinent part, “This Part shall not preclude:...(15) The use by a duly commissioned law enforcement officer of a publicly owned law enforcement vehicle in connection with the private employment of such law enforcement officer in providing traffic control or security services for a private employer when such use is approved by and in accordance with the policy of the law enforcement officer's public employer, which policy shall be published in the official journal of the parish prior to becoming effective and shall provide for appropriate charges for the use of public vehicles for private employment.

¹² **La. R.S. 13:1881(B)** states, “The marshal may appoint one or more deputy marshals having the same powers and authority as the marshal, but the marshal shall be responsible for their actions. The compensation of the deputy marshals shall be fixed and paid by the governing authorities of the city or parish, or both, where the court is located. The city marshal may use funds available for expenses of his office, including proceeds from costs assessed in criminal matters pursuant to R.S. 13:1899, to pay an amount in excess of the fixed salary or to pay the amount fixed or any portion thereof to deputy marshals or to employ additional deputies. However, nothing herein shall authorize the city marshal to fix or supplement his own salary. In no event shall the salary of any deputy exceed that of his city marshal.”

¹³ **La. R.S. 42:63(D)** states, “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.”

¹⁴ **La. R.S. 42:63(E)** states, “No person holding a full-time appointive office or full-time employment in the government of this state or of a political subdivision thereof shall at the same time hold another full-time appointive office or full-time employment in the government of the state of Louisiana, in the government of a political subdivision thereof, or in a combination of these.”

¹⁵ **La. R.S. 11:1752(A)** states, “Persons who are members of any fund or who are eligible for membership in any fund financed wholly or partly by public funds for the retirement of employees by the state of Louisiana or by a city, parish, village or other political subdivision in the state of Louisiana, shall not be entitled to membership in this system.”

APPENDIX A

Management's Response



JEANERETTE MARSHAL OFFICE
1437 WEST MAIN STREET
POST OFFICE BOX 268
JEANERETTE, LOUISIANA 70544
TELEPHONE (337) 276-7556 FAX: (337) 276-7558

February 14, 2022

Michael J. "Mike" Waguespack, CPA
Louisiana Legislative Auditor
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Jeanerette City Marshal's Office

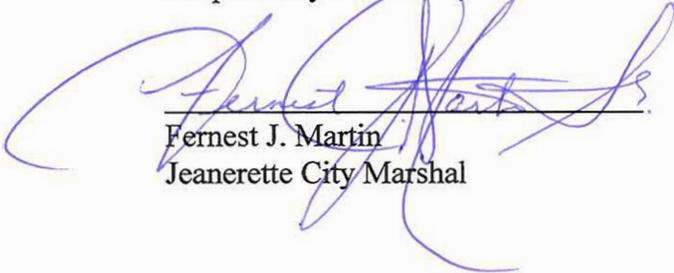
Dear Mr. Waguespack:

We acknowledge receipt of the Legislative Auditor's preliminary report on your review of the records of the Jeanerette City Marshal's Office, and appreciate the work your office has done to advise us of areas of concern and to ensure that all public agencies follow the law.

My office is in the process of addressing the issues raised and recommendations made in the report. However, we have not had sufficient time, since the report was delivered to us on January 24, 2022 to fully investigate all issues raised in the time given to us to respond. It has been difficult to respond fully, in part, because many of the issues raised occurred during the employment of a individual who was terminated in 2019 and who was charged with several criminal offenses related to her duties and responsibilities as Office Administrator. Consequently the records are not complete, nor will they be any time soon, in view of her pending criminal charges.

I welcome the opportunity to work with your office to correct any errors we may have made and to ensure that we comply with the law in every respect. Some corrective action has already been taken, and we hope to have a full and complete response to all the issues raised in the report shortly

Respectfully submitted,


Ernest J. Martin
Jeanerette City Marshal