

State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES

HON. RICHARD N. PALMER, CHAIRPERSON
PUBLIC DEFENDER SERVICES COMMISSION

55 FARMINGTON AVENUE - 8TH FLOOR
HARTFORD, CONNECTICUT 06105

March 5, 2024

Ms. TaShun Bowden-Lewis
Chief Public Defender

Re: Notice of Charges and Hearing

Dear Chief Public Defender Bowden-Lewis:

The Public Defender Services Commission (hereinafter "Commission"), in accordance with the authority vested in it by Connecticut General Statutes §§ 51-289 and 51-290, and Policy 209 of the Division of Public Defender Services, Administrative Policies and Procedures Manual, and having reason to believe that just cause exists for your removal as Chief Public Defender, hereby summons you to a Hearing before the Commission on April 16, 2024 at 2:00 p.m. in the Legislative Office Building, Hartford, Connecticut, so that you may be heard as to why you should not be removed from office or subjected to any lesser sanction that the Commission may deem appropriate.

Please be advised that you have the right to counsel, the right to testify, the right to present witnesses, and the right to present closing argument at the Hearing. If you wish, you may submit written responses to some or all of the Charges in advance of the Hearing. If you choose to do so, the Commission will ask you questions about those written responses at the Hearing.

The Charges that form the basis of the Commission's belief that there is just cause for your removal as Chief Public Defender are set forth as follows:

(1) Treatment of Attorney Erin Ryan

On August 2, 2022, the Commission appointed Attorney Erin Ryan as Director of the Division's Human Resources Unit. In a complaint that Attorney Ryan filed with the Commission, she alleged that you engaged in improper conduct toward her for the specific purpose of making her working conditions so intolerable that she would feel compelled to resign from her position.

The Commission engaged the law firm of Shipman & Goodwin to investigate Attorney Ryan's allegations, and the report submitted by Shipman & Goodwin to the

Commission reached the following conclusions. When the Director of the Human Resources Unit position became open, you strongly preferred Ms. Paula Lohr for appointment to that position. Prior to posting the Director position, in an effort to assure Ms. Lohr's appointment, you instructed the outgoing Director to change the then-existing job description for the Director position—without notice to the Commission and over the objection of the outgoing Director—to fit the qualifications of Ms. Lohr, who otherwise would not have met the requirements of the position. You disagreed with and resented the decision of the Commission to appoint Attorney Ryan instead of Ms. Lohr, and you engaged in actions to force Attorney Ryan out of her position. You took these actions, which, the Shipman & Goodwin report found, included undermining her, embarrassing her in front of her colleagues, and otherwise treating her in a dismissive, belittling, and disrespectful manner, not because of any problem with her work performance but because you wanted to appoint Ms. Lohr as interim Director. As a result of your actions towards Attorney Ryan, she did resign, and you did appoint Ms. Lohr as interim Director.

Among other things, the results of the Shipman & Goodwin report indicate that your treatment of Attorney Ryan violates Policy 101 of the Division's Administrative Policies and Procedures Manual, which provides that "[e]very employee should be provided a work environment that is characterized by professionalism, cooperation, respect and clear performance standards," as well as Policy 209 of that Manual, which prohibits "[o]ffensive, . . . abusive or improper conduct toward . . . co-workers."

(2) Treatment of Ms. Leonie Campbell

Ms. Leonie Campbell, who is currently employed by the Division and formerly served as your Executive Assistant, also filed a complaint against you, and the Commission engaged Shipman & Goodwin to investigate that complaint, as well. The following conclusions of the Shipman & Goodwin report substantiate material aspects of Ms. Campbell's allegations. You effectively demoted Ms. Campbell by changing her job title and reassigning her to two other members of your office, albeit at the same rate of pay. Before Ms. Campbell's reassignment, you essentially ignored her and otherwise treated her dismissively and, sometimes, disrespectfully, and you did not allow her to perform her role adequately or otherwise afford her a fair chance to succeed. Although you sought to justify the decision to reassign Ms. Campbell on the grounds that her work performance was subpar, that explanation is not credible, first, because, by all accounts, Ms. Campbell performed capably as your Executive Assistant, and second, because you did not communicate with Ms. Campbell about the tasks that you wanted her to complete. You reassigned Ms. Campbell not because there was any problem with the quality of her work but, rather, because you wanted a different Executive Assistant.

Among other things, the results of the Shipman & Goodwin report indicate that your treatment of Ms. Campbell violates Policy 101 and Policy 209 of the Administrative Policies and Procedures Manual.

(3) Treatment of Attorney Deborah Del Prete Sullivan

Attorney Deborah Del Prete Sullivan serves as Legal Counsel. In that position, Attorney Sullivan provides advice and counsel to the Division and the Commission. With respect to her role as Counsel to the Commission, Attorney Sullivan has worked cooperatively and collaboratively with the Commission, in the best interests of the Division, since her appointment in 1994. However, you have refused to recognize that Attorney Sullivan is authorized to serve as Counsel to the Commission even though you have been informed, both by the Commission and Attorney Sullivan, that she has served in that capacity for thirty years, that her role as counsel to the Commission has never before been questioned by any prior Commission or any prior Chief Public Defender, and that the current Commission is fully satisfied that Attorney Sullivan properly serves as its Counsel. Despite your objections, Attorney Sullivan maintains a close working relationship with the Commission, and, on more than a few occasions, she has disagreed with your view of the scope of the Commission's authority relative to that of the Chief Public Defender. As discussed more fully hereinafter, substantial evidence supports the conclusion, first, that your refusal to accept Attorney Sullivan's relationship with the Commission has caused you to distrust Attorney Sullivan and to question her loyalty to you, and further, that you have acted improperly toward Attorney Sullivan merely because of her continued cooperation with the Commission.

An example of your improper conduct toward Attorney Sullivan are your actions at an Executive Team meeting on October 16, 2023, at which Attorney Sullivan asked you if she could be included in meetings of the field office heads—meetings that she customarily had attended under prior Chief Public Defenders. As witnessed by the other members of the Executive Team, in responding to Attorney Sullivan, you became irate, disrespectful, and hostile; you told Attorney Sullivan that you alone decides who attends meetings; and you further told Attorney Sullivan that you expected that she would inform the Commission of your refusal to allow her to attend the meetings and that the Commission would then direct you to authorize Attorney Sullivan's attendance at those meetings. The conduct you exhibited toward Attorney Sullivan was so intemperate that it was characterized by members of the Executive Team who were present at the meeting as shocking and alarming. After the meeting was completed, you directed Attorney Sullivan to stay behind, and you continued to speak to her in a rude and unprofessional manner.

As reported by Attorney Sullivan, on another occasion, at a meeting she had with you on October 31, 2023, about Freedom of Information Act (FOIA), you rebuked Attorney Sullivan, the FOIA Officer for the Division, in an indignant and disrespectful manner about her handling of an FOIA request for your calendars. You then directed Attorney Sullivan to follow you into a conference room, where you had Mr. Greg Dion, who, as Systems Manager, is head of the IT Unit, join you. At that time, you continued to speak to Attorney Sullivan about related matters in a loud and irate manner, and you spoke to Mr. Dion in the same way.

You also have sought to place such severe and unreasonable restrictions on Attorney Sullivan's ability to discharge her responsibilities as Legal Counsel that, if followed, those restrictions would make it impossible for Attorney Sullivan to conduct the day-to-day activities of her office. More specifically, you have repeatedly directed Attorney Sullivan to "email [you] weekly all actions or decisions that you make, in the name of or on behalf of this agency before anything is done." Attorney Sullivan could not possibly perform her many multi-faceted duties if she were required to comply with your directive because as Legal Counsel, her work entails innumerable daily actions and decisions, the vast majority of which cannot wait for Attorney Sullivan to draft a written report for your review and approval "before anything is done," as you required. You have not provided an explanation as to how Attorney Sullivan possibly could do her job burdened with such an unworkable condition nor have you identified any reason or justification for imposing that requirement, asserting only that you have the authority to do so as Chief Public Defender.

As another example of your inappropriate conduct toward Attorney Sullivan, you recently directed her to "email [you] each Friday by 5 pm, what you have done in the name of or on behalf of this agency so that I have the opportunity to discuss with you what is happening with contracts, committees/subcommittees, negotiations, FOIA, the Attorney General's Office, external stakeholders, the Commission, and in the field." No such requirement has been placed on any other Executive Team member, and in Attorney Sullivan's long tenure as a Public Defender, no such requirement had ever before been imposed on her. When viewed in that context and considered together with your directive to Attorney Sullivan that she obtain your prior approval before taking any work-related actions, it is reasonable to infer that the weekly written reporting requirement and compliance deadline you imposed on Attorney Sullivan is not for the purpose of "assist[ing you] in leading the agency and being better informed," as you contend, but, rather, to serve as a warning to Attorney Sullivan that you can and will wield your authority over her if she displeases you.

In addition, you have excluded Attorney Sullivan from meetings, both inside and outside the Division, that pertain directly to her assigned responsibilities. Previously, Attorney Sullivan has always attended those meetings because her attendance is necessary to enable her to effectively discharge those duties. Among the meetings to which you have declined to include Attorney Sullivan are those with legislators and others associated with the legislative process, her exclusion from which has adversely affected her ability to perform her duties as Legislative Liaison. Because there is no legitimate reason to exclude Attorney Sullivan from those meetings and compelling reason for her to attend them, your decision to bar her from the meetings reasonably may be viewed as motivated by an intent on your part to undermine and marginalize Attorney Sullivan.

Further, the Commission has been informed by Ms. Kate Kowalyshyn, a Systems Specialist in the IT Unit, that, on February 6, 2024, you directed her to conduct a search to identify all the emails of Justice Richard N. Palmer, the Chairperson of the Commission (hereinafter "Chairperson"), to or from any Division employee for the period

of January 27, 2024, to February 6, 2024. You also directed Ms. Kowalyshyn to conduct a similar email search on February 9, 2024, to capture any emails that the Chairperson had sent to or received from any Division employee after the prior search of his emails on February 6, 2024. These searches were conducted without the Chairperson's knowledge and revealed email correspondence between the Chairperson and several Division employees, including Attorney Sullivan, who also had no knowledge of the email searches. You also directed Ms. Kowalyshyn to print out certain of the emails between the Chairperson and Attorney Sullivan and to provide them to you. As is discussed more fully hereinafter in Charge 10, although you have the right to access the emails of a Division employee without his or her knowledge, you may do so only for a valid or legitimate reason, and not merely to seek information that you could use to retaliate against an employee who has criticized or stood up to you. In response to questions from the Chairperson as to why you gained access to Attorney Sullivan's emails without her knowledge and why you believed that action was appropriate, you responded with vague and unsubstantiated expressions of concern about transparency and cooperation that, in fact, provide no justification for accessing Attorney Sullivan's emails without her knowledge. Secretly accessing Attorney Sullivan's emails without valid cause is especially troubling because some or all of Attorney Sullivan's emails may contain communications subject to the attorney-client privilege given her position as Legal Counsel.

As is discussed more fully below, you issued a Letter of Reprimand to Attorney Sullivan at approximately 10 a.m. on February 8, 2024. Thereafter, on February 9, 2024, you directed Ms. Kowalyshyn to update her prior email search to include emails sent or received on February 8, 2024, and February 9, 2024, knowing that that search was likely to reveal emails to or from Attorney Sullivan. Whatever justification you claim to have had to secretly access Attorney Sullivan's emails prior to issuing her the Letter of Reprimand, there is no such purported justification for doing so immediately following its issuance. Accessing Attorney Sullivan's emails on the day after her receipt of the Letter of Reprimand evinces your intent merely to learn what Attorney Sullivan was doing and saying and with whom, in respect to the Commission and otherwise, and not because you reasonably suspected her of any improper conduct.

In addition, because the reasons cited as the basis for Attorney Sullivan's Letter of Reprimand do not support its issuance, it fairly may be inferred that those reasons are pretextual and that you issued Attorney Sullivan the Letter of Reprimand to punish her for cooperation with the Commission and what you perceive as her disloyalty to you. The Letter of Reprimand's very first allegation supports this inference because it admonishes Attorney Sullivan for advising and assisting the Commission, which is precisely what Attorney Sullivan's position requires her to do. The other allegations in the Letter of Reprimand, which relate generally to Attorney Sullivan's discharge of her duties under the FOIA and questions she posed to you about the unfair way you treated her, are also groundless. Because the Letter of Reprimand was entirely unwarranted, the Commission, at its special meeting on February 9, 2024, issued a statement that reads, in part, as follows: "Having reviewed the matter of the Letter of Reprimand issued to Deborah Del Prete Sullivan on February 8, 2024, the Commission finds and

concludes that there was no basis in fact or law for that action and, therefore, the issuance of that Letter of Reprimand was unjustified and inappropriate. . . . Accordingly, the Letter of Reprimand is hereby retracted, and any [record] reflecting the issuance of the Letter of Reprimand shall be expunged. . . ."

Among other things, your treatment of Attorney Sullivan violates Policy 101 and Policy 209 of the Administrative Policies and Procedures Manual.

(4) Treatment of Attorney Joseph Lopez

Attorney Joseph Lopez is the Director of the Complex Litigation Unit. He is the only attorney in that Unit, and since your appointment as Chief Public Defender, he has requested, without success, that you authorize a second attorney for the Unit. Attorney Lopez has publicly disagreed with you about your handling of his request, as well as other matters, and he has been an outspoken critic of your leadership of the Division. The actions you have taken to frustrate Attorney Lopez's efforts to obtain a second attorney for his Unit supports the conclusion that you have done so in retaliation for the public criticism he has leveled at you.

When the Complex Litigation Unit was approved by the Commission and established in 2020, it was anticipated that the Unit would have at least two attorneys. That did not occur immediately, however, and shortly after your appointment, you rejected requests by Attorney Lopez to add a second attorney. On April 25, 2023, Attorney Lopez spoke at the first meeting of the then newly constituted Commission, stating that the Division is "in trouble," morale is low, and there are "lots of complaints and people are afraid to come forward with those complaints." On May 19, 2023, Attorney Lopez followed up with you about the needs of the Complex Litigation Unit, reminding you that the second attorney position had remained unfilled for almost two years, and inquiring about the status of the position. On May 24, 2023, he again spoke at a Commission meeting, expressing his view that the Division has "fractured along racial lines" under your leadership and that Division members are unwilling to disagree with you for fear that "anybody who pushes back against this administration . . . will be labeled a racist."

On July 27, 2023, soon after the Division had returned over \$2 million in personal services funds due to your refusal to authorize the expenditure of those funds because, you asserted, the Division had no need for additional personnel, the Commission told you that it wanted you to authorize a second attorney position for the Complex Litigation Unit. In a meeting with the Commission, you resisted doing so, agreeing only to appoint a "resource" person to assist that Unit as well as other offices, and informing the Commission that the attorney would not be a member of the Complex Litigation Unit and would report to you, not Attorney Lopez. In September 2023, when Ms. Lohr eventually contacted Attorney Lopez about posting the position, she indicated that the state's most recent bar admittees would be eligible for the position. Attorney Lopez informed her that a recent law school graduate would not be qualified to work in the

Complex Litigation Unit because of the nature of that Unit's work. On October 3, 2023, upon learning of your failure to work cooperatively with Attorney Lopez to fill the position and the delay in doing so, the Commission directed you to post the position. The Commission also told you that the severe limitations you had placed on the position made no sense from a management perspective and appeared to stem from your desire to limit Attorney Lopez's control over and use of the attorney because you resented his public criticism of you. As a result, those conditions were removed.

On November 12, 2023, Attorney Lopez emailed Ms. Lohr with proposed language for the posting. When the position had not been posted by January 11, 2024, Attorney Lopez asked you when the position would be posted, and you responded "as soon as possible." Attorney Lopez emailed you on January 24, 2024, requesting a timeframe for the posting, and you stated, "I had verbalized that it would be as soon as possible. The response is still the same." That same day, Attorney Lopez emailed you again, stating that he had been told that the posting would occur months ago and inquiring whether it would happen within the next month. The next day, you told Attorney Lopez that you "cannot commit to a date." When Attorney Lopez then requested that you "provide some idea of when this may happen . . . [a]re we talking one month, 6 months, one year?" you responded that you were "not able to commit to any timeframe. . . . The entire Division is my priority. I give no preference to any individual, office, team, Unit, or Department." Furthermore, when you were asked at a meeting of the Commission on February 6, 2024, about your repeated refusal to permit the posting of the attorney position for the Complex Litigation Unit, you were unable to provide the Commission with any legitimate reason for doing so, either in your written submission to the Commission or in your discussion of the matter with the Commission.

Notwithstanding the directives of the Commission, you have stonewalled Attorney Lopez in his efforts to fill the vacant attorney position in the Complex Litigation Unit, and you have sought to deceive Attorney Lopez with respect to your intentions. Your actions bespeak an animus toward Attorney Lopez resulting from his criticism of you and your administration.

Further, on February 6, 2024, you directed Ms. Kowalyshyn to conduct a search to identify all the Chairperson's emails to or from Division employees for the period of January 27, 2024, to February 6, 2024. You also directed Ms. Kowalyshyn to conduct a similar email search on February 9, 2024, to capture any emails that the Chairperson had sent to or received from Division employees after the prior search of his emails on February 6, 2024. These searches were conducted without the Chairperson's knowledge and revealed email correspondence between the Chairperson and several Division members, including Attorney Lopez, who also had no knowledge of the email searches. Although you have denied doing so, you directed Ms. Kowalyshyn to print out certain of the emails between the Chairperson and Attorney Lopez and to provide them to you. As is discussed more fully hereinafter in Charge 10, although you have the right to search the emails of a Division employee without his or her knowledge if you have a legitimate reason to do so, you are not entitled to conduct such a search for an improper reason, such as for vindictive or retaliatory purposes. Because you had no valid reason

to secretly access Mr. Lopez's emails, it may be inferred that you did so to try to find information that you could use against him as punishment for his public criticism of you. It is similarly reasonable to infer that you falsely denied directing Ms. Kowalyszyn to access Mr. Lopez's emails without his knowledge because you had no legitimate reason to do so.

These are not the only occasions on which you have acted in a manner that was unfair to Attorney Lopez. As set forth in the attached Letter of Reprimand issued to you by the Commission on October 3, 2023, another such example involves your approval of the decision of the acting Director of the Human Resources Unit, Ms. Lohr, to take no action on a complaint by Attorney Lopez against Mr. Daryl McGraw, the Director of Diversity, Equity, and Inclusion, without any investigation into the factual allegations underlying the complaint. Considering the nature of Mr. Lopez's complaint against Mr. McGraw, which alleges a violation of Policy 105 of the Administrative Policies and Procedures Manual prohibiting any Division employee from "[m]aking derogatory comments (verbal or written), slurs or jokes about individuals on the bas[is] of . . . race, color, . . . [and] national origin," an investigation was necessary and, accordingly, the Commission has retained Shipman & Goodwin to conduct that investigation. As the Letter of Reprimand explains, your decision to take no action on the complaint "was improper because an investigation was clearly required to determine whether the complaint was factually substantiated and, if so, what corrective or disciplinary action was appropriate. Moreover, under the particular circumstances presented, the refusal to have the complaint investigated gives rise to a legitimate concern as to whether that decision was the product of retaliation against the complainant [Attorney Lopez] and/or favoritism toward the subject of the complaint [Mr. McGraw]." As the Letter of Reprimand further states, your unfair and improper treatment of Attorney Lopez, coupled with the favorable, preferential treatment afforded Mr. McGraw—both of which were made public—was sufficiently serious to have "resulted in a loss of confidence within the Division with respect to the fairness and propriety of Division personnel decisions generally and the adjudication of personnel complaints more specifically."

Among other things, your treatment of Attorney Lopez violates Policy 101 and 209 of the Administrative Policies and Procedures Manual.

(5) Pattern of Mistreatment of Division Members

The actions you took against Attorney Ryan, Ms. Campbell, Attorney Sullivan, Attorney Lopez and others suggest a pattern of misconduct toward members of the Division that has persisted during your tenure as Chief Public Defender and, as explained in the Shipman & Goodwin report, has resulted in a Division-wide climate of fear and intimidation. The Shipman & Goodwin report found that members of the Division who you perceive as loyal receive preferential treatment while those who do not wholeheartedly support your agenda for the Division are frequently treated dismissively, unprofessionally, and unfairly. As the Shipman & Goodwin report states, you "often bully or marginalize employees who [you] do not favor or who questioned you in any way,"

and, further, you engage in "unfair treatment . . . [of Division personnel including] [f]avoritism and retaliation based on perceived loyalty to [you] and [their] public questioning of [your] decisions and initiatives." The Shipman & Goodwin report further states that, among other retaliatory actions you have taken, you make "decisions about the distribution of resources in various offices at least in part based on perceived loyalty to [you], and [you have] denied resources to office heads who questioned [your] decisions." In addition, the Shipman & Goodwin report found that you often resort to baseless claims of racism against Division members merely because they disagree with you. The Shipman & Goodwin report observed, as well, that while you purport to have an open-door policy, you have a closed-door policy in practice, especially with respect to Division members who you believe are not sufficiently supportive of you.

Although you also assert that you do not take punitive action against those who you perceive as having crossed you, your retaliatory practices are apparent to members of the Division and, consequently, the fear of engendering your disfavor by criticizing you or disagreeing with you is pervasive throughout the Division. As the Shipman & Goodwin report found, if you viewed a Division member "as 'disloyal' or on [your] 'bad' side, [you] would take steps to ensure that [that Division member] remained that way." According to the Shipman & Goodwin report, the culture of bullying, mistrust, and fear that you have created has extended to the Human Resources Unit, as Ms. Lohr—who you placed in the position of acting Director of the Unit after thwarting the choice of the Commission for the position, Attorney Ryan, by forcing her out as Director—is largely "viewed as an extension of [you and] not a separate and impartial resource for employees."

Your retaliatory treatment of members of the Division, as exemplified by your improper treatment of Attorney Ryan, Ms. Campbell, Attorney Sullivan, and Attorney Lopez, among others, violates Policy 101 and Policy 209 of the Administrative Policies and Procedures Manual.

(6) Refusal to Acknowledge the Statutory Authority and Responsibilities of the Commission

Under C.G.S. § 51-289 (g), the Commission is the entity "responsible for carrying out the purposes" of the public defender system, and "to carry out those purposes, the [C]ommission shall adopt rules relating to the operations of" the Division. Therefore, the Commission, which has been characterized by our state Supreme Court as having been created by the legislature "to administer the public defender system," possesses the broad oversight authority necessary to discharge that statutory mandate, which includes the responsibility to ensure that the Chief Public Defender conducts himself or herself in a fair, reasonable and responsible manner in accordance with the policies and rules adopted by the Commission. Since your appointment as Chief Public Defender, however, you have refused to acknowledge the overarching authority vested in the Commission to meet its broad responsibilities. Your unwillingness to accept the

Commission's supervisory function is reflected in a letter from your attorney to the prior Commission accusing the Commission of "hyper scrutinizing and undermining [your] decisions," "hamstringing [you] from making decisions," "undermin[ing your] . . . statutory authority," and engaging in "unwarranted and unjustified . . . micromanagement." Thereafter, in emails to the current Chairperson you have repeatedly reasserted these allegations, claiming that the Commission has "micromanaged [you] and intervened in [your] ability to carry out [your] statutory duties"; "overstep[ed its] statutory authority" in giving you directives relating to budgetary and personnel matters; "continued to micromanage [you], and insert [itself] into individual personnel matters and day to day operations for which [the Commission has] no statutory authority to do"; and engaged in "actions [that] far supersede any authority" of the Commission. You have also repeated these allegations to members of the Division.

Consistent with these assertions, the Commission has witnessed you conduct yourself in an antagonistic and adversarial manner toward the Commission, even though you repeatedly have been advised and counseled—by the Commission and Legal Counsel, Attorney Sullivan, as well as by others both inside and outside the Division who have tried to mentor and counsel you—that your view of the Commission's authority is wrong. For example, at your request, Attorney Sullivan provided you with a memo explaining, among other things, that the duties and responsibilities of the Chief Public Defender are subject to the Commission's "overarching responsibility to carry out the purposes" of the statutes creating the public defender system. Nevertheless, as the Shipman & Goodwin report concluded, you continue to have a "fundamental disagreement" with the Commission regarding its authority, such that, for example, with respect to personnel, the Shipman & Goodwin report found that, in your view, the Commission should serve merely as a "rubber stamp" for all your hiring recommendations. Your refusal to respect and accept the Commission's authority in this regard is reflected in your actions to circumvent the Commission's appointment of Attorney Ryan as Director of the Human Resources Unit by mistreating her and thereby causing her to resign so that you could install Ms. Lohr in her place on an interim basis. No prior Chief Public Defender has shared your view regarding the nature of the Commission's authority because it is clearly incorrect, and, as the Shipman & Goodwin report further finds, manifests your "overall disconnect regarding the Commission's statutory authority."

Your lack of respect for the role of the Commission is also evidenced by your recent statement to the Chairperson that you view emails from him as nothing more than "unnecessary distractions that pull [you] away from [your] duties as Chief [Public Defender]," and, further, that the Chairperson's issuance of emails to you "falls in line with [the Chairperson's] practice of sending troublesome emails to distract [you] from [your] job duties." By refusing to accept the oversight function of the Commission with respect to the administration of the Division, and by constantly challenging the Commission's authority to take corrective measures if the Commission determines that you have acted unreasonably or improperly, you have created an untenable situation

that has gravely, if not irrevocably, impaired your ability to work constructively with the Commission.

Among other things, your refusal to acknowledge the statutory authority and responsibilities of the Commission violates C.G.S. § 51-289 et seq. and Policy 209 of the Administrative Policies and Procedures Manual.

(7) Repeated Unfounded Accusations of Discrimination, Bias, and Retaliation Against the Commission

Following your appointment as Chief Public Defender by the prior Commission in 2022, your attorney wrote to that Commission on your behalf on March 6, 2023, expressing your concern that certain Commission decisions with which you did not agree were a "pretext for discrimination." Thereafter, in an email from you to the current Chairperson on August 17, 2023, you indicated that the Chairperson had conducted himself in a racially discriminatory manner toward you. Although you subsequently denied that you were alleging such conduct by the Chairperson, it is clear from your email's plain language, as well as from a letter your attorney sent to the Commission on December 19, 2023, expressly reiterating your claim of discrimination against the Chairperson, that you were, in fact, claiming such discrimination. In that December 19, 2023, letter, your attorney also accused the Commission of "continued acts of discrimination and retaliation against [you]." The letter further alleged that the Commission's actions "demonstrate an apparent disregard for [your] right to oppose discrimination, free from retaliation," and asserted that the Letter of Reprimand you received from the Commission on October 3, 2023, was issued in retaliation for your complaints of racial discrimination against the Commission. Subsequently, in an email you sent to the Chairperson on January 18, 2024, you stated that "[the Chairperson's] continued assertions that [your] complaints about discrimination and retaliation are 'unfounded' and 'baseless' demonstrate [the Chairperson's] own animus and bias." Again, on January 23, 2024, in a third letter sent to the Commission on your behalf, your attorney accused the Commission of "continued retaliation and discrimination against [you]," stating, as well, that, "[s]adly, the Commission continues to retaliate and discriminate against [you], inflict damage on [your] reputation and [your] career, and undermine [your] ability to effectively carry out [your] mission." Even more recently, on February 9, 2024, in your response to questions posed to you by the Chairperson concerning your accessing of emails of certain Division members without their knowledge, you expressed your belief "that the Chair's response and handling of this . . . issue represents additional discrimination and retaliation against me."

Contrary to your allegations, both this Commission and the prior Commission have made every effort to work cooperatively and supportively with you to help you succeed as Chief Public Defender. However, you have made it impossible for the Commission to do so because you have refused to acknowledge or respect the

Commission's authority and responsibility to ensure that the purposes of the Division are carried out, both by the Chief Public Defender and by the other members of the Division. Instead, you have consistently claimed that the Commission's necessary and appropriate exercise of its authority is both a usurpation of your statutory prerogatives and evidence of the Commission's discriminatory and retaliatory intent toward you.

As you have been advised repeatedly, both in the Letter of Reprimand and thereafter, your claims are unfounded because nothing that the Commission has done during your tenure as Chief Public Defender has exceeded its statutory mandate or usurped your authority. Consequently, there is nothing to support your contention that the actions and decisions of the Commission with which you disagree were motivated by a discriminatory or retaliatory intent. On the contrary, those actions and decisions represent the best efforts and judgment of the Commission, in the legitimate and good faith exercise of its broad statutory authority, to promote and protect the best interests of the Division and its clients.

Your claim of racial discrimination by the Commission is also belied by the Shipman & Goodwin report, which concludes that you have a propensity to resort to baseless allegations of racism merely because someone disagrees with you. As the Shipman & Goodwin report states, "[you] often [make] comments about race as a factor in other employees' comments or decisions when they question [your] agenda or do not agree with [you]. . . . Further, while perhaps legitimate in certain instances, the sheer number of instances in which [you have] used race-based comments to insinuate or outright state that other employees or members of the Commission are racist based on their legitimate disagreements with [your] management of [the Division] could be classified as bullying, and has contributed to an environment within [the Division] where employees are fearful to raise any issues regarding [your] leadership, lest they be labeled racists."

Furthermore, as you knew, your recurring allegations of discrimination and retaliation, against both the prior Commission and the current Commission, would become public, and they have become public, with the inevitable result of a loss of public confidence in the Commission and the Chief Public Defender and, as well, in the ability of the Commission and the Chief Public Defender to work together effectively in the best interests of the Division and its clients. You nevertheless have persisted in making such allegations even though they are insupportable and reflect your proclivity to resort to baseless claims of discrimination against those who raise legitimate concerns about the manner in which you have conducted your office or who otherwise disagree with you.

Among other things, your repeated unfounded accusations of discrimination, bias, and retaliation against the Commission violate Policy 209 of the Administrative Policies and Procedures Manual.

(8) Dishonesty Toward the Commission

In the Letter of Reprimand, you were admonished for falsely denying, on August 22, 2023, that you had accused the Chairperson of discriminating against you in an email you sent to the Chairperson on August 17, 2023. You were directed to thereafter treat the Commission and members of Division honestly and forthrightly. Notwithstanding that directive, the evidence indicates you have continued to be untruthful in your dealings with the Commission and the Division.

For example, as set forth more fully in Charge 12, and as reported by Attorney Sullivan and Mr. Dion, you told Attorney Sullivan, in the presence of Mr. Dion, that she was prohibited from responding to an FOIA request for your calendars and that you would respond to the request personally. You thereafter informed the Commission that you never told Attorney Sullivan either that she was barred from responding to that request or that you would respond to the request yourself.

As discussed more fully in Charge 9, you also were untruthful to the Commission in connection with an unauthorized and erroneous email you sent to all Division personnel on January 18, 2024, without notice to the Commission, purporting to correct the Commission's action reaffirming Policy 205 of the Administrative Policies and Procedures Manual, dated October 2014. On that occasion, after issuing your email to Division members stating that the Commission should have reaffirmed Human Resources Policy 205, dated April 1, 2019, rather than Policy 205 of the Administrative Policies and Procedures Manual, you sought to justify the email by falsely informing the Commission that Human Resources Policy 205 had been approved by the Commission and thereby superseded Policy 205 of the Administrative Policies and Procedures Manual. Furthermore, after the Chairperson issued a memo to the Division correcting your email and explaining that the Commission had never approved Human Resources Policy 205 and fully intended to reaffirm Policy 205 of the Administrative Policies and Procedures Manual, your attorney, in the January 23, 2024, letter she sent to the Commission on your behalf, falsely characterized the Chairperson's memo as "wildly incorrect," and, further, demanded that the Commission "apologize to staff for causing confusion." As you knew, however, the Commission's memo was correct in all respects, whereas the emails and letter from you and your attorney were manifestly untrue. At no time have you or your attorney acknowledged that your representations to the Commission and the members of the Division were false or otherwise sought to correct them.

The evidence also supports the conclusion that you were again untruthful to the Commission with respect to certain representations you made concerning the request of Attorney Lopez, the Director of the Complex Litigation Unit, that you authorize and post a second attorney position for that Unit, a request that Attorney Lopez has made to you since your appointment as Chief Public Defender. Although you told the Commission in July 2023 and again in October 2023 that you would have the position posted, you have

refused to do so, and you also have refused to provide any timeframe within which that will occur. The reason you gave the Commission on February 6, 2024, for refusing to post the position, namely, that the posting of other positions has taken precedence, strains credulity for several reasons. First, you failed to fill seventeen positions for the fiscal year ending on June 30, 2023, because you insisted that there was no need or demand to do so and, as a result, the Division returned approximately \$2 million in unspent personal services funds. Second, there have been and remain numerous unfilled positions in the Division. Third, as Attorney Lopez has explained to you and the Commission, there is a pressing need to fill the second attorney position in the Complex Litigation Unit, first, because he remains the only lawyer in the Unit, and second, because Attorney Lopez has plans to retire in the relatively near future. And finally, the reasons you have given for the delays in posting the position have varied, suggesting that those reasons are merely a pretext for delay. In view of your conduct, it is reasonable to conclude that, despite your representations to the Commission and Attorney Lopez, you had no intention of authorizing the posting and appointment of a second attorney position for the Complex Litigation Unit.

In addition, you recently obtained access to Attorney Lopez's emails without his knowledge. When the Commission asked you why you secretly accessed his emails, you denied doing so. Your false denial is another example of your dishonesty toward the Commission.

Among other things, your dishonesty toward the Commission violates Policy 209 of the Administrative Policies and Procedures Manual.

(9) Insubordinate Conduct Toward the Commission

In addition to your unwillingness to acknowledge the authority of the Commission, your unfounded accusations of discrimination against the Commission, and your dishonesty toward the Commission, you also have been insubordinate toward the Commission by purporting to speak for the Commission, knowing that you lacked the authority to do so, in respect to action taken by the Commission pertaining to Policy 205 of the Administrative Policies and Procedures Manual.

As discussed in Charge 8, the Commission, at its meeting on January 9, 2024, announced that it was reaffirming Policy 205 of the Administrative Policies and Procedures Manual, pertaining to Recruitment, Hiring and Advancement, a policy that the Commission originally approved and adopted in 2014. The next day, January 10, 2024, Attorney Sullivan, at the behest of the Chairperson, informed all Division personnel of that action. However, over a week later, on January 18, 2024, and without notice to the Commission, you sent an email to all Division members purporting to correct the Commission's action. In your email, you asserted that the notice sent on behalf of the Commission by Attorney Sullivan informing Division members that the Commission had reaffirmed Policy 205 of the Administrative Policies and Procedures

Manual was "incorrect," and you further stated that the "correct" version of the policy was contained in a document entitled "Division of Public Defender Services, Administrative Human Resources Policies & Procedures, Policy #205, Employee Selection, Transfer and Promotion, Effective April 1, 2019," which you attached. You issued your email even though you never inquired of the Commission regarding its intent in reaffirming Policy 205 of the Administrative Policies and Procedures Manual, and you never notified the Commission that you were issuing the email. Moreover, as you knew, you were not authorized to speak for the Commission about the matter, and, as the Chairperson told you, your decision to do so was "inexplicable." In purporting to act on behalf of the Commission, and in purporting to correct the Commission, you knowingly exceeded your authority in deliberate disregard of the authority of the Commission.

Furthermore, you were incorrect in asserting that the Commission had notified Division members of the wrong policy. Contrary to the representations in your email, the Commission had, in fact, reaffirmed Policy 205 of the Administrative Policies and Procedures Manual, and had not addressed, let alone affirmed or reaffirmed, the Human Resources policy you attached to your email.

Even when so informed, you refused to acknowledge either the impropriety of your conduct or your erroneous factual assertions, stating as follows in an email to the Chairperson: "My email to this agency was correct. . . . [The Human Resources policy] is part of the Administrative policy manual of this Division. It was revised as of April 2019 and approved by the Commission at that time. . . . The documentation supports my corrective action." In fact, contrary to your representation, the Human Resources policy was never approved by the Commission and is not a part of the Administrative Policies and Procedures Manual.

Finally, when the Chairperson asked you to provide him with whatever documentation you had to support your assertions, you did not do so, stating only that Attorney Sullivan "will find what [the Chairperson] need[s]." You responded in that manner despite knowing, contrary to your representations, that neither you nor Attorney Sullivan could provide the Chairperson with any supporting documentation because that documentation does not exist. The documentation does not exist because your assertions were entirely false.

Your conduct regarding the Commission's reaffirmance of Policy 205 of the Administrative Policies and Procedures Manual was disrespectful and insubordinate. The gravity of your insubordination is compounded by your refusal to acknowledge either the impropriety of your conduct or the fact that your assertions about the Commission's actions regarding Policy 205 were false.

Among other things, your insubordinate conduct toward the Commission violates C.G.S. § 51-289 et seq. and Policy 209 of the Administrative Policies and Procedures Manual.

(10) Accessing Emails of Division Employees Without Their Knowledge and Without Valid Reason to Do So

Under Policy 605 of the Administrative Policies and Procedures Manual, Division employees do not have a reasonable expectation of privacy in email accounts issued to them by the Division. It is axiomatic, however, that Division employees reasonably may expect that their email accounts will not be secretly accessed for improper or impermissible purposes. Consequently, as Chief Public Defender, you may conduct an email search without the knowledge of a Division employee if you have valid cause to do so. Such cause exists when, for example, there is reason to believe that an employee is using his or her email account for an improper purpose or the employee's emails contain evidence of wrongdoing. Because it is improper to access Division emails surreptitiously with no valid reason to do so, you may not conduct a fishing expedition into an employee's emails merely to find information to use against that employee or for any other impermissible purpose.

As discussed previously in Charges 3 and 4, on February 6, 2024, you directed Ms. Kowalyshyn to access emails of Attorney Sullivan and Attorney Lopez, for the period of January 27, 2024, to February 6, 2024, that they either received from the Chairperson or sent to the Chairperson between those two dates. In addition, you again accessed the emails of Attorney Sullivan and Attorney Lopez in the same manner on February 9, 2024. A forensic investigation into secret searches of Division emails, which remains ongoing, confirms that Ms. Kowalyshyn accessed the emails of Attorney Sullivan and Attorney Lopez without their knowledge. The evidence indicates that you instructed Ms. Kowalyshyn to do so for an improper purpose, namely, to find information that you could use to retaliate against them. In each case, your conduct fits a pattern of retaliation: in the case of Attorney Sullivan, for cooperating with the Commission; in the case of Attorney Lopez, for publicly criticizing you. Your conduct in secretly accessing emails of Attorney Sullivan and Attorney Lopez without a legitimate reason to do so is particularly troubling because of the potentially privileged and/or confidential nature of those targeted email communications.

Your accessing email accounts of Division employees without their knowledge and without a valid reason for doing so violates Policy 209 of the Administrative Policies and Procedures Manual.

(11) Accessing Emails of the Chairperson of the Commission Without His Knowledge and Without Valid Reason to Do So

As discussed in Charges 3, 4, and 10, above, on February 6, 2024, you directed Ms. Kowalyshyn to conduct a search identifying all the Chairperson's emails to or from any Division employee for the period of January 27, 2024, to February 6, 2024. You also directed Ms. Kowalyshyn to conduct a similar email search on February 9, 2024, to

capture any emails that the Chairperson had sent to or received from any Division employee after the prior search of his emails on February 6, 2024.

These searches were conducted without the Chairperson's knowledge and revealed email correspondence between the Chairperson and several employees, including Attorney Sullivan and Attorney Lopez, none of whom had knowledge of the email searches. You directed Ms. Kowalyshyn to print out certain of the emails between the Chairperson and Attorney Sullivan and between the Chairperson and Attorney Lopez, and to provide those emails to you. Although you sought to keep your actions secret, when the Chairperson learned from Mr. Dion and Attorney Sullivan that you had accessed the emails of Attorney Sullivan and Attorney Lopez without their knowledge, the Chairperson inquired of you as to why you had done so. As set forth in Charge 3, the reasons you gave for accessing Attorney Sullivan's emails were pretextual, and as set forth in Charge 4, you denied accessing Attorney Lopez's emails despite evidence to the contrary, including Ms. Kowalyshyn's statement that you instructed her to do so and forensic evidence corroborating her statement. You have not informed the Chairperson that you targeted and reviewed his email correspondence, however, and the Chairperson learned that you did so only after a forensic computer examination was conducted.

Your unprecedented action in directing Ms. Kowalyshyn to identify and access the Chairperson's emails to Division employees merely to determine the nature of his communications with those employees was exceedingly disrespectful to the Chairperson and the Commission, as well as to those employees. Your conduct is particularly concerning with respect to your secret targeting and review of emails between the Chairperson and Attorney Sullivan due to Attorney Sullivan's position as Counsel to the Commission and the potentially privileged and/or confidential character of those email communications.

Among other things, your accessing emails of the Chairperson without his knowledge and without a valid reason to do so violates Policy 209 of the Administrative Policies and Procedures Manual.

(12) Interference With the Handling of FOIA Requests

Policy 606 of the Administrative Policies and Procedures Manual, concerning Freedom of Information Requests, provides that, "[i]t is essential that any request for information be handled courteously and professionally. However, Division employees should not independently determine what information may or may not be released." Rather, "[r]equests for information, no matter how received, should be immediately referred to the Legal Counsel, Director, Office of the Chief Public Defender. . . ."

Policy 601 of the Office of the Chief Public Defender, Indigent Defense Policies & Procedures, further provides that, "[a]s the Freedom of Information (FOI) Officer, Legal Counsel of the Office of Chief Public Defender responds to all oral and written requests made pursuant to the Freedom of Information statutes. . . . Legal Counsel will determine which information shall be provided to the requester and respond to all FOI requests. After review by Legal Counsel, only public information shall be provided. Any information that is protected by the attorney-client privilege or is exempt pursuant to the exemptions articulated under C.G.S. § 1-210, [entitled] "Access to public records. Exempt records," will not be disclosed. . . . Failure to strictly comply with the time periods articulated in the statute may result in the requester filing a complaint with the FOI Commission naming the Public Defender Services Commission as the Respondent. Any finding against the Commission may result in the imposition of sanctions against the Division." As you know, Attorney Sullivan, as Legal Counsel, is also the Division's FOIA Officer.

As set forth hereinafter, the Commission has learned from Attorney Sullivan that you have interfered in her handling of FOIA matters in violation of Division policy. For example, on October 18, 2023, the Division received an FOIA request for your calendars. Upon receiving the request, Attorney Sullivan asked Mr. Dion to conduct a search of the Division's computer system to obtain any documents that might be responsive to that request. He did so and provided Attorney Sullivan with those documents. On October 31, 2023, upon being informed that Attorney Sullivan had received your calendars from Mr. Dion, you angrily told Attorney Sullivan, in the presence of Mr. Dion, that she was not to take any action regarding the request and that you would handle it personally. Attorney Sullivan told you that your directive violated Division policy and impaired her ability to ensure that the requirements of the FOIA were followed. You nevertheless insisted on responding personally to the request.

In addition, the Commission has learned from Mr. Dion that you instructed him not to comply with any computer search request pursuant to the FOIA that he might receive from Attorney Sullivan without first obtaining your permission to do so. You also instructed Mr. Dion that, upon granting him permission to conduct the search, he was not to provide the retrieved documents to Attorney Sullivan; rather, he was to turn them over to you. You further told Mr. Dion that after you had reviewed those documents, you would notify him whether he could then provide some or all of the documents to Attorney Sullivan.

When the Chairperson contacted you to inform you that you could not interfere with Attorney Sullivan's discharge of her responsibilities as FOIA Officer in that manner, you denied prohibiting Attorney Sullivan from responding to the FOIA request for your calendars. The Chairperson also informed you that you could not otherwise interfere in Attorney Sullivan's duties as FOIA Officer by prohibiting Mr. Dion from conducting computer searches requested by Attorney Sullivan until you approved the searches or by barring Mr. Dion from providing documents to Attorney Sullivan that he had retrieved

in accordance with her request without first obtaining your permission to do so. You responded by challenging the Chairperson's authority to issue such a directive and continued to require Mr. Dion to comply with the instructions that you had given him regarding the handling of FOIA computer search requests by Attorney Sullivan.

The evidence indicates that, despite your denial, you did, in fact, prohibit Attorney Sullivan from handling the FOIA request for your calendars. By prohibiting Attorney Sullivan from complying with the FOIA request for your calendars and then denying that you had done so, and by refusing to follow the Chairperson's directive concerning Attorney Sullivan's discharge of her duties as FOIA Officer, you ignored Division policy, interfered with Attorney Sullivan's ability to comply with the requirements of the FOIA, caused delays in responses to FOIA requests, gave rise to concerns about the Division's adherence to the FOIA, and improperly refused to comply with the Chairperson's directive.

Among other things, your conduct violates Policy 606 of the Administrative Policies and Procedures Manual; Policy 601 of the Office of the Chief Public Defender, Indigent Defense Policies & Procedures; and Policy 209 of the Administrative Policies and Procedures Manual; and is contrary to the provisions of the FOIA.

(13) Failure to Comply with Statutory Requirement Concerning Disclosure to Commission of Requests to the Governor for Appropriations

Under C.G.S. § 51-291 (13), the Chief Public Defender is required to "[p]repare and submit to the [C]ommission estimates of appropriations necessary for the maintenance and operation of public defender services, and make recommendations with respect thereto; and with the approval of the [C]ommission, and after such modification as the [C]ommission directs, submit the budget requests to the Governor." In September 2023, you submitted an appropriations request to the Governor and the Office of Policy and Management (OPM) on behalf of the Division in the amount of \$15,199,077, without prior notice to or approval by the Commission. When, months later, the Commission eventually learned of your appropriations request from other sources, the Chairperson informed you by email on December 21, 2023, that your request violated C.G.S. § 51-291 (13) because, contrary to the dictates of that statutory provision, the Commission had no notice of the request and therefore had no opportunity to approve, modify or disapprove it. You also were informed that the Commission did not approve of, and would not have authorized, at least one of your appropriations requests, namely, a request for an hourly rate increase for investigators retained by assigned counsel, because, as you well knew, there were ample funds in the existing budget to grant such an increase and the Commission had full authority to do so. In fact, the Commission thereafter did approve such an increase from existing funds without any supplemental appropriation.

When asked by the Chairperson why you did not notify the Commission prior to submitting the appropriations request, you did not accept responsibility for failing to comply with the statutory requirement. Rather, you sought to justify your conduct, even suggesting that the Commission's inquiry into the matter was unfair and discriminatory, stating that, "[h]istorically, Chief Public Defenders in CT, submit their budget options and proposals without instruction or directives by the . . . Commission." You then asked, "Is there a reason to treat me differently?" You further stated that you would be "happy to inform the Commission of future budgetary information but again, prior Chief Public Defenders in CT have not received directives on this issue. I am sure that the current Commission sees the importance of continuity and equal treatment." In fact, information obtained from former Chief Public Defenders and former and current Division members reveals that prior Chief Public Defenders have complied with their obligation under C.G.S. § 51-291 (13) to keep the Commission apprised of proposed budgetary requests before their submission to the Governor, thereby enabling the Commission to discharge its oversight responsibility under that statutory provision.

Your decision not to notify the Commission of the appropriations request in violation of law and your unwillingness to acknowledge the impropriety of your decision is indicative of a cavalier and dismissive attitude toward the role and responsibilities of the Commission. It also reflects your misguided belief that you should be able to manage all aspects of the Division without any supervision by or interference from the Commission, even with respect to matters that indisputably fall squarely within the Commission's statutory authority.

Among other things, your failure to notify the Commission of your September 2023 appropriations request to the Governor and OPM violates C.G.S. § 51-291 (13).

(14) Loss of Confidence in Your Leadership and Low Morale of the Division

It is apparent that there has been a significant loss of confidence in your leadership of the Division, as well as a serious decline in Division morale during your tenure as Chief Public Defender. Among the reasons for these developments is the apprehension resulting from the widespread perception that you will take punitive action against members of the Division who stand up to you or criticize you. Although Division members report that you have dismissed this fear of retaliation out of hand, the concern is justified in view of your propensity to strike out at those who cross or disagree with you. As the Shipman & Goodwin report found, you "often bully or marginalize employees who [you] do not favor or who questioned you in any way" and, further, you engage in "unfair treatment . . . [including] [f]avoritism and retaliation . . . based on perceived loyalty to [you] and public questioning of [your] decisions and initiatives." The Shipman & Goodwin report also found that you raise unfounded claims of racism against members of the Division merely because they disagree with or stand up to you. According to the Shipman & Goodwin report, this "culture" of bullying, retaliatory

treatment, and unfounded allegations of racism has extended to the Human Resources Unit for Ms. Lohr is widely regarded "as an extension of" you rather than a "separate and impartial resource for employees." This has compounded the apparent crisis of confidence in your leadership because Division members feel they have no recourse against what they may perceive as unfair and unjust treatment, either by you or others whom you wish to protect. Your general lack of transparency, honesty, and good faith in your dealings with Division members and the Commission as set forth in these Charges is another reason for the loss of confidence in your ability to lead the Division, as is your unwillingness to take responsibility for and correct poor decisions or mistakes made by you or your administration. In addition, as the Shipman & Goodwin report also concluded, although you claim that your door is always open to Division members, in fact, you have employed a closed-door policy, a practice that is a further cause of discontent and dissatisfaction in the Division.

Another reason for the decline in Division morale and confidence in your leadership stems from your unwillingness to accept the statutory authority of the Commission, which has led to frequent complaints, both in letters and emails subject to disclosure under the FOIA, from you and your attorney claiming that the Commission has undermined you and seriously impaired your ability to lead the Division. Your repeated allegations of racial discrimination and retaliation against both the prior Commission and the current Commission have also resulted in ongoing public reports of a rift between you and the Commission, with divisive and disruptive consequences.

In that regard, when all but one member of the prior Commission resigned in March 2023, the current Commission vowed to work supportively and cooperatively with you. However, your unwillingness to reciprocate the Commission's efforts to that end caused the same conflict with the current Commission that marked your relationship with the prior Commission, and you soon resumed your unfounded and public claims of racism, micromanagement, and unfair treatment by the Commission. You have not demonstrated an appreciation for the deleterious effect that those allegations have had on the members of the Division, the Division's clients, those who might wish to seek employment with the Division, and the broader public perception of the Division. Instead of cooperating with the Commission to address these and other pressing issues, you have consistently rejected the Commission's efforts to work collaboratively, largely because you refuse to acknowledge the Commission's overarching supervisory responsibility with respect to the Division.

Recently, the Connecticut Public Defender Attorneys Union decided to vote on whether union members have confidence in your leadership. As the union's Executive Committee stated in explaining its decision to take the vote at this time, "[t]he vote is being held now based on a litany of incidents over the past year dealing with parity negotiations, lapses in leadership, and the inability to work with the [C]ommission. Many of these instances have occurred within the last few months. . . . The current situation is very different from what it was a year ago. The Chief [Public Defender] has refused to

work amicably with the Commission. Whether to have a no confidence vote has been a yearlong debate, extending through two separate [union] Executive Boards. Many are outraged it has taken so long, however, the [Executive] Board wanted to give every opportunity to see the new Chief [Public Defender] succeed. But the Chief [Public Defender] has consistently disregarded rules and directives." As reported by the union, the no confidence vote prevailed, 121-9. This vote reflects an overwhelming consensus among the members of the union that the Division is suffering from a lack of responsible, even-handed, and effective leadership at the top.

Prior to the vote being tallied, you were placed on paid administrative leave. After the vote was tabulated, the union gave the following statement: "While we have made concerted efforts over the past year to work with the Chief [Public Defender], the perpetual state of controversy and dysfunction at the highest levels has been an unwelcome distraction in serving the interests of our clients. . . . We urge the Commission to provide Attorney Bowden-Lewis with the appropriate due process protections that all public defenders champion every single day, and, if there is just cause, remove her from her position as Chief [Public Defender] so that the Division can refocus its efforts on our mission to provide the best possible defense to the people of Connecticut."

Although not dispositive with respect to the extent of your support within the Division or the cause of the Division's low morale, the resounding vote of no confidence by the union members, who comprise a large majority of the Division's public defenders, is an extremely worrying and, unfortunately, telling, sign of the state of the Division and your perceived inability to lead it. No less unfortunate has been your unwillingness to recognize the serious, difficult, and self-reflective work that would be required of you if you were to have any chance of regaining the confidence of the Division's members and raising their morale. You have not given the Commission or the Division's members any indication that you are ready, willing, or able to do that work.

(15) Refusal to Accept Responsibility for Your Actions

You have compounded the seriousness of your improper conduct by consistently refusing to acknowledge the impropriety of that conduct even after being informed of its wrongfulness by the Commission. For example, you sent an email to all Division employees without the knowledge of the Commission purporting to correct the Commission's action, taken at its meeting on January 9, 2024, reaffirming Policy 205 of the Administrative Policies and Procedures Manual. After the Chairperson learned of your unauthorized email and admonished you for sending it, he also made it clear that you were incorrect in asserting that the Commission had not intended to reaffirm that Policy because, in fact, that is exactly what the Commission intended to do. Instead of agreeing that your conduct was improper and accepting responsibility for your actions, you defended the email you sent to Division personnel and insisted that the factual

assertions contained therein, although demonstrably false, were accurate. Soon thereafter, your attorney went even further, falsely characterizing the Chairperson's corrective memo as "wildly incorrect."

Another example of your refusal to accept responsibility for your improper conduct pertains to your failure to inform the Commission of appropriations requests you made to the Governor and OPM in September 2023, despite the requirement of C.G.S. § 51-291 (13) that the Chief Public Defender provide notice to the Commission of any such request so that the Commission may, if it chooses, disapprove or modify the request. Upon learning of your submission of the appropriations request months after it was submitted, the Commission admonished you for failing to follow the requirements of § 51-291 (13) and directed you to comply with that mandate in the future. You were also informed that the Commission did not agree with at least one of your requests and that that request would be rescinded by the Commission. In response, instead of acknowledging the impropriety of your failure to comply with the statutory notice requirement, you explained, incorrectly, that, "[h]istorically, Chief Public Defenders in CT, submit their budget options and proposals without instruction or directives by the . . . Commission," and asked, "Is there a reason to treat me differently?" You further stated that while you would be "happy to inform the Commission of future budgetary information but again, prior Chief Public Defenders in CT have not received directives on this issue. I am sure that the current Commission sees the importance of continuity and equal treatment." In fact, prior Chief Public Defenders have complied with their obligation under § 51-291 (13) to keep the Commission apprised of proposed budgetary requests. Even if that were not the case, however, your refusal to acknowledge your obligation to do so exemplifies your unwillingness to take responsibility for your actions and to assign blame to the Commission or others for your own mistakes and improprieties.

In addition, after the Commission made it clear, in July 2023 and again in October 2023, that it expected you to honor your representation to the Commission and Attorney Lopez that you would authorize the posting of a second attorney position for the Complex Litigation Unit, you had not done so by the end of January 2024. At that time, on January 29, 2024, Attorney Lopez forwarded a letter to the Commission setting forth your repeated and longstanding efforts to thwart his requests to obtain that additional position. In a letter hand-delivered to the Commission on February 6, 2024, you addressed the points raised by Attorney Lopez, stating that you did not believe that a second attorney position for the Complex Litigation Unit was needed and explaining that, "[t]he work performed by the Complex Litigation Unit is the same type of work that any public defender currently working in a Judicial District either has done or can do. . . . The Training Department is tasked with assisting, mentoring, and training all the attorneys within this Division. It is the Training Department's responsibility to ensure that trial support and legal services are given to everyone within the Division." You also met with the Commission at its meeting on February 6, 2024, and attempted to justify your refusal to honor your commitment to Attorney Lopez and the Commission with similar

reasoning, expressing your belief that, despite sufficient Division funds to fill the position sought by Attorney Lopez, those funds would be better spent elsewhere. As the Commission explained to you, your unwillingness to admit that you were wrong in not following through on your promise to fill the second attorney position in the Complex Litigation Unit compounded your impropriety of refusing to honor your commitment.

You also have repeatedly refused to acknowledge that Attorney Sullivan serves as Counsel to Commission as well as Counsel to the Division. As Attorney Sullivan has told you on many occasions, she has served in that capacity since her appointment by the Commission as Legal Counsel in 1994. Further, on January 18, 2024, the Chairperson expressly informed you in writing that Attorney Sullivan "was appointed to serve as Legal Counsel to the Commission and to the Division in 1994. . . . As you know, [Attorney Sullivan] continues to serve in that capacity and the Commission has no question about her authority to do so." Accordingly, at the request and direction of the current Commission and all prior Commissions commencing in 1994, Attorney Sullivan has provided legal assistance and support to each of those Commissions.

Nevertheless, despite the clarity of the Chairperson's representation to you that Attorney Sullivan serves as Counsel to the Commission, you continue to insist otherwise. In fact, in the Letter of Reprimand you issued to Attorney Sullivan on February 8, 2024, you admonished her for not providing you with written proof that she serves as Counsel to the Commission. You also claimed that Attorney Sullivan has "met with the . . . Commission to discuss matters concerning this Division and its employees to the detriment of both in clear violation of [Attorney Sullivan's] ethical responsibilities," and stated further that, "[a]s you [Attorney Sullivan] are aware, matters such as these can be referred to the Office of the Chief Disciplinary Counsel for further review."

Not only are you wrong in asserting that Attorney Sullivan is not Counsel to the Commission, but you have also refused to accept the Chairperson's unequivocal contrary representation on behalf of the Commission. To make matters worse, you subjected Attorney Sullivan to discipline for doing exactly what the Commission has directed her to do. Moreover, your assertion that Attorney Sullivan's work with the Commission has somehow been detrimental to the Division and its employees is transparently false given how exceptionally important and consequential Attorney Sullivan's work on behalf of the Division and the Commission has been. Finally, falsely accusing Attorney Sullivan of ethical violations—without a shred of evidence to support the allegation and after being told by the Commission that Attorney Sullivan has acted properly and honorably in all respects as Counsel—is, in fact, a serious violation of your own ethical responsibilities.

You also have repeatedly continued to claim that the Commission has exceeded its authority and, in so doing, usurped the authority vested in the Chief Public Defender. You have been advised by the Commission that this accusation, which you also made against the prior Commission, is wrongheaded and untrue. Indeed, in the Letter of

Reprimand issued to you by the Commission, you were told expressly that these claims are meritless, and you were directed by the Commission to recognize the "overarching statutory authority of the Commission in regard to the functions and operation of the Division." Instead of following that directive, you continue to oppose the Commission's legitimate exercise of its authority, leveling baseless claims of overreaching against the Commission. By doing so, you send a strong message that you have no intention of working cooperatively and constructively with the Commission.

In addition, you instructed Attorney Sullivan, in the presence of Mr. Dion, that she was not to take any action regarding the FOIA request for her calendars and that you would handle that request personally. When the Chairperson contacted you to inform you that you were impermissibly interfering with Attorney Sullivan in the performance of her duties as FOIA Officer, you falsely told the Chairperson that you had not given Attorney Sullivan any such directive. Furthermore, when the Chairperson also informed you that you could not interfere with Attorney Sullivan's requests to Mr. Dion in accordance with Attorney Sullivan's efforts to comply with FOIA requests, you opted to defy the Chairperson's directive. By falsely denying that you had prohibited Attorney Sullivan from handling the request for your calendars and refusing to comply with the Chairperson's directive concerning Attorney Sullivan's requests of Mr. Dion, you compounded the seriousness of your original impropriety.

(16) Violation of Terms and Directives of Letter of Reprimand

On October 3, 2023, you received a Letter of Reprimand from the Commission for your "inappropriate and unacceptable . . . conduct" as Chief Public Defender. The Letter of Reprimand, which is attached hereto, sets forth ten reasons why that sanction was necessary, as well as nine Expectations that you were directed to meet in the future discharge of your obligations and responsibilities as Chief Public Defender. The Letter of Reprimand further stated, "[i]f the Commission determines that you failed to comply with the provisions set forth [herein] in any respect . . . you subject yourself to further disciplinary action by the Commission."

Since October 3, 2023, you have failed to comply with the first five Expectations set forth in the Letter of Reprimand, as follows.

1. You have failed to comply with the Expectation that you shall, "[a]t all times and in all of your dealings, treat all Division employees and everyone associated with the Division honestly, transparently, and with respect." The facts demonstrating your failure to comply with this Expectation are set forth more fully in Charges 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, above.

2. You have failed to comply with the Expectation that you shall "refrain from conduct toward any Division employee or anyone associated with the Division that is

dismissive or otherwise likely to cause that person to feel marginalized and/or unworthy of his or her association with the Division." The facts demonstrating your failure to comply with this Expectation are set forth more fully in Charges 3, 4, 5, 6, 7, 8, 9, 10, and 13, above.

3. You have failed to comply with the Expectation that you shall "[a]dhere to all Division policies and procedures." The facts demonstrating your failure to comply with this Expectation are set forth more fully in Charges 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, above.

4. You have failed to comply with the Expectation that you shall "[a]cknowledge the overarching statutory authority of the Commission in regard to the functions and operation of the Division and comply with all directives and requests of the Commission." The facts demonstrating your failure to comply with this Expectation are set forth more fully in Charges 6, 7, 8, 9, 11, 12, and 13, above.

5. You have failed to comply with the Expectation that you shall, "[a]t all times, work cooperatively and collaboratively with the Commission in an open and truthful manner." The facts demonstrating your failure to comply with this Expectation are set forth more fully in Charges 6, 7, 8, 9, 11, 12, and 13, above.

Your failure to comply with the Expectations as set forth herein violates the express terms of the Letter of Reprimand and reflects your unwillingness to follow the reasonable directives and requests of the Commission as articulated in that Letter of Reprimand. Your repeated violations of those Expectations, coupled with your insubordinate and otherwise unacceptable conduct toward the Commission, manifest a profound lack of respect for the Commission and its role in the administration of the Division.

PUBLIC DEFENDER SERVICES COMMISSION

By: _____
Hon. Richard N. Palmer, Chairperson