

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting Wednesday, July 25, 2023 Senate Room E State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Chairman Luneau called the Legislative Audit Advisory Council (Council) meeting to order at 10:07 a.m. Ms. Tanya Phillips called the roll confirming that a quorum was present.

Members Present: Senator Jay Luneau, Chairman
Senator Beth Mizell
Senator Louie Bernard
Senator Fred Mills
Representative Barbara Freiberg
(Proxy for Representative Stephanie Hilferty)
Representative Edmond Jordan
Representative Rodney Schamerhorn

Members Absent: Senator Jimmy Harris
Representative Barry Ivey, Vice Chairman
Representative Aimee Adatto Freeman

Also Present: Michael J. "Mike" Waguespack
Louisiana Legislative Auditor (LLA)

Approval of Minutes

(Video Archive Time 01:10)

Senator Bernard offered a motion to approve the minutes of the March 29, 2023 meeting and, with no opposition, the motion was approved.

(Video Archive Time 02:00)

Senator Luneau announced that we are going to go out of order on the agenda and handle the denial of extension requests first.

Town of Kentwood: Bruce Harrell, CPA stated in their letter for the extension that their auditor's daughter was in children's hospital for three months and it put her behind. Minda Rayburn, CPA states she should be finished with the 2021 report by next week and the 2022 report should be finished in the next few months. The Town is asking for an extension until October 31, 2023 just to give her a reasonable time to get all the audit procedures done.

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Representative Robbie Carter said this is number one importance to the Town of Kentwood. We're really not ignoring this, we're really working on it just as hard as we can and we just need a little time.

Mike Waguespack stated they requested an extension until September 30, 2023 but he heard October 31, 2023. He would go along with recommending the approval of that extension until October 31, 2023.

Senator Bernard offered a motion to grant the Town of Kentwood's extension to October 31st, 2023 and, with no opposition, the motion was approved.

Town of Roseland. Mike Waguespack welcomes the Town of Roseland. They were able to engage a CPA firm or a proven engagement with a firm out of New Orleans. Mr. Waguespack wanted more of an update because that 2021 report is still outstanding and he hasn't been given a good timeline on when that would be received.

Mayor Wanda McCoy, Town of Roseland stated they asked for extension for 2021. The Town has a new auditor and both clerks were sick and the Mayor had knee surgery. It was not until the Mayor was back in the office that she could send the information to the auditor. Senator Luneau asked what's the extension request? Mr. Waguespack stated the request is for September 30, 2023. Mr. Waguespack received an email from the CPA, Jim Tonglet, who stated he anticipates completing both the 2021 and 2022 audits by September 30, 2023.

Senator Luneau asked Mr. Waguespack that since they were trying to get both audits done, does he have an issue with approving an extension until October 31, 2023? Mr. Waguespack said he would concur since he's also going to finalize the 2022 audit at the same time.

Senator Luneau advised Mayor McCoy that we would grant an extension until October 31st, 2023. Senator Bernard offered a motion to grant the Town of Roseland's extension to October 31st, 2023 to complete both fiscal year end 2021 and 2022 audits and, with no opposition, the motion was approved.

Investigative Audit Report – Town of Arcadia *(Video Archive Time 14:21)*

Presented by - Investigative Audit Senior Manager, Kevin Kelley, Senior Investigative Auditor, Nora Koçi, and Investigative Auditor, Nekivia Sledge

Kevin Kelly spoke on behalf of the Legislative Auditor's office, along with Nora Koci and Nekivia Sledge who worked on the May 10th, 2023 Town of Arcadia investigative audit report. The first finding discusses the Town's non-compliance with Local Government Budget Act for fiscal years ended December 31, 2021 and 2022. The Town's December 17, 2020 minutes show an ordinance was passed to

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approve the general fund and special revenue fund budget. However, the Town could not provide a copy of the budget statements referenced in the ordinance or the required budget message. In addition, the ordinance claimed the budget was introduced December 8, 2020, but the Town did not have minutes for a meeting on that date. The mayor also provided a budget resolution, not an ordinance dated December 12, 2020, that had general fund and water fund statements. The Town also did not have minutes for that meeting. The December 12, 2020 resolution included a statement that it was adopted at a board meeting on December 17. However, the December 17 minutes tell us that an ordinance was passed, not the resolution.

Senator Luneau asked if this appear to be a documentation or a procedure problem or do you fear it's something more involved than that?

Mr. Kelley said it is difficult to say. It could be both documents, procedure and other things without complete records. The budget statements don't meet the muster for Local Government Budget Act and didn't have all the details in it that was necessary. Typically that's one of the things that has to be included in the budget statement so council members can see how much money do we have when we start, what are we going to collect, what are we going to spend and what's left over. But in this case, those items were omitted.

For fiscal year 2022, the Town's minutes show a resolution, not a required ordinance, was passed to approve the budget at the April 12, 2022 meeting. In addition, the budget documents did not include the required budget message beginning or ending fund balance or define the authority of the mayor to make changes without the approval of the Town Council. The mayor told us the use of the resolution was a mistake due to a new town attorney they had hired and that was his first budget.

The second finding discusses the Town's improper use of American Rescue Plan Act (ARPA) funds. The Town deposited \$500,000 of ARPA funds to its general fund bank account and did not keep a separate accounting of how the funds were spent. In addition, the town did not pass a budget for the \$500,000 of ARPA funds. However, the council minutes on May 18, 2021 shows a discussion for a proposal of the use of the ARPA funds, but the minutes do not reflect approval of the proposal. The proposals included salary incentives which are permissible for employees under certain circumstances. However, the mayor authorized the payment of \$2,000 per employee and elected official instead of following premium pay requirements, which is up to \$13 an hour for eligible workers performing essential work. ARPA funds for premium pay are supposed to also address the negative economic impact of Covid 19. In layman's term, that means that the premium pay should be for the lower paid employees and not for management.

Senator Luneau asked if an elected official was eligible to receive ARPA funds in a stipend like that?

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Mr. Kelley said the Attorney General has provided several opinions on ARPA funds premium pay and in those cases they're saying that elected officials are not eligible for that. The town paid \$53,000 of salary incentives with its ARPA funds to the elected officials and town employees. The \$16,000 paid to the elected officials and town clerk are not permissible since those salaries are set by town ordinance. In addition, the Louisiana Attorney General issued several opinions on the use of ARPA funds for premium pay and it concluded elected officials would not be considered an essential worker under the ARPA rules and therefore not eligible for premium pay.

In some cases, elected chiefs of police can be eligible, but the premium pay cannot exceed the salary authorized by the council and the chief must meet the requirements of an eligible worker and perform essential work as defined by the US Treasury. So eligible workers is usually your hourly employees that are not in the senior positions. And essential work typically means you are interacting with the public, whether it's a utility clerk collecting payments and depositing that if it's public works, employees out fixing streets or damaged sewer lines or water lines and talking to people and so forth. That's the type of activities that are generally described as essential work. If you're working at home, that specific thing you're saying is no. So you're supposed to have some type of interaction with the public and be performing, be an eligible employee, which means you're not the senior level of management at the organization.

Senator Luneau asked if during floods, trying to get people out of houses and stuff like that, as an elected official, would that be considered an essential act? Because what I'm trying to find out is under what circumstances would these elected officials be able to be paid that if in fact they did some of that essential work?

Mr. Kelley said the Attorney General says in their opinions that they're not essential workers now. Now are they an eligible worker? If you're an elected official, they typically don't keep time sheets. The way that the treasury rules read says you can pay premium pay up to \$13 an hour, which of course suggests you've got to have a date of the work you performed, the hour you started and stopped and to some degree what activities you were doing. So going with the Attorney General's guidance, I think that elected officials typically won't be eligible for the premium pay.

Mr. Kelley states the third finding discusses the mayor's authorization of approximately \$1 million of unbudgeted payments to two vendors for tree cutting, debris removal, building maintenance and repairs to town property. The Town did not have a written contract with either vendor. Those expenses appear to exceed the amounts authorized by the Town Council's budget resolution for fiscal year 2021. The Local Government Budget Act requires an ordinance, but in this case all we have is a resolution. The Town started that fiscal year with a negative fund balance for the general fund and for other governmental funds that increased to

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\$677,000 for the general fund and \$ 871,000 both deficits for other governmental funds. The Town has not submitted as fiscal year 2022 audit as of yet.

The fourth finding discusses employees that were paid for leave hours they did not earn. The Town's policy provides sick leave and personal days after a two month probationary period. They also provide vacation leave after six months. We found three employees that used 80 hours of sick leave, 32 hours of vacation leave and eight hours of personal leave before they had earned that leave. The value of those payments was \$2,110.

Senator Luneau asked that when they had the problem doing ordinances or resolutions instead of the other. Can't they go back in and correct that by holding a meeting properly called and put it on the agenda and deal with that?

Mr. Kelley said he would think that they could pass some things to update their records to say we are going back and fixing things in arrears as to what occurred on budgetary issues since that's the legal authority to spend money in the first place.

Senator Mills stated in his own experience in local government, we leaned on our attorney to give us guidance when we should do a resolution, an ordinance, what should we do with federal money? When should we spend it? How should we document it? Is that a major finding you find with this one?

Mr. Kelley stated we went to the town attorney and discussed some of these issues with him. I believe he had taken the position and been in for several months or maybe a year. It was my understanding the prior attorney had been a town attorney for a long time and the mayor told us he had kept all of the public notices and that the new attorney had all his files. We flipped through a number of boxes but couldn't find any of the public notices. And then the Town's files, they couldn't find them either. So they left us with position where they just couldn't provide records for these things. They may have been kept but where they have been stored, no one could provide any of that to us.

Senator Mills asked if the attorney now understands when is the right situation to do and what's law and what's not law?

Roger Harris, Executive Counsel, Legislative Auditor stated he had an opportunity to meet with the new attorney after we finished our exit and I told him the door is open for anything that he might would need if he has any questions about what needs to be done to feel free to call us. One other thing that we have or our legal department calls white papers and it goes through and explains in detail everything you need to know. For example, about the local government budget act and it gives you step-by-step things that need to be done. We've got that and not just in that area, but we've got in a lot of areas that affect government. So really even a new attorney can go on that website, can look it up, can read it, and I think it's

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pretty self-explanatory, but to the extent that it's not, we're always willing to help walk through them and help them understand exactly what they need to do.

Senator Bernard stated in this recent session we passed SCR 43, which is a task force study represented by 15 people that cover the waterfront. We tried to put together working with the legislative auditor, something that would prevent getting to that point. Let's do something to help. Let's identify grants or funding sources for them, if necessary. The entire purpose of the task force is to try to create ways for this not to have happened and for these things that we talk about here to be diminished and minimized because of the planning and the homework that is done to prevent that. So this task force will seek to do everything it can to help municipalities not get to that point.

Senator Luneau responded he thinks it will be a help and is encouraged about that too. The one thing I would caution that task force to not overlook is the monetary portion of this. We can't continue to do unfunded mandates and expect these small towns and municipalities to absorb the cost. We need to put our money where our mouth is and if we're going to do this and we're going to require that, then we need to appropriate the money for them.

Mr. Kelley moves on to the last finding of the report. It discusses a possible violation of the state's open meeting laws. A member of the Town Council and the mayor told us that the mayor and the council had two working meetings to discuss the fiscal year 2022 budget, but the Town could not provide written minutes of the meetings. The mayor told us he did post a public notice of that meeting on the front door at town hall.

We have about 15 recommendations. A large part of these is covered under the Local Government Budget Act. We first start by recommending the Town consult with legal counsel, determine what actions they need to take, including up to recovery and improper compensation of the mayor, town council, chief of police and the town clerk for Covid incentives that they did not earn.

Senator Luneau asked how much money are we talking about?

Nora Koci, LLA, stated it was approximately \$16,000 and \$53,000 if you include the employees as well.

Senator Luneau said it's my understanding of what you said earlier was that is okay to use those funds for that so we could remove that. So it'll be the 53 less 37.

Mr. Kelley said we recommended that the employees were eligible up for up to \$13 an hour. They did a flat rate. So we recommended they go back and look at your time sheets, pick a period start to finish so you don't have to call back any money from the lower income folks and document what they were doing, who's eligible.

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Mr. Kelley stated the first recommendation is to adopt an annual budget for the general fund and each special revenue fund as required by the local Government Budget Act. A proposed budget must be made available for public inspection no later than 15 days prior to the beginning of the fiscal year. They should publish notices and the town's official journal to notify the public of the proposed budget and the date is available for inspection and the date, time, and place of the public hearing at least 10 days prior to that first public hearing. The town should also publish notices in the town's official journal to notify the public that all actions were completed to formally adopt the budget. All actions necessary to adopt, finalize, and implement the budget must be done in open meetings and be completed before the end of the prior fiscal year. And they should, the mayor or the town clerk is also required to keep a certified copy of the budget and adoption instrument. And those are all the legal requirements are a summary of those in a local government budget act.

Recommendation number two was to implement a policy and procedure to ensure board minutes are accurate and thoroughly reviewed and approved at public meetings. Number three, ensure copies of all adopted town budgets, minutes and ordinances are retained in accordance with the public records law. Number four, review with legal counsel all requirements of Local Government Budget Act and obtain training needed to ensure consistent compliance with that act. Number five, maintain an up-to-date ordinance book and minutes of the meetings of Town Council. Number six, ensure the municipal clerk prepares accurate and complete financial statements and budget comparisons to town funds and present those to the town council each month. Number seven, ensure all revenues and expenditures are properly budgeted in the correct fiscal year. Number eight, ensure all discussions and decisions pertaining to the Town spending are at public meetings and properly recorded into the monthly minutes.

Number nine, ensure appropriate town officials sign monthly minutes at the time they're approved by the town council. Number 10, comply with the provisions of the Lawrason Act to ensure that the salaries of the mayor, town council, town clerk, and chief of police are set by ordinance. Number 11, ensure employee pay is commensurate with work performed and the work performed is properly reviewed. Number 12, require accurate records of time be kept for town employees. Number 13, comply with provisions of the open meetings law. Number 14, comply with restrictions on the use of ARPA funds. And number 15, ensure budgeted funds are available prior to incurring obligations.

Senator Luneau said it appears to me that probably four or five of those recommendations are ones along the lines of what Representative Jordan were talking about that an explanation and some training on how to do that would take care of those issues. And some of them were going to require a lot of accounting work and possibly return of some monies and things of that nature. What was the response from the Town?

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Mr. Kelley stated they agreed with all of the findings and recommendations and they were going to work to that end.

Senator Mills stated he was looking at the budget and it kind of seems confusing when you look at it because when you look at it in one section, it looks like there's a loss of \$131,000 for the fiscal year and then it goes to another page. What's the financial health and what's the fund balance of money that's not basically dedicated for certain bonding. What's the fund balance of this time ?

Mr. Kelley said we don't have the December 31, 2022 audit. The last audit we had was December 31st, 2021. The general fund had a deficit of \$677,000 and other government. The budget statements you're looking at don't include beginning fund balance or ending fund which is a requirement of the local government budget act as well and other governmental funds. It had a deficit of \$871,000.

Senator Mills said they have \$45,000 of health insurance for their council members. I mean that's why I wanted to know what the fund balance is. So from towns you've gone in, if you were a doctor and you were given a prognosis financially, what's the financial status of this town?

Mr. Kelley said four. They have a fair amount of revenue they can recover from these things and we discussed that the mayor and town council needed to adopt a budget reduction or a deficit reduction plan immediately to identify what we're not going to spend money on anymore to get rid of those.

Representative Schamerhorn had a question on all the repairs and maintenance and stuff like that, were those done in-house or were those bid out? Do you have any idea?

Mr. Kelley stated he believes all those items were handled by a vendor. The Town at that time owned a commercial mall located close to I 20 and there was some roof leaks, air conditioning issues and whatnot. And I think those were the type expenses that went into some of the repairs or most of the repairs and maintenance here. We have very little documentation on that, but that's my understanding of what it was spent on. I think since they sold that structure of that mall and they're out from under that facility and those maintenance issues.

Representative Schamerhorn also asked about the largest item is tree and stump removal, \$451,000. Was that done on an hourly basis or bid out for contract?

Mr. Kelley responded that it is a service. I'm not sure that it's required to be bid. They did not have a contract with any specified rates. I do not believe it was hourly. I think they charged by size of the tree, number of cuts, location to roadways and other hazards. But again, there was no contract for us to evaluate the consistency of the pricing and so forth.

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Representative Schamerhorn asked how did they go about finding this firm to do this without going out on bids because they knew it was going to be a large amount of money?

Senator Luneau stated what we're talking about here is on services, it's not required to be bid. You can enter into a professional service agreement in a form of a contract without bidding it out. In some situations. And some of these may be other things may be emergency repairs that are okay to do on emergency basis without a lot of bidding and that kind of stuff. But you still have to have a contract and sometimes even if it's drastic enough emergency and you have to do it right away, the contracts are kind of after the fact things. But still we have to have that documentation. So I think probably they're okay with the professional service contracts with that bidding. Okay. Do you agree with that?

Mr. Kelley said that was his understanding. I'm not sure that there is a requirement for contract, but we strongly recommend contracts so everyone knows what's expected of whom, the pricing, the insurance, the bonding, that sort of thing.

Representative Freiberg then stated I don't think any of us do any work without a contract. I don't understand if you're doing city work, the liabilities and so forth that you wouldn't, was there excuse given or a reason given for not having a contract for this work?

Mayor Millican, Mayor of the Town of Arcadia. I guess yes, the last question that Representative Freiberg had as far as contracting is concerned, we weren't aware that contracts needed to be in place. When the legislative auditors was doing their investigation and they made us aware of that, we started to implement contracts for services.

Representative Freiberg but you would have work being done at \$85,000 or \$195,000 or \$33,000 and not have a contract even if it wasn't required. You didn't feel your city had any liability issues or any issues of whether the work got done or didn't get done.

Mayor Millican said when that work was being performed, it was different amounts, it was small amounts, the invoice amounts was small amounts. Let's say for instance, we may have a roof leak for \$4,000, but what we did do was before we do any outside work with private contractors, we do ensure that they have insurance workers' comp and all of that. He worked with the Town of Arcadia under Mayor Smith for four years before becoming the mayor and I guess it was one of those things where I saw him do it that way. So I thought that was the right way to do it.

Representative Freiberg said it keeps talking about the vendor. How many different people did all of this work?

Mayor Millican said it was two separate vendors.

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Representative Freiberg - Two vendors did this million dollars' worth of work?

Mayor Millican - Yes ma'am.

Representative Freiberg - And there was no contract with either vendor?

Mayor Millican - No Ma'am.

Senator Luneau asked Mayor Millican to go through the recommendations and the Town's responses.

Mayor Millican said as far as the first finding, we hired a new town clerk as far as record keeping and public meetings and what not with our Town. We have special call meetings as our monthly council meetings. All of those notices are produced through the attorney's office, Sean Crain. As far as the Local Government Budget Act, we've created timelines. We have three new council members on the council. We've created a finance and budget committee to discuss different things as a deficit reduction plan, as well as different things as far as budget, when to pass the budget, when how the budget passed properly.

Senator Luneau - We heard that the testimony earlier about deficits somewhere between \$677,000 and \$870,000. Are those accurate? Do you have deficits in those amounts or somewhere near there?

Mayor Millican said we have deficits, but I don't think they're at high.

Senator Luneau said so that's a very important piece of this puzzle. You have to have the money accounted for down to the penny. So what I would encourage you to do was to make that top priority, to make sure that that gets addressed and gets remedied. And speaking from my own perspective, when you come to this committee again and we look at what's going on in the progress you've made, if you've done those things and you've addressed those issues, and I'm not saying you have to have everything completely taken care of, but if you're addressing those issues and you have a plan to take care of them and you're current and you're doing what you're supposed to do now that a long way in how much we're willing to work with you. And it's not just this Audit Advisory Committee or the auditor.

Mayor Millican discussed the incentives paid out to employees during that time. It was in the middle of the pandemic. The former attorney said that it was legal to pay out incentives. That's why those incentives were paid. Once we found out it was illegal, the majority of the people, elected officials have paid that money back, including the retired police chief.

As far as the ARPA funds, the auditors mentioned that we didn't set up a separate account for the ARPA expenditures. We've since set up a separate account for that

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money and will have documentation on if you spend the money show where that money is coming from and what that money has been spent on.

The time paid out time to employees for time that wasn't incurred. Since then, we've switched over to a time system. It's a fingerprint system more so than an honor system of filling out a time sheet, turning it in. It keeps up with sick leave, vacation leave as well as off days. That way it gives us an accurate count and we just do a printout of that on payroll day and it just shows us how many days was missed, what that day was missed for.

Mayor Millican said he appreciates the Legislative Auditor's office for letting them know things that we was doing wrong. We owned an outlet mall right along the I 20 corridor. It was something that I think the Town should have never bought in the first place. We speak of roof leads, air conditioning units, and we had probably three tenants in there that was paying probably what, three to \$4,000 a month in rent. The light bill was running \$14 to \$15,000 a month. Then when you're looking at roof leads, people falling in the outlet mall. The roof was leaking real bad and it was just one of those things that we knew we had to get off from under. We used this one vendor because he was accessible, he was quick, and he was able to get things done fast instead of waiting to get something done as far as a roof leak, our air conditioning unit being out in the middle of the summertime.

As far as with the tree removal and whatnot, during the middle of the pandemic, I laid off majority of the employees for the Town of Arcadia, and during that time we had two tornadoes come through Arcadia. It left us without employees to actually get out there and clean up. Also, during that time, we had a winter storm that came through.

Sean Crain, Town Attorney for the Town of Arcadia. Mr. Crain stated he started in November of 2021. When he met with Mr. Kelly and his staff in June of 2022, that's when I became aware of a lot of these issues up to that point. After meeting with Mr. Kelly and his staff, I had a different approach that was more proactive, quicker to call time out. And at that point we started, before any meeting, the mayor would call me, let me know if we're going to have a special meeting. I'll prepare all the agendas for the special meetings, make sure to comply with the law that it was properly noticed and comply with the open meetings law. Also, he made reference to, I forget what he called them, I just call them, little handbooks that the Legislative Auditor produces. Louisiana Municipal Association produces those as well. That's usually where I start with an issue. I've been doing this for almost two years and I refer to those quite often with the Louisiana Governmental Budget Act. This past year we started, I said, mayor do you want to introduce a budget and let's work backwards to make sure we're hitting all our benchmarks. We were backwards from confident moving forward.

Senator Mills asked if they were complying with the budgetary process and public hearings and the whole aspect of making sure we don't see this again?

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Mr. Crain said yes.

Senator Luneau thanked the Town for coming. I want you to know that we're here to work with you and we want to help you to correct these issues. I think it's admirable that you've acknowledged your shortcomings and that you're working to try to fix them, but I just really encourage you to get some help because one of the things you talked about mayor and those tornadoes and things that come through there, there's state and federal dollars that can be available in a lot of instances, but you have to know when and how to request it and how to do that, and that's difficult. We're not born knowing how to do these things. We need some guidance.

Mayor Millican asked as far as the benefits is concerned, we've tossed this idea around as far as cutting the benefits, but I think legally, is it legal that we can cut benefits from the elected position while in the middle of a term cutting those benefits? Does that decrease their salary if that was included as that benefit package?

Senator Luneau said he think that the council could vote that on themselves. For example, people think we have these great packages as legislators, we pay a hundred percent of ours, we don't pay. The state doesn't pay any of ours, we pay a hundred percent and certainly that's something that the legislature voted on themselves. So I think that that can be done. That could be something else that you could get with the LMA or the auditor's office and they could provide some guidance for you too, but I don't think that's going to be an issue for you.

Performance Audit report – Elderly Protective Services – Governor’s Office of Elderly Affairs
(*Video Archive: 1:10:08*)

Presented by Louisiana Legislative Auditor (LLA) Performance Audit Manager Emily Dixon, Senior Auditor Ashley Brecheen, and Staff Auditor Emily Braun.

Emily Dixon stated LLA will provide information on an audit regarding the oversight of the abuse and neglect cases for elders by the Governor's Office of Elderly Affairs within the Elderly Protective Service Program (EPS).

State law tasks EPS’s with protecting elders 60 and above who are not physically or mentally able to take care of themselves from either the action or the inaction or neglect of themselves or people who are responsible for caring for them. This audit is just looking at them since have been back underneath the Governor's Office of Elderly Affairs. Also, back in 2019, we evaluated specifically EPS oversight and how they address elderly financial exploitation. So this audit was broader in perspective and we looked at all of their procedures.

EPS investigates allegations of abuse and neglect for elder abuse, neglect and exploitation. Our audit work focused on the whole process. Four people receive

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calls through a hotline Monday through Friday, 8:00 a.m. - 4:30 p.m. The intake staff is also responsible for screening these reports to see if they're eligible for EPS services and protection, and they also prioritize those reports based on the nature and the severity of the abuse caseworkers. Approximately 29 people are responsible for investigating these allegations and determining if they can be substantiated and then putting in any kinds of service plans that might be necessary to protect the elders. They then close out these cases. They want to make sure that the abuse or neglect has been resolved. With the service plans, they follow up and may need to refer these to outside entities for either further investigation or just to let them know.

For the five fiscal years that we looked at, on average each of these years, EPS received over 5,100 reports and they accepted over 92% of those reports for investigation. Now remind you again, that's what the total of 40 staff and that's one program person, program manager for intake staff, six fieldwork field supervisors, and 29 caseworkers. Some of the reasons that they might reject that small percentage of cases is that the client or the victim lives out of state intake may determine that they're not eligible for EPS protection. They may have the wherewithal and the ability to take care of themselves and to make their decisions or the report may be alleging abuse or neglect that could possibly happen and not has already happened in the past. And lastly, roughly 24,000 cases that they accepted during this five fiscal year period had allegations of over 35,000. So one case may come in and have multiple allegations and they're responsible for following up and investigating each one of these allegations. The most common during our scope was self-neglect, caregiver neglect, and financial exploitation.

Ashley Brecheen -- We noticed that EPS faces significant challenges within the program and these related to things like low staffing and funding levels, high case-loads, and an ineffective data system. They're currently working with OTS to design a new data system. To help put in perspective the challenges with staffing and funding. We compared the report volume for EPS and the staffing and funding levels with those of the Department of Health's Adult Protective Services (APS). These programs are very similar. The only difference is that EPS serves the elderly clients while APS serves individuals 18 to 59. Although EPS received more than double the number of reports each year, if you look at the staffing and funding levels between the programs, they're virtually the same.

There are also limitations in the process for receiving allegations. We found that elder abuse is believed to be under-reported. Best practice organizations recommend that programs have multiple methods for receiving allegations that those methods be available 24 hours a day, seven days a week, and be accessible to all. EPS only receives reports by phone call and those calls are answered Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding any state holidays or office closures that may fall on a weekday. Also, EPS did not list information for reporting options for callers with hearing or speech impairments or language barriers.

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There were also inconsistencies in eligibility determinations and the rejection of referral of rejected cases. We noticed that this came down to insufficient criteria. EPS does have formal criteria, but it didn't address all types of cases that they may receive. We noticed that in one instance, a case would be accepted and another instance an identical case would be rejected. These tended to relate to things like financial scams, homeless clients, or instances where the client's location was provided but their name was not provided. If a case is determined to be ineligible, then that case should be referred to the appropriate entity for investigation. For instance, say they get a case and the client is under the age of 60, that would be referred to Adult Protective Services. That wasn't always done. EPS does require supervisory review of these cases, but it doesn't require that the reviews be documented. So we weren't able to evaluate whether those reviews are being done to ensure that any determinations on eligibility or the referrals of rejected cases were done appropriately.

When EPS receives reports and they accept them, they triaged the reports based on the severity of allegations to determine how soon a caseworker should respond. And by responding, they would actually contact the client. About 63% of the cases they accepted were considered medium priority. They do have criteria for when a case would be considered low, medium, or high priority. But there are some circumstances where a case may be medium priority instead of high, so it doesn't need a response within 24 hours, but maybe waiting five working days would be a little too much to leave that person in that condition. They have some informal policies on when they would escalate the response times. And again, because those policies weren't formalized, we noticed that there were some instances where cases should have had a more escalated response but didn't. We also noticed that EPS didn't always meet the timeframes for certain steps in investigation. For example, reports weren't always assigned to a caseworker within the required timeframe. Clients weren't always contacted within the required timeframe. They weren't always closed within their goal of 120 days. We also noticed cases that had no documentation of caseworker activity or supervisory review despite the case being open for more than a year.

In instances where a client dies during an investigation, if there were allegations related to physical abuse or caregiver neglect, the caseworker is required to follow up on the cause of death to determine if those allegations could have played a role. If so, then that report should be referred to law enforcement for further investigation. One component of determining cause of death would be for the caseworker to notify the coroner. That way they can be aware of these pending allegations as they perform their review and determine cause of death. We noticed that the caseworkers didn't always obtain an official cause of death, and at least in the cases that we reviewed, we didn't notice instances where the coroner was notified so they could take that information into account. We pulled death certificates for cases that were within our review and did meet the criteria of the client dying during an investigation of physical abuse and caregiver neglect. And we noticed

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that in some of those instances, the allegations did appear to be related to causes of death listed on those death certificates. Louisiana does not have an elder abuse fatality review team. We do have similar review teams which look at deaths involving children or that may be related to domestic violence. If we were to establish this team, and that's a matter for legislative consideration in our report to do so, then we would join at least 20 other states that do have these teams.

Finally, we found that EPS didn't always develop the service plans which are developed to address the client's needs and in some cases they developed the service plan, but the plan didn't quite address all of the problems that had been identified. In some cases they didn't adequately follow up to ensure that the service plan was fulfilled and the client received all of those services.

We had about 20 recommendations for EPS to help address the findings in the report. They agreed with almost all of the recommendations. We had one matter for legislative consideration, which is to consider establishing an elder abuse fatality review team.

Senator Luneau asked if their funding comes from legislative appropriation?

Ms. Brecheen responded yes. They do receive some federal funds that they typically receive each year.

Senator Luneau stated that often in performance audits, we'll see that problems are created by lack of funding. Also, we'll see that sometimes it's lack of staffing because they can't hire qualified people. Is that kind of what we're seeing here? Is that a continuation of what we've seen in other programs?

Ms. Brecheen said yes, and I think during this time staffing has been an issue for a lot of entities. And like Emily mentioned earlier, with all the reports that they're receiving, they have 29 caseworkers. So that leaves supervisors to have to manage a caseload as well and investigate cases.

Senator Luneau said and those 29 people are handling the approximately 4,500 cases. They accept a year?

Ms. Brecheen responded yes.

Senator Mizell asked if we are ignoring the gravity of what is happening with elder protection and trying to be even handed to the detriment of the Elderly protection services? Is that because when I look at it, to me the obvious thing is why aren't we doing this together? Because when I go to the website for the adult protection, they are 24 hours. They do have Louisiana Relay all the things that the elder protection does not have. What was the wisdom behind doing this in two separate programs?

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Emily Dixon responded that would be best answered by agency representatives because we never really got a clear understanding of the impetus for them moving underneath LDH and then why they were moved back. It was done temporarily. It wasn't done in law. It was I believe by a memorandum of understanding and the funds were transferred with them and then they went back to the Governor's Office of Elderly Protection Services.

Senator Mills stated in their audit report it looks like they'd like to go 24 hours and they'd like to do other things, but it looks like their software and they have some limitations structurally within the system. So are they playing defense or they'd like to play offense but they just don't have the funding and the resources?

Ms. Breechen said we started with those challenges because those challenges contributed to just about every finding that we had in the audit. They would love to have 24 hour accessibility, but they don't have the funding. They only have four staff to handle all of those reports that come in Monday through Friday so filling those positions 24/7 was one of those limitations.

Senator Mills also pointed out that he saw where y'all did some comparisons of other states and other states' best practices. Do other states have adult protective services and elderly protective services under one umbrella?

Ms. Breechen said they're typically combined. We're one of the few states that are bifurcated. We're not speaking to the pros and cons. There are pros and cons with both. I know one is whenever you're able to really focus on those unique needs to the elderly. So that would be something I think to discuss with EPS

Senator Mills asked if you had to leave one defining thought of how things could be moved forward and advice for the legislators coming back, what advice would you give? Would one be to look at additional funding and if is how much were you all able to identify? What would it take to get that gap? I did see where, I think it was about \$ 3 million of state general fund money and the rest were federal. Did y'all identify a gap to get them at least to where they could purchase and hire the right amount of folks?

Ms. Breechen said we didn't specifically study exactly how much additional funding it would take and how many staff that they would need. We noticed those differences and are saying that they're there. But I think that would be great for that to be looking into further to determine exactly how many they would need to meet caseloads best practices and be able to retain those staff too because that would be another issue.

Ms. Breechen said the agency has been cooperative and have agreed with all recommendations.

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Dr. Shonda Mitchell, Deputy Chief of Staff, Office of the Governor, Shirley Merrick, Executive Director of the Office of Elderly Affairs under which the Elderly Protective Services falls under. Katina Simeon Smothers who serves as our Director of Community Programs in the Office of the Governor.

Dr. Shonda Mitchell starts by discussing staffing and funding. We are looking at establishing a task force that will be utilized to assist workers in each region to help them catch up. We have already started working with civil service on a number of staffing issues including salary and job descriptions. Recognize that the skillset and education required for our case workers overlap with those necessary for similar positions in the Department of Children and Family Services and the Office of Juvenile Justice.

Senator Luneau said this is kind of a unique program in that it doesn't fit neatly within one branch of the administration. It covers law enforcement, it covers health issues, it covers financial issues and all kinds of other things. Why don't you just give us why the structure of it is like it is.

Dr. Mitchell so as was stated earlier, the Elderly Protective Services as we understand it was a separate entity from Adult Protective Services. Adult Protective Services is 18 to 59. Elderly Protective Services is 60 and up. So they were separate entities and EPS was under elderly affairs. They were merged together. They were separated because it was determined that the elderly population was not being served adequately under this uniform system. It was separated through the memorandum of understanding to put EPS back under the Office of Elderly Affairs. Elderly Affairs is a little unique in the fact that unlike other areas in the Governor's office, they have their own legal counsel, they have their own HR, they have their own accounting department. So they really do function as a larger entity with EPS falling under that umbrella. The total number of TO's in elderly affairs is about 70 to 71 positions. So if you think about other agencies, they're kind of a medium to large size agency. So they have a lot of opportunity to serve the elderly population through the councils on aging through a lot of the grant work through which you've heard about earlier. So that's just a little bit of a broader context about the Office of Elderly Affairs, which EPS falls under.

Senator Luneau asked them to address the issues that were presented in the audit. For example, the lack of funding, lack of ability to hire trained and suitable staff and the data system issues just hit on those three things for us.

Dr. Mitchell said the staffing issue is one that has come up and of course staffing is always equated with funding and dollars and the ability to retain top talent. We need to be able to train and retain workers. And that is an ongoing process and it is not an easy process. This work is not easy work. It's the day to day grind of the circumstances in which they go into to see an elderly person in those conditions. That also takes a human toll on people and we know that studies show us that

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social workers are the most impacted and this is what we're finding here now. We are interested in doing things very similar to what DC the Department of Children and Family Services and Office of Juvenile Justice have had success in doing through job fairs, through active recruitment, right, through pipeline programs, all those things that we need to be interested in as well to help with the funding and the staffing issue.

Senator Luneau asked if they had the ability fund wise to go out and hire some more people today?

Dr. Mitchell said they are looking at that. That is probably something that we want to be able to build into the budget. Our management team that we have assembled is looking at things to determine the best number and also look at the best practice as well to get the real number to be able to build the budget. So we do have some things that we will utilize every tool at our disposal to do now, but we also understand that we're going to have to build out a budget that is for next fiscal year that's going to adequately reflect that.

Senator Luneau said he is trying to determine is this a funding issue or is this a staffing issue or is it both?

Dr. Mitchell responded that they go hand in hand. Staffing is related to the ability to pay to not only hire people but pay people. All of those things work together. However, there is also existing opportunity for us in our existing structure to be innovative. And maybe that means we move talent around until we can get to the funding conversation.

Senator Mizell asked about when a call comes in is there like an outline that determines, okay, this is priority 1, 2, 3. What are the triggers that determine whether it's a 24 hour response or a five day response?

Shirley Merrick, Executive Director of the Governor's Office of Elderly Affairs. There is a criteria for priority one, priority two and priority three cases. The intake workers who are also social workers are trained on that criteria. There is also a second overview if it's in place, then that intake form will go to a supervisor who then in turn staff it. So two eyes on it before it actually gets to the investigator.

Katina Simeon Smothers who serves as our Director of Community Programs in the Office of the Governor said they have a hard deadline of September 11 to have the new software in place. It will be a better online reporting system.

Senator Mizell asked as far as the response to a person who's being neglected that has not been adequate before, what's that software going to do about that? What's that software going to change with the way the elderly is being addressed or not?

Ms. Merrick said response time.

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Senator Mills said from a practical standpoint, a call is made. It's a couple, there's abuse taking place. The male is 60 years old, the female's 59 years. What's the deal?

Ms. Merrick said it doesn't matter.

Senator Mills asked what happens then? Somebody says I'm 59, it goes to APS. If I say I'm 60 it goes to you guys.

Ms. Merrick said with the 60 year old, they're usually going to call us first. As a courtesy, the two agencies work together.

Senator Mills asked if there were two separate investigations for the one couple.

Ms. Merrick said it would probably be one investigation for the couple.

Senator Mills asked the Legislative Auditor's office if you could, to just do a deeper dive on does it make sense to merge these two agencies together? And I guess that's the information I think this committee and finance needs and appropriations needs. Because when you look at it 59 and 60, it just doesn't make sense. But this cutoff point to me from a financial logistical duplication of services, that's really not what I'm asking you guys.

Dr. Milton addressed Senator Mills. Adult Protective Services is 18 to 59. I understand that the, I'm going to say 55 and up group merging in that sort of 60 year age recall though that the advocates told us that those that were 60 and up were not being served under that combine system. And so is there an opportunity for us to think about what the sliding age is? Are EPS and APS working together in those instances where there could be that close overlap or a couple as you have already stated? Absolutely. But I do think that our stakeholders would say that we knew during this 2012 to 2018, time period that if you go back and look at some of the information, you really couldn't find EPS, those that were 60 and up in the agency the focus was not on them.

Senator Bernard asked for a typical worker, what do they make an hour? And what in your mind would be an amount that would make that an attractive position where you didn't have to struggle so much to get people to come?

Dr. Milton said we are studying that right now

Representative Schamerhorn asked about those that do call during business hours, do they get a busy signal or did they roll over onto an answering machine? And then would the age difference being raised to 70, would that help offset some of your workload?

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Dr. Milton said the calls and the percentage that EPS accepts to begin with probably needs a little bit of evaluation. If we are accepting 90 some percent of our cases, then every call may not need to be a case opened up to investigate. That may simply need to be a referral or coordination of services process but not necessarily taking time to send someone into the field. So we are committed to looking at that piece.

Ms. Merrick responded on the age question - Our federal funding comes from the administration for community living and as a state unit on aging, our age group for seniors is for the elderly, for adult older adults. They have all these terms. Now is 60 plus. So splitting that to making that 75 would definitely mess with our older Americans Act funding. On the telephoning it either there are four intake workers. If the first one is busy, it's going to roll to the second, to the third to the fourth, and then to an answer machine.

Representative Schamerhorn said with 20 people at least calling on average per day that are a case. That's not counting those that are calling for information or not eligible. So I can see where there's a whole lot that gets rolled over because I don't know how long it takes to do an interview with it to take the complaints, but I would imagine that it could take up to an hour on some of them.

Ms. Merrick said it depends because you could have a reporter who's the neighbor or a minister or a banker, and then you got to get in touch with the victim. And so all of that's in that one case that you're dealing with. So it may take hours, but I can tell you those intake workers, those four intake workers, it's like they're in a secret service, they come in first thing in the morning and we don't see them until they leave in the evening.

Diane Allison, Director of Local Government Services for the Legislative Auditor's office. We have 179 extension requests, 30 are emergency, and 149 are non-emergency. The trend is what we've heard all morning, which is staffing shortages. Staffing shortages at both agency and CPA firms are causing delays in this. The good news is that the vast majority, about 79%, they're just looking for those first 30 days after the six months.

» Non-Emergency Extension Requests – Less than 90 Days. We have 94 requests and most of them are for fiscal years ending in 2022 We have reviewed these requests and LLA recommends the committee approve. Senator Bernard moved to grant the extensions and, with no opposition, the extensions were granted.

» Non-Emergency Extension Requests Greater than 90 days. We have 20 requests and most of those again are due to the staffing issues that we've been hearing continuing on and with the accounting profession as well. We have reviewed these requests and LLA recommends the committee approve. Senator Bernard moved to grant the extensions and, with no opposition, the extensions were granted.

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» Emergency Extensions Requests Less than 90 days. We have 24 and you will see we have a new natural disaster, which is the severe weather that hit the north and central part of Louisiana in our state. That's the vast majority of those 21 are due to that severe weather. We have a few lingering from Laura and Ida. We have reviewed these requests and LLA recommends the committee approve.

Representative Freiberg moved to grant the extensions and, with no opposition, the extensions were granted.

» Emergency Extensions Requests Greater than 90 days. We only have two and those are due to Hurricanes Laura and Delta. We have reviewed these requests and LLA recommends the committee approve. Representative Schamerhorn moved to grant the extensions and, with no opposition, the extensions were granted.

» Ms. Allison then presents those agencies that had previously requested an extension but LLA has since received the audit report. There are 39 reports that had submitted extension requests and in the meantime we have received those reports and that's a combination of all those categories. We have received and reviewed these reports. LLA recommended the committee approve. Senator Mizell moved to grant the extensions and, with no opposition, the extensions are granted.

Mr. Waguespack said for clarification we need a motion to deny the extension request for the Jeanerette City Marshal and Seabrook Neighborhood Security District. They are not present at the meeting.

Senator Mills asked about the Jeanerette City Marshal. Jim? I'm not opposed, I know we've been working.

Mr. Waguespack said they haven't submitted their fiscal year 2021 audit report so they are going to be behind for fiscal year 2021 and 2022. I think there was an issue with the CPA who was no longer in the approved list. Apparently they are engaging Kolder Slaven, which is a good firm, they're going to take care of business once they get in there. They're not engaging their auditor's timely, et cetera.

Representative Freiberg moved to deny the extension requests for Jeanerette City Marshal and Seabrook Neighborhood Security District and, with no opposition, the extension requests are denied.

Public Comment

No public comment.

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Other Business

Senator Mills asked the Legislative Auditor's office to make a list of the key points that you think legislatively

Mr. Waguespack responded it's like a big list of matters for legislative consideration, that's a good idea. That's an excellent idea. I appreciate that. That's good information. We'll put together a report and that'll be something that we'll be doing new and going forward.

Adjournment

Senator Mills offered a motion to adjourn and, with no opposition, the meeting was adjourned at 12:25 p.m.

Minutes Approved: Minutes Approved at the Legislative Audit Advisory Council meeting on October 9, 2023.

The video recording of this meeting is available at:

https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2023/07/072523LAAC