



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Tuesday, January 13, 2015
LSU Law Center, 2nd Floor, Tyson Room
Baton Rouge LA 70806
2:00 p.m.

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, January 13, 2015, at 2:10 p.m. at the LSU Law Center, Tyson Room, in Baton Rouge, Louisiana.

The following Board members were present:

Robert Burns	Hampton Carver	Addison Goff
Leo Hamilton	Frank Holthaus	Robert Lancaster
Herbert Larson	Hector Linares	Tom Lorenzi
Jacqueline Nash	Herschel Richard	Stephen Singer
Gina Womack		

The following Board members were absent:

Rebecca Hudsmith, Ex Officio

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

Jay Dixon, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Acting Budget Officer
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, Program Development and Resource Management Officer

The following member of the Board's staff was absent:

Jean Faria, Capital Case Coordinator

2. **Call for Public Comment.** No one presented for public comment.
3. **Adoption of the Agenda.** Mr. Hamilton moved to adopt the agenda. Mr. Richard seconded the motion, which passed unopposed.
4. **Review of the November 13, 2014, Meeting Minutes.** Mr. Hamilton moved to accept the Minutes of the November 13, 2014 meeting as presented. Mr. Lorenzi seconded the motion which passed unopposed.
5. **Budget and Fiscal Issues**
 - a. **Financial Report.** Acting Budget Officer Natasha Carter reported \$23,692,111 expended or encumbered to date from the FY 2015 budget with a balance of \$10,214,095 remaining and approximately \$105,406 available for reallocation. Mr. Larson reported the financial report was approved by and is recommended for approval by the Budget Committee. Mr. Hamilton seconded the recommendation and the financial report was adopted, unopposed.
 - b. **FY 2016 Contracts Amount Approvals.** Mr. Dixon reported the funding amounts to the Contract Programs for FY 16 will remain the same as the previous year with the exception of an additional \$100,000 each to BRCCO, CDPSLA and LCAC for legal services be performed in those capital cases removed from CAPOLA, \$200,000 to CDPSLA for legal services to be performed in capital cases in District 22 (St. Tammany/Tangipahoa), and \$3,379 to LAP for the annual increases in Lexis-Nexis fees. Mr. Dixon clarified that the funding will come from unexpended CAPOLA monies with the any balance of those unexpended monies to be held to pay private attorneys assigned to other CAPOLA cases. The Budget Committee is recommending adoption of the 501c3 contracts and contract amounts, as presented. Mr. Hamilton seconded the recommendation which passed unopposed.

Mr. Dixon presented the Professional and Consulting Services contracts and contract amounts reporting that the Budget Committee is recommending approval of the amounts as presented. Mr. Holthaus seconded the recommendation which passed unopposed.

- i. **Professional Services Resolutions.** Pursuant to La. R.S. 42:262 requiring written Board approval of legal services contracts, staff presented two Resolutions for approval:
 - John Holdridge: contracting to provide assistance in the implementation of the 2014 recommendations of the legislative auditor. Mr. Richard moved to approve the contract and Mr. Hamilton seconded the motion which passed unopposed.
 - Stone-Pigman: to represent the Board in response to rulings filed in *State v. Kenneth Willis*, Docket Number 304-806, Section 3, 1st Judicial District Court, Parish of Caddo and *State v. Tarika Wilson*, Docket 315-973, Section 1, 1st Judicial District Court, Parish of Caddo. Mr. Hamilton moved to approve the contract and Lorenzi seconded the motion which passed unopposed.
- c. **Expert Witness Fund Increase – Resolution.** Mr. Dixon explained that the expert witness fund is in need of additional funds that will reduce the period of time between services rendered and payment to experts. Mr. Dixon reported that staff is recommending an additional \$200,000 for fiscal year 2015 and that the Budget

. Committee is recommending adoption. Mr. Richard seconded the recommendation which passed unopposed.

d. ROS Prevention Funding-Resolution. Mr. Dixon reported that Restriction of Services has already started. The proposed Resolution gives staff the authority to disburse available funds in order to alleviate or prevent service restriction in those districts which are in compliance with the agency's Restriction of Services policy and protocols. The Budget Committee is recommending approval of Resolution. Mr. Hamilton seconded the recommendation which passed unopposed.

e. ROS Prevention Funding. Mr. Dixon reported that there is approximately \$85,000 available for reallocation. The Budget Committee is recommending the dispersal of available funds up to \$85,000 to those districts compliant with ROS policy and protocols in order to prevent or alleviate service restriction. Mr. Hamilton seconded the recommendation which passed unopposed.

f. District Defender Salary Range Analysis. For the Board's information, Program Development and Resource Management Officer Dr. Erik Stilling provided a brief synopsis of the district defender salary range analysis that was requested by the Budget Committee.

g. Budget Committee Structure. Mr. Dixon reported that at previous Committee and Board meetings the discussion of increasing the Budget Committee membership to five has been had, specifically to increase membership to five in order to increase the probability of obtaining quorum. After further discussion, the Committee has agreed to decrease its membership to three, with Ms. Womack stepping down as a Committee Member leaving Mr. Larson (Chairman), Mr. Carver, and Mr. Singer as active members. Mr. Holthaus moved to adopt the membership restructure of the Budget Committee from four to three members. Ms. Womack seconded the motion which passed unopposed.

h. Budget Cuts and Table of Organization Status. Mr. Dixon reported that since the last Board meeting, the agency has lost one position to budget cuts and that the State Office of Planning and Budget (OPB) has a 17% statewide reduction goal which would result in a \$5.4 million dollars loss to LPDB, if implemented. Mr. Dixon reported OPB has indicated that they would try protect LPDB's budget given LPDB's willingness work with them. Mr. Dixon indicated that he will be meeting with OPB in the near future.

6. Policy Committee Reports and Recommendations

a. DAF Distribution. Mr. Dixon reported that in consideration of the Office of Planning and Budget's 17% statewide reduction goal, staff is asking for the authority to distribute the full DAF amount at the start of the fiscal year (July 1, 2015) as opposed to the past protocol of semi-annual disbursements. The Policy Committee is recommending that staff draft and follow a revised DAF policy allowing for the dissemination of district assistance funds (DAF) at the beginning of the fiscal year as opposed to incrementally. Ms. Womack seconded the recommendation and the motion passed unanimously.

b. 501C3 – Annual Contract Change. Staff is asking to the Board to convert to a twelve month contract term with the 501c3 programs as opposed to two, six-month contracts. Mr. Dixon reported that the Policy Committee is recommending the requested change. Mr. Holthaus seconded recommendation which passed with no objection.

c. DOC Inmate Representation – POLICY. Mr. Dixon reported that this issue was tabled by the Policy Committee until further research can be done. There was no discussion by the Board on this matter

7. **Capital Certification Appeals Panel – Volunteers.** Chairman Burns reported that the Capital Certification Appeals Panel is in need of volunteers, and he has agreed to serve. He indicated at least a three-person panel is recommended. Mr. Holthaus, Prof. Singer and Mr. Hamilton also agreed to serve. General Counsel was instructed to determine and report back to the Board whether this volunteer panel made up of Board members is subject to the Public Meeting laws. Mr. Lorenzi moved to accept the four volunteers and Mr. Goff seconded the motion which passed unopposed.

8. **District Defender Status/Interim District Defender Appointment(s).** Mr. Dixon reported that the following interim district defenders have been appointed in the follow districts and the appointments require ratification by the Board. The interim positions will remain in place until further action of the Board.

a. **District 16 – Ratification of Interim Appointment – Champagne.** Mr. Holthaus moved to ratify the appointment of Mr. Tony Champagne as interim district defender in the 16th judicial district. Prof. Larson seconded the motion and the motion passed unopposed.

b. **District 17 – Ratification of Interim Appointment – Bradley.** Mr. Holthaus moved to ratify the appointment of Mr. Vic Bradley as interim district defender in the 17th judicial district. Prof. Larson seconded the motion and the motion passed unopposed.

c. **District 33 - Ratification of Interim Appointment – Chapman.** Mr. Holthaus moved to ratify the appointment of Mr. Alex Chapman as interim district defender in the 33rd judicial district. Mr. Richard seconded the motion and the motion passed unopposed.

d. **District 3 – Resignation of District Defender – Jones.** Mr. Dixon informed the Board that Mr. Lewis Jones, district defender for District 3 (Lincoln-Union Parish) has submitted his resignation. Mr. Goff called for the recognition of Mr. Jones for the decades of public defense service. The Board commended Mr. Jones.

9. **CAPOLA - Executive Summary.** Staff was tasked with providing an Executive Summary of the CAPOLA issue which is presented. Mr. Hamilton moved to adopt the Executive Summary as presented and Mr. Holthaus seconded the motion which passed unopposed.

10. **Executive Session.** Ms. Womack moved to go into Executive Session. Mr. Hamilton seconded the motion. Ms. Womack moved to leave Executive Session, seconded by Mr. Holthaus.

11. **SCR 99.** Director of Legislative Affairs Dr. Tiffany Simpson presented the Board's response to Senate Concurrent Resolution 99 which has been submitted to the Legislature in advance of the January 15, 2015 deadline.

12. **Board Vacancies.** Mr. Dixon reported that several Board seats still have not received formal appointment from the Governor and that staff continues to monitor progress.

13. **CAP Amicus.** Mr. Dixon reported that this issue was resolved without LPDB's involvement.

14. FY 15 Outreach. Mr. Dixon reported that he and staff continue with Legislative and community outreach to spread information about the pending public defense crisis and subsequent restriction of services.

15. SPD Report. Mr. Dixon reported that staffs' activities since the last Board meeting are available for review in the SPD report provided in the Board's meeting materials.

16. Other Business. Mr. Richard Bourke (Louisiana Capital Assistance Center – LCAC) and Mr. Kerry Cuccia (Capital Defense Project of Southeast Louisiana – CPDSLA) addressed the Board regarding its recent changes to the Expert Witness Funding Protocol. Specifically, they are requesting that the change allowing mitigation experts to start work immediately upon approval of the service but to defer billing and payment until funding is available be the policy for all expert requests. After a brief discussion period, Professor Larson moved that for the next two months, or pending the next scheduled Board meeting, that State Public Defender Jay Dixon be vested with the authority to apply to other experts the same policy as if provided to mitigation experts which allows for approved experts to begin work with payment deferred until funding is available thus not incurring deficit spending, giving staff time to work directly with the contract programs directors to formulate a uniform expert witness funding policy. Professor Linares seconded the motion which passed unopposed.

Professor Linares then asked the Board to recognize Deputy Public Defender/Director of Juvenile Services Richard Pittman for his recent work with the Children's Code Committee of the Louisiana Law Institute regarding proposed amendments to Louisiana's Mandatory Reporting laws, La. Ch. Code §§ 603, 609. The proposed amendment would exempt social workers and other behavioral health specialists working as part of a legal defense team from the requirements of the mandatory reporter act when they learn of otherwise reportable incidents in the course of representation.

Mr. Holthaus requested that staff formulate a communications protocol to judges regarding restriction of services so that the information regarding service restriction comes from the state office and the district defenders to the judge thereby providing advance education and information.

17. Next Meeting – The next meeting is Tuesday, March 24, 2015, at the LSU Law Center in the Tyson Room at 2:00 p.m.

18. Adjournment. Mr. Hamilton moved to adjourn which was seconded by Mr. Lorenzi.

GUESTS:

Reggie McIntyre
Tony Tillman
John Burkhardt
Jim Looney
Kimya M. Holmes
Kerry Cuccia

Richard Tompson
Vic Bradley
Matt Robnett
Chris Aberle
David Price
Lewis Jones

Tony Champagne
Sarah Ottinger
Cecelia Bonin
G. Paul Marx
Richard Bourke
Forrest L. Moegle

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 13th day of January, 2015, as approved by the Board on the 24th day of March, 2015, at Baton Rouge, Louisiana.



Robert J. Burns, Jr., Chairman