



LOUISIANA PUBLIC DEFENDER BOARD

Tuesday, June 28, 2022 - 1:30 p.m.
600 North Street – Baton Rouge

MINUTES

1. Call to Order and Comments, Chairman, Michael C. “Mike” Ginart, Jr.

A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Michael C. Ginart, Jr. on Tuesday, June 28, 2022, at approximately 1:45 p.m.

The following Board members were present¹:

Zita Andrus	Lou Daniel	Flozell Daniels
Pat Fanning	Michael Ginart	Frank Holthaus
Holly Howat	Donald North	Allyson Melancon

The following Board members were absent:

Lyn Lawrence	Frank Thaxton
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The following members of the Board’s staff were present:

Rémy Voisin Starns, State Public Defender
Anne Gwin, Executive Assistant
Caressa Hall, Accountant
Michael Mitchell, Trial Level Compliance Officer
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance Officer; Legislative Director
Erik Stilling, Information and Technology Director

Chairman Ginart welcomed new Board member Judge Louis (Lou) Daniel (retired) to the Board and recognized Louisiana State Representative C. Denise Marcelle (District 61). Representative Marcelle addressed the Board regarding the on-going personnel issue in the 19th Judicial District Public Defender’s Office. Chairman Ginart indicated that the Board has taken the issue seriously and would keep Representative Marcelle informed of any developments before the next meeting. Board member Frank Holthaus indicated he has reached out to the assistants in

¹ Board Member Louis R. Daniel (retired judge) appointed by La Supreme Court, Chief Justice Weimer on June 16, 2022, replaces Ross W. Foote who resigned March 31, 2022.

District Court Judge Tiffany Foxworth-Roberts' section and he would continue to be in touch with them as well as the Baton Rouge City Court regarding this concern.

Mr. Ginart then commended Judge Ross Foote and District Defenders Richard Stricks, District 40 (St. John the Baptist Parish) and Paul Marx District 15 (Acadia, Lafayette and Vermilion Parishes) for their service to the Board and public defense.

2. Adoption of the Agenda. Professor Donald North moved to adopt the agenda. Mr. Holthaus seconded the motion which passed unopposed.

3. Public Comment. Mr. Ginart indicated public comment would be taken with each agenda item.

4. Adoption of Minutes

a. March 10, 2022 Minutes. Mr. Flozell Daniels moved to adopt the Minutes of the March 10, 2022 meeting. Professor North seconded the motion which passed unopposed.

b. May 19, 2022 Minutes. Professor North moved to adopt the Minutes of the May 19, 2022 meeting. Mr. Pat Fanning seconded the motion which passed unopposed.

5. Budget and Financial. State Public Defender Rémy Starns announced the resignation of Budget Officer Natasha Carter and introduced Accountant Caressa Hall who is assisting with budgetary/fiscal duties pending the hiring of a new Budget Administrator.

a. Financial Report as of June 4, 2022. Mr. Starns gave a summary of the financial report as presented on pages 48 – 51 of the materials. Specifically, he reported \$286,736 available for reallocation to the districts. Clarification was made that the totals monies available for reallocation were derived from unused Expert Witness Funds and scrubbed monies from the administrative budget. Mr. Fanning moved to adopt the financial report as presented. Ms. Allyson Melancon seconded the motion. Upon vote, the motion passed with eight members in favor and one member abstaining (North).

b. Solvency Projections. Dr. Erik Stilling and Deputy Public Defender Richard Pittman gave a detailed explanation of the solvency projections on page 52. The discussion included the recent necessary distribution of O-Level funds to District 19 (EBR Parish) and District 15 (Acadia, Lafayette and Vermilion Parishes) for \$101,000 (\$101,065) and \$230,000 (\$230,631), respectively. Dr. Stilling reported that payroll changes in District 19 (EBR Parish) from semi-monthly to bi-weekly resulted in one additional pay period in FY22 which skewed prior projections. The purchase of an office building in Abbeville for approximately \$230,000 and salary increases in District 15 (Acadia, Lafayette and Vermilion Parishes) resulted in that district's year-end insolvency. Several board members inquired about mechanisms to track the districts' financial performance throughout the year to avoid situations like this at year-end. Mr. Daniels urged a Board policy and Mr. Fanning

suggested performance evaluations for every chief district defender on a regular basis. After board discussion, Chairman Ginart indicated that either the Policy Committee or staff would have some recommendations to the full Board at the scheduled September meeting.

c. Final FY22 DAF and Supplemental Disbursements. Chairman Ginart stated that the June 23, 2022 Board meeting which was scheduled in July of 2021 was cancelled due to lack of quorum. He asked all Board members to put the scheduled meetings on their calendars so that this does not happen again, especially for meetings scheduled at the end of the fiscal year which generally include significant budgetary matters on the agenda. He expressed his appreciation for everyone's attendance at today's meeting.

He then reported that because the Board did not meet as planned on June 23rd, SPD Starns had to make financial decisions that now require ratification by the Board. These include the final FY22 DAF and supplemental disbursements and the emergency disbursements to District 15 (Acadia, Lafayette and Vermilion Parishes) and District 19 (EBR Parish) discussed earlier. Mr. Ginart indicated he authorized Mr. Starns to make the disbursements after consulting with General Counsel Barbara Baier regarding his authority to do so. He reported he was advised that in the past, such action had been taken due to urgency and necessity with full Board ratification at a later date. He indicated that the Board may alter the decisions that were made, but action was needed. He asked the full board for ratification of those expenditures. Mr. Holthaus moved to ratify the decisions made by the State Public Defender that were authorized by the Chairman. Mr. Fanning seconded the motion.

Mr. Daniels indicated to the Board he would have to leave the meeting early and asked to address the Board. He highlighted several issues for the Board's consideration: 1) to move late June dates for Board meetings back to an earlier date to provide everyone involved enough time to address year-end fiscal matters; 2) to schedule and hold necessary committee meetings so fiscal issues are well vetted; 3) to work with SPD Starns to reduce the hold-back amounts; and, 4) to have staff address burn-rate-to-operations ratios in the districts as one metric for consideration in the distribution of DAF.

Professor North expressed his concern regarding the Chairman and State Public Defender taking fiscal actions without full Board consent. Mr. Fanning stated that the action being requested today is to vote to ratify the decisions that had to be made by the Chairman and the State Public Defender because the Budget Committee and Board meetings cancelled and these emergencies had to be addressed. Further, even if ratified, the Board can still withhold the amounts Mr. Starns disbursed to those two districts from their next years' budgets. Last, Mr. Fanning suggested that staff provide a history of year-end funding needs to help in the assessment of the hold-back amount going forward.

SPD Starns reported that until the Board has as reasonable certainty about the districts' expenditures as they have of their revenues, then the less that is held back, the more vulnerable the Board is at the end of the year to help.

Mr. Daniels stated that if the staff is capable of baseline assessments and viewing trends, the Board should have a policy on how much to hold back to ensure that the districts do not have negative budgets based on projections. Mr. Starns stated that the process of monitoring 42 districts offices monthly requires manpower -- at least four auditors. LPDB currently has one. He indicated he is in the process of trying to obtain more.

Mr. Ginart brought the discussion back to his action as Chairman giving the State Public Defender the authority to expend monies due to an emergency without full Board approval knowing those actions have been taken in the past and subsequently ratified by the Board at their next meeting.

Professor North suggested instead of ratification that the Board vote on the Chairman's right to authorize the SPD to take action. Mr. Holthaus indicated he would accept Professor North's suggestion as an amendment and restated his motion is to ratify the decisions made by the State Public Defender that were authorized by the Chairman. Professor North urged that the Board just vote on whether the Chairman and the State Public Defender are authorized to take action without Board approval. Mr. Ginart called for a vote on Mr. Holthaus' original motion which was to ratify the expenditures of the State Public Defender authorized by the Chairman. Upon vote, the motion passed with eight in favor (Andrus, Daniel, Fanning, Holthaus, Howat, North, Melancon, Ginart) and one against (Daniels).

Professor North then moved that the Board give authority to the Chairman and the State Public Defender to allocate resources to the districts that are in need. Mr. Holthaus seconded the motion. Clarification was made that the authority given was for this specific time. Mr. Holthaus confirmed his second to the motion as clarified. Upon vote, Professor North's motion passed unopposed.

d. FY 23 DAF Disbursements. Mr. Starns stated his recommendation for FY23 DAF disbursement is the same as last year's and provided a step-by-step explanation of the initial distribution that has been altered because of the year-end emergency funding to District 19 (EBR Parish) and District 15 (Acadia, Lafayette and Vermilion Parishes). He clarified that maintaining the DAF disbursement the same as FY22 will create a larger O-Level fund— just over \$5M -- because of the larger appropriation for FY23. He further proposed reserving \$1.25M of the \$5M in O-Level to use for CINC reimbursement to the districts.

A lengthy discussion followed regarding the O-Level funding process. District Defender Michelle AndrePont addressed the Board urging a policy

regarding the process for the distribution of O-Level funds. Board members agreed something is needed that provides parameters or priorities on which the decisions for awarding O-Level funds are based. Mr. Starns stated he has provided a memo on O-Level funding in the past; but, O-Level funding is not a formula, rather it is a combination of considerations that must be weighed, with district solvency always being first. He indicated he would update his original memorandum on the issue and provide it to everyone.

Mr. Ginart asked Mr. Starns to clarify his request for the FY23 disbursement for Board action. Mr. Starns reported he is asking for approval today for the DAF FY23 mechanism for the initial disbursement and the plan for the CINC money allocation providing fifty cents on the dollar reimbursement to the districts. He clarified that no district received a cut in the initial FY23 disbursement. Discussion continued.

Mr. Ginart indicated he would entertain a motion that would approve the initial FY23 disbursement, with the balance of funds, including the CINC reimbursement monies, to be held back until the next meeting for discussions on whether those monies will be disbursed immediately, pro-rata, or held as "O" for emergencies.

Mr. Fanning moved that the board approve the initial disbursements for the FY23 fiscal year, including the CINC disbursement (plan), and that the Board come back to consider any supplemental disbursements at the next meeting. Ms. Holly Howat seconded the motion. Upon vote, the motion passed unopposed.

Professor North moved that the State Public Defender Starns provide the Budget Committee and full Board with a document that explains the O-Level funding process and that same document be made available to the district defenders so that everyone is of one accord. Ms. Allyson Melancon seconded the motion which passed unopposed.

e. FY23 501(c)3 Contracts. Mr. Starns reminded the Board that the 501(c)3 program contracts were renewed for FY23 at standstill amounts from FY22. However, the new law mandating the board to enter into a contract with the University of Louisiana (Monroe) to provide for statewide training requires that the existing contracts be reevaluated for scope of work and funding in order to fund the ULM training contract. Mr. Starns indicated he will meet with all contract program directors and ULM before the September board meeting in order to have the amended contracts going forward.

f. University of Monroe Training Contract Authority*. Mr. Starns indicated that Act 237 (Senator Katrina Jackson) goes into effect as law on July 1, 2022, and he is asking the Board for the authority to enter into a contract with ULM that is currently in negotiations.

Chairman Ginart asked for volunteers from the Board to be a part of this negotiating process. Ms. Holly Howat, Mr. Lou Daniel and Ms. Allyson

Melancon volunteered as Board representatives. Mr. Frank Holthaus moved that a contract be negotiated but the amount of the contract must be sent to the Board. Discussion continued and Mr. Holthaus amended his motion to be that the Negotiating Team of Holly Howat, Lou Daniel, Allyson Melancon, and Rémy Starns have the authority to enter into a contract with the ULM pursuant to Act 237 of 2022. Professor North suggested that a cap on the contract be set. Mr. Holthaus suggested \$20,000 to start the first year. Professor North seconded the motion as amended to include a \$20,000 cap which Mr. Holthaus had accepted. Mr. Holthaus restated the motion to be that the Negotiating Team will have the authority to enter into a contract for training with the ULM for up to \$20,000 initially and any other such amount must be approved by the Board. Professor North seconded the motion which passed unopposed.

6. District Issues

a. **District 23 – Chief District Defender.** Mr. Ginart reported that the Selection Committee submitted a list of three applicants to Mr. Starns; however, they were not interviewed or ranked by the Committee. He reported that the application process for the selection of the District Defender in the District 23 (Ascension, Assumption and St. James Parishes) is to be reopened and the committee will interview and rank and provide a recommendation. The same committee will be used.

i. **Interim District Defender Appointment.** Mr. Starns reported that interim district defender Andrea Stentz has resigned as interim and District 23 needs an immediate replacement. Pending the hiring of a new district defender in District 23, Mr. Starns stated his recommendation of the appointment of District 19 (EBR Parish) District Defender Lisa Parker as interim in District 23 (Ascension, Assumption and St. James Parishes) at a salary of \$3000 per month. Professor North moved to appoint Ms. Parker as the interim in District 23. Clarification was made that her salary would be \$3,000 per month. Mr. Fanning seconded the motion. After discussion on some expressed concerns and Ms. Parker addressing and assuring the Board that she is up to the task, Professor North called the question and a vote taken. The motion passed with one member in opposition (Melancon).

b. **District 40 - Chief District Defender.** Mr. Starns reported that District Defender Richard Stricks has resigned and the acting interim is District Defender Fen Swann (District 29 (St. Charles Parish). The District 40 (St. John the Baptist Parish) Selection Committee is formed and the process has begun and he hopes to have a recommendation at the next meeting.

c. **Districts 23 – 40 Regionalization Consideration.** Mr. Starns reported that staff compiled the required regionalization of District 23 and District 40 pursuant to Board resolution but that it is not his recommendation to regionalize. There was no further discussion.

d. **District 15 - Chief District Defender Status.** Mr. Starns reported that the Selection Committee has been formed and they should have their

recommendations in soon and he would have his recommendation for the September Board meeting.

- i. District 15 Regionalization Consideration.** Mr. Starns indicated he does not recommend regionalization of District 15 (Acadia, Lafayette and Vermilion Parishes). There was no further discussion.
- e. FY23 District Contracts – status.** Mr. Starns reported that the District Defender contracts have been revisited and streamlined and have either gone out or will go out soon to the districts.

Mr. Fanning indicated the board needs to consider performance reviews of the District Defenders prior to renewal of contracts rather than issuing automatic annual renewal of contracts. Included in that review should be whether they are living within their budget to give the Board some indication of issues. After some discussion, Mr. Ginart indicated that District Defender performance review would be on the next Board agenda as a discussion item. There was no further action.

7. Proposed Policy - Act 272 of the 2022 Regular Legislative Session: Indigent Parent Representation Program Policy. Deputy Public Defender Richard Pittman reported that Act 272 seeks to grant funding to give the Board authority to adopt policies to provide representation to indigent parents *prior* to the commencement of court proceedings. He indicated he drafted the policy presented in the materials which allows a public defender the discretion to provide advice and representation to any parent who presents as under investigation for abuse or neglect and at risk of having one or more child removed from the home and into foster care, without regard to whether court proceedings have been implemented. Mr. Daniels moved to adopt the policy as presented. Professor North seconded the motion which passed unopposed. Mr. Pittman clarified that those cases would not be counted for the purpose of case or client counts unless a CINC case is subsequently filed.

8. LPDB Division Reports

- a. SPD.** Mr. Starns reported that \$3.55M has been set aside for a building purchase in District 14 (Calcasieu Parish) and that deal is being heavily negotiated. He hopes to have a recommendation for Board approval at the September 29 meeting.
- b. Legislative.** This was not addressed. The report is in the materials.
- c. Juvenile.** This was not addressed. The report is in the materials.
- d. Compliance/Capital.** This was not addressed. The report is in the materials.
- e. Training.** This was not addressed. The report is in the materials.

9. Next Meetings. Mr. Ginart indicated that the Board has already set the next four Board meetings as indicated (Thursday, September 29, 2022; Thursday, December 15, 2022; Thursday, March 10, 2023; and Thursday, June 23, 2023. All meetings are scheduled to be held at the Louisiana State Licensing Board for

Contractors (LSLBC) located at 600 North Street, Baton Rouge, LA). He instructed everyone to put those dates on calendars. He indicated that there would be an Executive Session Board meeting and a Budget Committee meeting needed prior to the September 29, 2022 scheduled meeting and urged everyone to participate.

10. Adjournment. Mr. Fanning moved to adjourn. Ms. Melancon seconded the motion which passed unopposed.

Guests: See attached sign in sheet.

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the meeting of Louisiana Public Defender Board meeting held on the 28th day of June 2022 as approved by the Board on the 29th day of September, 2022.



MICHAEL C. GINART, JR., CHAIRMAN