



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, March 10, 2022 - 1:30 p.m.
Zoom Video Conference

MINUTES

A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by Professor Donald North on behalf of Chairman Michael C. Ginart, Jr. on Thursday, March 10, 2022, at 1:30 p.m. Professor North indicated Chairman Ginart would be in attendance as soon as possible.

The following Board members were present¹:

Zita Andrus
W. Ross Foote
Holly Howat
Allyson Prejean

Flozell Daniels
Michael Ginart
Lyn Lawrence

Pat Fanning
Frank Holthaus
Donald North

The following Board member was absent:

Cindy Woodard

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

Rémy Voisin Starns, State Public Defender
Natashia Carter, Budget Administrator
Anne Gwin, Executive Assistant
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

2. Adoption of the Agenda. Mr. Frank Holthaus moved to adopt the agenda. Mr. Pat Fanning seconded the motion which passed unopposed.

3. Public Comment. Professor North indicated that public comment would be taken up with each item.

¹ Board Members Allyson Prejean, Holly Howat and Zita Andrus were late arrivals. Quorum for voting purposes was not affected.

4. **Adoption of the December 16, 2021 Minutes.** Mr. Holthaus moved to adopt the Minutes from the December 16, 2021 meeting as presented. Mr. Flozell Daniels seconded the motion which passed unopposed.

5. **Budget and Financial**

a. **Financial Report.** Budget Administrator Natasha Carter reported \$34,222,438 expended or encumbered to date; \$5,899,792 encumbered through the fiscal year; \$4,982,959 projected to be expended through June 30, 2022, and \$-0- available for reallocation. Mr. Fanning moved to adopt the financial report as presented. Mr. Daniels seconded the motion which passed unopposed.

b. **“O” Level Funding Recommendations.** State Public Defender Rémy Starns reported \$3,607,000 remaining for distribution from the O-Level funds; that he, staff, and district defenders have met to discuss applications; and, after review of the applications, he is recommending a portion of the funds (\$485,200) be disbursed. In addition, Mr. Starns reported he is also recommending a \$1.5M pro-rata disbursement of DAF monies to all districts based on the same initial FY22 DAF percentage disbursement in July 2021. He asked the Board for the authority to disburse the \$485,200 of O-Level funds outlined on page 15 of the materials and recommended \$1.5M DAF disbursement. Mr. Daniels asked for more information on the districts’ financial status before voting.

Dr. Stilling gave a brief summary of the districts’ solvency projections based on available data through January 2022. He reported one district showing insolvency at fiscal year-end (District 11 (Sabine Parish)) for approximately \$7500, but he reported if the Board approved disbursement of funds today, District 11 would receive \$14,082 which would offset that district’s year-end insolvency projection.

Discussion continued and included board members’ concerns regarding the O-Level fund application process and how recommendations are decided. Board member Holly Howat suggested that Board members be invited to participate in the process. SPD Starns reiterated his request for Board authority to disburse a total of \$1,985,200 leaving approximately \$1,622,000 for distribution in June 2022. The discussion concluded and Mr. Daniels moved that the Board pass the recommendations. He commented that the O-Level decision process should be provided in writing so that the Board is better able to determine on what the recommendations are based. Judge Foote seconded the motion. Ms. Howat asked for clarification on the motion that the Board is being asked to vote. Mr. Daniels clarified his motion is to vote on the funding recommendations, as presented. Upon vote, the motion to adopt the funding recommendation passed unopposed.

i. **Solvency Projections.** The solvency projections were included in Item 5b.

c. **Auditor 2 Position, Status and Ratification.** Mr. Starns reported that the Division of Administration and Louisiana State Civil Service have approved a full-time Auditor 2 position for the office which would assist in monitoring mandatory reporting compliance required of the districts. He indicated funding for the position is included in the budget and four applicants are being interviewed next week. He asked the Board for ratification of the position. He indicated the position would cost the agency approximately \$50,000. Mr. Holthaus moved to ratify the Auditor 2 position. Dr. Holly Howat seconded the motion which passed unopposed.

d. 501(c)3 Contracts, FY23 Recommendations. Mr. Starns indicated his FY23 recommendation, found on page 18 of the materials, is to fund all but two contract programs at the same amounts as FY22. He is recommending a \$200,000 cut to the Capital Appeals Program (CAP) (\$1,050,000 to \$850,000) and non-renewal of the contract with the Louisiana Center for Children's Rights (LCCR) for their representation of the Orleans Parish Public Defender Office's juvenile defendants. He clarified that the recommendation is for the \$460,000 contract monies to LCCR to go directly to the Orleans Public Defender's Office (OPD) and that the District Defender should determine how best to provide its juvenile representation rather than the board contracting for those services since every other district provides its juvenile representation out of its district assistants funds. He further stated that providing the funding to OPD would move the funds to the 65% mandatory allocation to the districts providing more flexibility on the remaining 35% for other contracts or administration. Mr. Aaron Clark-Rizzio, Director of LCCR reported that contracting with the state allowed him to leverage those funds in order to receive private foundation funds of approximately \$700,000, which could potentially be lost.

Discussion continued and Judge Foote moved to approve today the recommendation to renew all of the contracts with the exception of CAP's reduction and the termination of the contract to LCCR for the provision of juvenile defense for the Orleans Public Defender Office. Mr. Lyn Lawrence seconded the motion.

It was brought to the Board's attention that this issue was not listed on the agenda for action by the Board at today meeting. Professor North moved to amend the agenda to include approval of those contracts to which the Board has no opposition. There was not a second to the motion.

Discussion continued. Judge Foote suggested that the Board approve all contracts at last year's (standstill) amounts and after analysis they could be amended rather than making changes now that may require justification later. Professor North disagreed and suggested that the contracts with no opposition be approved today, and only the two in opposition be evaluated and brought back at a later date for discussion. Mr. Starns stated rather than parse the contracts out he would rather see them all approved today, at last year's amounts, provided that in the next few month real meetings with the programs would be held, in-person and by phone, to determine, going forward, the best way to contract for the delivery of those services for the right amounts of money and that it is clear that decisions will be brought back to the Board for possible adjustments to the contracts this Summer or Fall.

Judge Foote then moved to amend the agenda to include Board action on the program contracts for FY23. Mr. Daniels seconded the motion which passed unopposed. Judge Foote then moved to renew all the program contracts at the rates currently in place for next year to be subject to amendments after analysis. Clarification was made that all contracts are approved today at existing amounts and that CAP and LCCR understand their contracts will be revisited and they may be required to meet with the Board and staff. It was also clarified that other programs may be assessed as well and that all contracts have an amendment/cancellation provision in them. Mr. Frank Holthaus seconded the motion which passed unopposed.

e. **DAF, FY23 Update.** Mr. Starns reported that he continues to work with staff and district defenders on fine-tuning the current tiered mechanism for disseminating the District Assistance Fund (DAF) and hopes to have a recommendation for the Board at the next meeting.

6. **District Issues**

a. **Building Acquisition Update.** Mr. Starns reported he would be going to the legislature for more resources to obtain permanent office space in Lake Charles which has been very difficult due lack of property and resources in that area at this time.

b. **District Defender, District 23 (Ascension, Assumption and St. James Parishes) Update.** SPD Starns reported that the Selection Committee has been formed and has started the selection process. He indicated he expects to bring a recommendation for the permanent position to the Board at the meeting scheduled for June 23, 2022.

i. **Regionalization Considerations.** Mr. Starns indicated that the regionalization considerations required for the District 23 (Ascension, Assumption and St. James Parishes) District Defender selection are in the books. He indicated he has heard from many people, including lawmakers, in opposition to these considerations. There was no further discussion.

7. **Divisional Reports.**

a. **State Public Defender.** Mr. Starns indicated the Division reports are in the materials for review and that Dr. Tiffany Simpson has an oral report on the 2022 legislative session.

b. **Legislative.** Dr. Simpson reported that the 2022 Regular Legislative Session convenes Monday, March 14, 2022, and to date 180 bills have been identified to be monitored and/or tracked by staff. She reported that she and SPD Starns are scheduled to attend Senate Finance hearings on March 15 and House Appropriations on March 20 regarding the FY23 LPDB budget request.

Mr. Daniels asked for the list of the bills being monitored and expressed his concerns about a few of them, including the proposed elimination of the LPDB Director of Training position and the companion bill that would require the Board to contract with University of Louisiana at Monroe to provide trainings. Mr. Fanning indicated he would like to see the top 10 bills rather than review the entire compilation. Dr. Simpson indicated she would make a compilation of bills likely to be of most interest to the Board. Judge Foote also expressed concern about the bills regarding the Director of Training position and removal of trainings from Board control. He also suggested that other universities with law schools may be a better fit. Mr. Starns reported that the Board does not fund a program in North Louisiana, resulting in a tension between the Board and North Louisiana legislative delegations. Mr. Daniels reiterated his concerns regarding trainings being removed from the Board, not partnering with a university with a law center and that the potential hiring of Mr. Robert (Bob) Noel, who was formerly in the Director of Training position, may be unethical. He indicated that the Board should be in opposition, keep training centralized, and work with Senator Jackson (bill author) on a partnership with a law school. Mr. Starns indicated that Mr. Noel's trainings were well received and that depending on what the final program might look like, he hopes that Mr. Noel will be involved and he disagreed that doing so would present an ethical issue. Chairman Ginart reiterated that not having a Board funded program in North Louisiana is a problem for the Board and he cautioned everyone against ethical complaints. He then asked Dr. Simpson to provide the Board with the bills requested for future discussion.

Mr. Fanning asked General Counsel Barbara Baier to provide legal guidance on a Board member's ability to endorse or oppose legislation.

Judge Foote then moved to amend the agenda to include the Boards' issuance of a letter of condolence to Ms. Baier for her recent loss. The motion was seconded and passed unanimously.

- c. Juvenile. This was not addressed. Written report available in the materials.
- d. Capital/Compliance. This was not addressed. Written report available in the materials.
- e. Training. This was not addressed. Written report available in the materials.

8. Executive Session^{2, 3}. Mr. Ginart reported that Mr. Paul Marx's attorney of record in the *Pellerin* matter is withdrawing from the case and that there is a motion for new trial set for March 28, 2022. In the District 25 (Plaquemines Parish) issue, Mr. Ginart reported that Mr. Daniels had spoken with District Defender Chanel Long and is recommending that staff follow up with her. He asked the Board if they required Executive Session to continue discussions. Judge Foote moved to go into Executive Session. Mr. Fanning seconded the motion. Upon vote there was one opposition and the motion carried with two-thirds in favor.

Ms. Allyson Prejean moved to leave Executive Session. Mr. Daniels seconded the motion which passed unopposed.

Upon return to regular session, the Board scheduled the next four meetings at 1:00 p.m. on the following dates: Thursday, September 29, 2022; Thursday, December 15, 2022; Thursday, March 9, 2023; and, Thursday, June 22, 2023.

9. Next Meeting. The next meeting of the LPDB is Thursday, June 23, 2022, at 1:30 pm Tentatively at the Louisiana State Licensing Board for Contractors located at 600 North Street in Baton Rouge.

10. Adjournment.

Guests: See attached Zoom Participation list.

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 10th day of March 2022 as approved by the Board on the 28 day of Sum, 2022.



MICHAEL C. GINART, JR., CHAIRMAN

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Jami Pellerin vs State of Louisiana, through Indigent Defender Board, 15th Judicial District Indigent Defender's Office and G. Paul Marx, Chief District Defender for the 15th Judicial District Indigent Defender's Office*, 15th Judicial District Court, Docket: c-202116471, Lafayette Parish.

³ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The board may discuss a District 25 (Plaquemines Parish) personnel issue.