



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Tuesday, September 15, 2015

2:00 p.m.

Baton Rouge, LA 70806

MINUTES

1. Call to Order and Remarks of the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Tuesday, September 15, 2015, at 2:15 p.m. at the LSU Law Center, Tyson Room, in Baton Rouge, Louisiana.

The following Board members were present:

Robert Burns	Franz Borghardt	Hampton Carver
Jacqueline Nash Grant	Leo Hamilton	Herbert Larson
Hector Linares	Tom Lorenzi	Herschel Richard
Steven Singer		

The following Board members were absent:

Flozell Daniels, Jr.	Frank Holthaus	Rebecca Hudsmith
Robert Lancaster	Gina Womack	

The following members of the Board's staff were present:

Jay Dixon, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Acting Budget Officer
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Richard Pittman, Dep. State Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juv. Justice Compliance Officer/Director of Legis. Affairs
Erik Stilling, ITM Director

Judge Burns read from the most recent LSBA Law Journal quoting current President Mark Cunningham's article. He complimented those present – district and public defenders, program directors, volunteer board members, and staff, for their commitment to the public good.

Judge Burns commended District Defenders from Districts 2, 3, 5, and 33 for their years of commitment to public defense. Messrs. Clay Carroll (District 2), Lewis Jones (District 3), James

Miller (District 5) and David Deshotel (District 33) have either recently resigned their positions or retired.

2. Call for Public Comment. District Defender Reginald McIntyre (District 21) announced that long-time public defender and member of the predecessor board, Duncan Kemp, passed away.

3. Adoption of the Agenda. Mr. Hamilton moved to amend the agenda, seconded by Mr. Borghardt. Mr. Hamilton moved to transfer items 5ai and 5aii to item #8C and to make item 8C an action item. Mr. Borghardt seconded the motion which passed unopposed.

4. Review of the Minutes. Mr. Lorenzi moved adoption of June 16, 2015 meeting Minutes, seconded by Mr. Hamilton and passed unopposed. Mr. Hamilton moved adoption of July 30, 2015, Emergency meeting Minutes, seconded by Mr. Lorenzi and passed unopposed.

5. FY16 Outreach and Legislative Report.

a. Board Training Report. Mr. Dixon reported that the recent Board training was held to prepare the Board for the upcoming FY16 legislative session.

b. Business Community Outreach. Mr. Dixon requested Board members with any potential outreach to any groups to let staff know. Staff has begun scheduling statewide outreach between now and start of the 2016 legislative session.

6. Budget and Fiscal Issues.

a. Financial Report. Acting Budget Officer Natasha Carter reported that LPDB's final FY16 budget is \$33,676,682. Since the start of the fiscal year, \$19,153,761 has been expended, \$11,496,952 encumbered and \$3,025,969 projected to be expended by the end of the fiscal year. There are currently no funds available for re-allocation to the districts. Mr. Hamilton moved approval of the financial report as presented. Mr. Lorenzi seconded the motion which passed unopposed.

b. FY15 Year End Distribution Report. Legislative Director Tiffany Simpson presented the document produced by staff as directed by the board which explains the year end budget distribution process.

c. FY17 Budget Request. Staff requested approval by the Board to submit a \$74,069,520 budget request for FY17, which is due by October 15, 2015. Mr. Hamilton moved approval which was seconded by Mr. Richard. Mr. Singer proposed amending the approval, removing any references to the capital expert witness fund, seconded by Mr. Larsen. Upon vote, Mr. Singer's amendment failed by seven votes to two with one abstention. Mr. Larson proposed that the budget request should reflect the actual documented amount needed to fund an indigent defense system statewide, seconded by Mr. Linares. Upon vote, Mr. Larson's amendment to submit a budget for funding a statewide indigent defense system based on documented need failed 6 votes to 3 with one abstention. Upon call for a vote, the original motion to approve a FY17 budget request of \$74,069,520 received 9 favorable votes with one abstention.

7. Contracts.

a. Attorney General Resolutions.

i. J. Antonio Florence. Mr. Hamilton moved to adopt the resolution hiring Mr. Florence to provide legal services in *State v. Tarika Wilson*. Mr. Lorenzi seconded the motion. After a brief discussion, Mr. Singer moved to defer approval of the contracts with Antonio Florence and Kevin Christensen until later in the meeting. Mr. Richard seconded the motion which passed unopposed.

ii. Kevin Christensen. This matter was deferred to later in the agenda.

b. Case Weighting Study. Capital Case Coordinator Jean Faria requested that the Board approve \$76,000 for a case weighting study to be managed by consultants Steve Hanlon, Norm Lefstein and Peter Sterling. The funds would cover accounting, analysis, consultant, and travel fees. Ms. Faria reported that a request for funding this study in the amount of \$110,000 has been submitted to the Arnold Foundation. She further reported that if the request is granted, the Board approved funding would not be needed. Mr. Singer moved to approve funds in the amount of \$76,000 for the case weighting study. Mr. Linares seconded the motion which passed unopposed.

8. Policy Committee Reports and Recommendations

a. Proposed Resolution – Vacant Positions. Mr. Hamilton reported that the Policy Committee is recommending adoption of a resolution in recognition of LPDB’s failure to receive sufficient funding rendering it incapable of filling the needs of its constituency and meeting its statutory mandates. Mr. Singer seconded the recommendation which passed unopposed.

b. Capital Case Trial Reports – Public Record. Mr. Hamilton moved that staff respond to Judge O’Callaghan’s request by providing him with one recent month’s Capital Case Trial Reports, redacting any references deemed to be attorney-client privilege. Mr. Richard seconded the motion which passed unopposed.

c. Mr. Hamilton reported that based on the Board’s recent training, the policy committee is recommending that the Board form a Communications Working Group to address ethical issues that will arise from Restriction of Services. Mr. Richard seconded the motion which passed unopposed. Ms. Faria reported that Rebecca Hudsmith has agreed to participate on the working group. Mr. Hamilton, Kerry Cuccia and Harry Fontenot volunteered to serve on the working group.

9. Executive Session. Mr. Borghardt moved to go into executive session. Mr. Singer seconded the motion which passed unopposed.

Mr. Borghardt moved to leave executive session. Mr. Hamilton seconded the motion which passed unopposed.

Upon returning to regular session, Mr. Singer moved to approve the contract resolution hiring Antonio Florence as counsel in the *State v. Wilson* matter. Mr. Hamilton seconded the motion which passed unopposed. Mr. Hamilton moved to approve the contract resolution hiring Kevin Christensen as counsel in the *State v. Barthelemy* matter. Mr. Lorenzi seconded the motion which passed unopposed.

10. District Defender Selection Status and Recommendations.

a. District 3 – Appointment and Salary Recommendation. Mr. Hamilton moved to appoint the District Defender position provided the recommended candidate, Rick Candler, agrees to serve in a full time capacity. Further, Mr. Hamilton added that should the candidate decline the position under those terms, State Public Defender Jay Dixon is authorized to offer the appointment/salary to the alternate candidate, Forrest Moegle. Mr. Borghardt seconded the motion. Mr. Linares offered an amendment to the motion, that the salary for the full-time district defender position in District 3 shall not exceed \$90,000, accepted as a friendly amendment. The motion, as amended, passed unopposed.

b. District 5 – Ratification of Interim Appointment and Salary. Mr. Dixon reported that pending the selection committee’s candidate submittals that he has appointed District Defender Mike Courteau (District 4) as interim, and that Mr. Courteau has assigned the interim duties to his first assistant, Robert Noel at a monthly salary of \$3,000. Mr. Dixon requested ratification of these actions. Mr. Lorenzi moved to ratify Mr. Dixon’s interim

appointment and corresponding salary. Mr. Singer seconded the motion which passed unopposed.

c. District 33 – Appointment and Salary Recommendation. Mr. Lorenzi moved that the District Defender position in District 33 be offered to Greg Guidry at an annual salary of \$90,000, provided only if he agrees to full time employment. Mr. Hamilton seconded the motion which passed unopposed.

d. Request for Authority to Appointment Interim. Mr. Lorenzi moved that State Public Defender be authorized to make interim district defender appointments between Board meeting settings, as deemed necessary. Mr. Hamilton seconded the motion which passed unopposed.

11. Restriction of Services – Update. Dr. Simpson provided a brief, but complete report on the districts which are currently in, projected to be, or in disagreement that they will go into Restriction of Services. Staff is carefully and meticulously monitoring all ROS plans for strict adherence to the Rules of Professional Conduct and the maintenance of ethical case load limits.

12. Juvenile Strategic Planning Update. Deputy Public Defender – Director of Juvenile Defender Service Richard Pittman reported that all six of the planned regional juvenile meetings have been had and that the juvenile working group would be drafting action steps and strategic plans for presentation to the Board.

13. SPD Report. Mr. Dixon reported that staffs’ activities since the June Board meeting are outlined in the SPD report located in the Board materials.

14. Other Business. Ms. Faria reported that a contract attorney failed to submit an invoice for expert services by a sub-contractor in a timely manner and requested permission by the Board to pay the invoice of approximately \$3,000. The Board declined to approve the payment citing adherence to protocols.

15. Next Meeting(s). The next meeting date is Tuesday, December 1, 2015 at 2:00 p.m. The location is to be determined and announced upon confirmation.

16. Adjournment. Mr. Richard moved to adjourn, seconded by Mr. Borghardt and passed unopposed.


Guests:

Reggie McIntyre
Jim Looney
Kerry Cuccia
Ric Oustalet, Jr.
Vic Bradley

Richie Tompson
Steve Thomas
Cecelia Bonin
Alan Robert
John Lindner

Mike Courteau
John Burkhart
Harry Fontenot
Kendall Green
Paul Fleming

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 15th day of September, 2015, as approved by the Board on the 1st day of December, 2015, at Baton Rouge, Louisiana.



Judge Robert J. Burns (Ret.), Chairman