



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, June 18, 2020

12:00 p.m.

Zoom¹

<https://us02web.zoom.us/j/81679028934>

MINUTES

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, June 18, 2020, via ZOOM video-conference (see footnote) at approximately 12:05 p.m. Mr. Holthaus acknowledged quorum.

The following Board members were present²:

Zita Andrus	Chris Bowman	Flozell Daniels
Pat Fanning	W. Ross Foote	Michael Ginart
Frank Holthaus	Lyn Lawrence	Donald North
Chaz Roberts	Moses Williams	

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

Rémy Voisin Starns, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services
Erik Stilling, Information and Technology Director
Tiffany Simpson, Legislative Director – Juv. Compliance Officer

2. Adoption of the Agenda. Mr. Mike Ginart moved to adopt the agenda which was seconded by Mr. Flozell Daniels and passed unopposed.

3. Call for Public Comment. Mr. Holthaus indicated public comment would be taken up with each item.

4. Adoption of the June 5, 2020 Minutes. Adoption of the Minutes was not addressed.

¹ This meeting is being held via a ZOOM video-conference pursuant to Executive Proclamation 75-JBE-2020, Section 2(C).

² Mr. Lawrence arrived late. Voting on action item prior to his arrival was not affected as quorum was noted with 10 members present.

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5. Budget Committee Recommendations.

a. Financial Report. Professor North reported favorable recommendation of the financial report by the Budget Committee. There was no opposition and the report as presented was adopted.

b. Solvency Projections

c. Current Needs*

i. District 22 - \$51,825

ii. District 34 - \$8,375

iii. District 35 - \$8,171

Items 5b and 5c were taken together. Dr. Erik Stilling reported recent solvency projections indicate the following districts in need: District 22 (St. Tammany and Washington Parishes) - \$51,825; District 34 (St. Bernard Parish)-\$8,375 and District 35 (Grant Parish) - \$8,171. He reported District 41 (Orleans Parish) showing a need for \$182,804 but with recent allocations by the Board the district should make it through the fiscal year. Professor North reported that the Budget Committee is recommending disbursement of \$51,825 to District 22 (St. Tammany and Washington Parishes), \$8,375 to District 34 (St. Bernard Parish) and \$8,171 to District 35 (Grant Parish). There was no opposition and the recommendation as presented was adopted.

d. FY20 Year End Scrub. Deputy Public Defender Richard Pittman gave a brief explanation of the three scenarios for the distribution of remaining FY20 DAF monies. He reported that Plan B, would provide for an initial disbursement of 85% of a district's July expenses assuming no conviction or user fees (CUFs) *and* return to normal spending in June. Then, the balance of the DAF monies would be distributed to all districts following the initial DAF distribution methodology in July of 2019.

Concerns were expressed by Mr. Chris Bowman and Professor North that some districts get little or zero funding under this plan. Mr. Daniels urged that the Board move the resources today if at all possible as districts that have made significant mitigation efforts are struggling.

Mr. Bowman suggested a different calculation where the percentage is based upon the total amount that each district received for full year rather than on their initial July 2019 DAF distribution/calculation. Professor North stated that all amounts provided to those districts that had to come back to the Board for more funding -- after the initial distribution -- should be included. Mr. Pittman clarified that the amounts being shown for distribution (where some districts get zero) are based on initial July 2019 distribution and does not include any of the discretionary funds the Board retained and distributed later. Judge Foote inquired if staff could recalculate the distribution using the total amounts received for the whole year. Mr. Bowman agreed this is what should be done. Mr. Pittman indicated that could be done quite easily. Professor North then moved to use the whole year distribution calculation. Mr. Bowman seconded the motion. Mr. Holthaus asked for specificity in the

motion and Mr. Pittman asked the Board to decide if it would be approving the 85% or 100% distribution plan, as presented. SPD Starns reported his recommendation to be the 85% plan. Professor North accepted the recommendation and Mr. Bowman seconded it. The motion was then restated by Mr. Pittman that after the June distribution approved earlier (agenda item 5c) a second distribution is to be made that is based on the first cut distribution Plan B that assumes no June or July conviction or user fees and return to normal spending in June which amounts to \$720,630.93 to the districts as listed (pg. 274). Then, the remaining balance is to be distributed based on ratios determined by using all monies distributed to the districts throughout the year. Professor North accepted that motion and Mr. Bowman seconded it. Upon vote the motion passed unopposed.

e. FY21 DAF. SPD Starns reported that pursuant to pending legislation disbursement of the DAF may have to follow the FY20 methodology and the numbers provided reflect that methodology using FY21 proposed allocations. Professor North reported that the Budget Committee's recommendation was that staff provide the proposed FY21 DAF to the districts for feedback prior to this meeting. He then moved that the issue be deferred until more information is received from the districts and a final status of the legislation is known. Mr. Daniels seconded the motion. District Defender Paul Marx District 15 (Acadia, Lafayette and Vermilion Parishes) reported that 26 of the 42 districts have indicated "yes" to the disbursement methodology proposal as presented. Mr. Holthaus indicated the Board needs to hear from everyone. Mr. Daniels suggested that staff send out the inquiry to the districts and report back to the Board. Professor North called the question. Upon vote the motion passed unopposed and staff was instructed to contact all districts and bring the issue back to the full board at the next meeting.

f. FY21 Professional and Consulting Contracts. SPD Starns reported that the Budget Committee is recommending the approval of the professional and consulting contracts. He reported that his recommendation was to approve all of them except the one that provides assistance to the Capital Division. Professor North indicated that the Budget Committee is recommending all professional services contracts be renewed. Mr. Bowman asked for an explanation for the one non-renewal recommendation. SPD Starns reported the contract is for Mr. John Holdrige to provide assistance to the Capital Division and part of his overall recommendation to the Board is do capital services differently moving forward that does not require a contract for outside services. Professor North then asked to modify his motion (recommendation) to approve all contracts except John Holdridge. Judge Foote asked to clarify if the recommendation is to cancel or suspend until further discussion and decision on how the Board will provide capital services. Professor North indicated that is correct and his motion is to renew all the non-controversial contracts except John Holdridge which is to be considered separately. Mr. Ginart seconded the motion which passed unopposed.

Professor North stated that the Budget Committee recommended the renewal of the contract for John Holdridge pending some clarification regarding how the Board will deal with capital. Mr. Starns restated that going forward he does not believe that an outside consultant is needed and his recommendation is zero but the Budget Committee had a different view because a decision has not been decided on capital services. Professor North then moved to approve the contract with John Holdridge tentatively subject to the Board making a decision regarding what it will do in relationship to capital. Clarification was made that the contract contains a 30-day cancellation clause. Mr. Bowman reminded the Board that it employs a full time, on-staff Capital Case Coordinator and Mr. Holdridge is contracted to assist that position. Judge Foote stated that the real issue is whether or not the Board is getting any value or needs this particular work. He indicated his support to renew the contract as long as the ability to terminate is there; however, he does not want the Board to make fiscal decisions based on policies that are not yet in place. Mr. Fanning agreed with Mr. Bowman that with the 501c3 programs, directors and a Capital Case Coordinator there is plenty of supervision and resources dedicated to capital and the Board does not need to spend the extra money and would have to come back later to terminate the contract.

Mr. Daniels seconded Professor North's motion to approve the contract tentatively and asked to hear from Capital Case Coordinator Jean Faria.

Ms. Faria reported that Mr. Holdridge is a nationally recognized expert who provides training work based on his relationships with other national experts in capital defense and as a result LPDB has one of the best trainings in the country every year. In addition, he assists in going through all of the assessments and participates in the capital certification process. For very small amount of money it is extremely helpful to have that level of national expertise working on LPDB's capital work.

Mr. Mike Ginart stated that having reviewed capital for several year he is convinced that the same quality of representation is available for less money than is being spent. He suggested that the 501c3's could pay for Mr. Holdridge's services. Mr. Chaz Roberts indicated his support for new leadership and the SPD's analysis and thoughts presented on the issue and would support the cut.

Mr. Daniels expressed concern cancelling this contract could result in a lesser degree of performance and some quality of defense will suffer. Mr. Williams indicated the change should not be made and until the Board makes decisions on how capital defense is provided it should stay with what is in place. Professor North called the question.

Judge Foote asked for clarification on the motion. Professor North restated his motion is to approve the John Holdridge contract tentatively to be evaluated every 30 days. Judge Foote offered an amendment that the

contract be renewed with the provision to cancel it with a 30-day notice. Professor North accepted the amendment. Mr. Daniels seconded the motion. Upon tie vote, the motion failed. Mr. Holthaus indicated the issue would be brought to the Board at the next meeting.

6. Executive Positions. Chairman Holthaus reported because this meeting contained so many issues that he would move the interviews to the meeting set on Friday, Jun 26, 2020. He reported he would announce who SPD Starns is recommending be interviewed but asked that all members are to review all resumes. Mr. Holthaus reported the interviews would be held in Executive Session.

Mr. Bowman expressed concern that at the last meeting it was the consent of all Board members that the decision would be made at this meeting. He indicated the Board should move forward.

Mr. Williams stated that the members do not have the information today to make a decision today and want to participate in the interview process.

Mr. Daniels expressed his frustration that the process has taken so long. He indicated that the SPD hires with the advice and consent of the Board and that he is not sure that the Board needs to be involved but if so it needs to be efficient, the SPD should provide his choices, and the Board should let him do his job move forward.

Mr. Ginart agreed with Mr. Daniels but reminded everyone that the SPD was to recommend three top candidates so that the Board would not have to interview everyone. Then, if there is someone not in that top three that a board member wants to interview, they are to provide that information.

Mr. Bowman clarified that after last meeting everyone was provided all applications in a drop box and it was his understanding that SPD Starns was instructed to make a recommendation of three candidates for the Board to select from. Chairman Holthaus indicated Mr. Starns provided that list this morning and he will announce the names. Discussion was held regarding the need for Executive Session to make this announcement. Mr. Williams moved to go into Executive Session. Mr. Fanning moved that Chairman Holthaus announce who the SPD is recommending. Mr. Bowman seconded Mr. Fanning's motion. Mr. Williams reiterated his earlier motion to go into Executive Session. Professor North seconded Mr. Williams' motion. Judge Foote offered a substitute motion that the Board consider this issue in the already scheduled Executive Session rather than at this time. Mr. Bowman indicated he had no problem with that as long as the issue stayed on the agenda. Mr. Williams agreed to the substitute motion and the issue was deferred to after the scheduled Executive Session.

7. Salary Increases. SPD Starns reported that these two salary increases were approved by the Budget Committee before the pandemic. Mr. Daniels moved to accept the recommendation of the Budget Committee. Mr. Pat Fanning seconded the motion.

a. District 20 (East/West Feliciana Parishes). The Budget Committee recommended a salary increase to \$100,380 for District Defender Rhonda Covington from her present salary of \$90,000. SPD Starns reported that the district has sufficient funds to cover the increase. The Committee also recommended the increase be retroactive to March 1, 2020.

b. District 34 (St. Bernard Parish). The Budget Committee recommended a salary increase to \$100,380 for District Defender Tom Gernhauser from his present salary of \$94,000. SPD Starns clarified that the recommendation is that the increase is effective only at such time as the district has sufficient funds to cover it.

Clarification was made that the earlier motion was to accept the Committee's recommendation to accept both increases. Upon vote the motion passed unopposed.

8. Miller – Montgomery. Judge Foote reported he believes that Act 99 of the 2020 Regular Session gets rid of Miller-Montgomery obligations but that the District Attorneys have indicated they will seek to undo what just passed. He indicated the need now to shift focus on how to most efficiently maximize on this opportunity. Mr. Richard Pittman reported that the language in the Act is unambiguous -- these cases get parole eligibility after 25 years.

Mr. Bowman reported the Board approved a contract at the last meeting for \$1.3M and at the minimum the Board should cancel that contract or suspend it. He expressed concern that spending that money for work that is not there is an unconstitutional donation of public funds.

Mr. Ginart suggested that the uncertainty whether the new law affects everybody and the split within the districts as to what they want to do provides that this contract needs to be re-worked; however continuing to send one-twelfth of the contract amount to LCCR is not the right way to go. He reported LPDB has been paying a lot of money for this representation and something has to be done to meet everybody halfway.

Chairman Holthaus suggested the Board send a notice of intent to terminate the contract now, whether it is cancelled in 30 days or not, if notice is sent, the Board then has the flexibility to come up with a remedy. Mr. Robert agreed that the current contract as it is written needs to be re-worked and stated that he is in support of terminating the contract as it stands today. Clarification was made that he would support the sending of the notice of termination today.

Discussion continued on the renewal of the FY21 contract to LCCR. Clarification was made that the contract has been signed, is in the state's approval process and that there is a clause in the contract allowing for cancellation in less than 30 days.

Mr. Daniels and Professor North expressed opposition to cancellation at this time, pending re-design discussions.

Mr. Williams reminded everyone that this issue for discussion is whether or not to reserve the \$1.3M as Miller-Montgomery money. Further, until it is known what the law really means, there is time to revisit the issue.

Judge Foote said that instead of being divisive, the approach should be more coordinated to maximize the benefits that the law provides. He reported that he has been working on a plan for the next meeting .

Mr. Fanning indicated that the law now provides for parole eligibility and it would be improper to keep spending money to represent people to try to get them parole eligibility when they already have parole eligibility. Further, because of the dramatic change in the laws, notification should be made to the Division of Administration that this statute has passed and that there is a change in circumstance regarding the FY21 contract in line for approval.

Public comment was heard from District Defender G. Paul Marx District 15 (Acadia, Lafayette and Vermilion Parishes), District Defender Chanel Long, District 25 (Plaquemines Parish), District Defender Michelle AndrePont District 1 (Caddo Parish), LCCR executive director Aaron Clark Rizzio, Ms. Carol Kolinchak and Ms. Cecelia Kappel.

Mr. Chris Bowman indicated that the Board pass a Resolution authorizing SPD Starns Rémy to notify the Division of Administration that the contract for the Miller-Montgomery cases has changed by virtue of the passage of Act 99. Mr. Holthaus indicated this issue is not on the agenda and either motion to amend the agenda –and, if amended -- then that motion can go forward. Or, the issue can be included as an action item at next week’s meeting.

Mr. Lawrence moved to amend the agenda. Mr. Bowman seconded the motion. General Counsel Barbara Baier reported a unanimous vote is needed to amend the agenda. Mr. Williams reported he would vote against it. No vote was taken. Mr. Holthaus reported this issue would go to the Policy Committee and to the Board next week.

Mr. Bowman then moved that the Miller-Montgomery money be placed in reserve pending further decision of the Board. Mr. Lawrence seconded the motion. Ms. Baier reported that the Miller-Montgomery item on the agenda is not an action item, therefore would also require an amended agenda for motion and vote. No vote was taken and Mr. Holthaus indicated it would go on next week’s agenda.

9. Executive Session. Mr. Holthaus moved to go into Executive Session. Mr. Ginart seconded the motion which passed unopposed. Mr. Bowman moved to leave Executive Session. Professor North seconded the motion which passed unopposed.

Upon return to regular session, Judge Foote moved that the Board authorize the hiring of Stone-Pigman to both review propriety of filing a writ in the first degree murder with the LCAC on the contempt and proceed with filing it if they and SPD Starns deem appropriate.

Mr. Bowman asked for clarification on the filing of the writ. Judge Foote clarified that the writ is on behalf of the Board and the impact on it. To authorize Stone Pigman to review the Board's position and to file a writ under the guidance of Mr. Starns.

Professor North asked Mr. Williams from a trial attorney standpoint if he believes it is the Board's obligation to pay for an attorney to do this. Mr. Williams indicates that he questions the appropriateness to enter this case on a writ at this time. His suggestion is to allow Mr. Bourke to take his writs toward a resolution first and once there is a decision, then the Board can make a determination as to the effect on the Board. At that point, the Board can proceed.

The was no second to the motion which failed.

Chairman Holthaus then reported that Executive Positions is to be an action item on the agenda for the June 26, 2020 meeting. He indicated if needed the Board will go into Executive Session for full flexibility.

Mr. Bowman moved that this issue go on the next agenda to be hired under whatever procedure is decided and that it not be removed from the agenda and the issue be finalized at the next meeting. Mr. Ginart seconded the motion which passed unopposed.

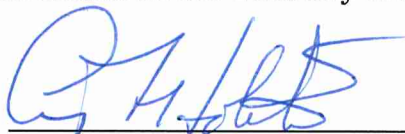
10. Announcements. There were no announcements.

11. Next Meeting. Friday, June 26, 2020 at 12:00 p.m. If business is not finalized another meeting will be held on Tuesday, June 30, 2020. Mr. Holthaus urged Board members to read all resumes and if any names are to be added to the list for interviews to let Mr. Starns or him know so arrangements can be made.

12. Adjournment. Mr. Roberts moved to adjourn. Professor North seconded which passed unopposed.

GUESTS (see Zoom guest list, attached)

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender meeting held on the 18th day of June 2020, as approved by the Board on the 26th day of June, 2020³.



C. Frank Holthaus, Chairman

³ The meeting at which these minutes were approved was held by Zoom video-conference pursuant to Executive Proclamation 84JBE 2020 Section 2(C).
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Lauren James
Mike Courteau
Joshua Newville
Paul C Fleming Jr
Chanel Long
Jee Park
Lindsay Blouin
Anthony Champagne
Richie Tompson
Michelle M. AndrePont
Bettye
Robert Noel
Chuck Reid
Alina Tulloch
deirdrefuller
Herman Castete
Derwyn Bunton
Andrea Stentz
J.Albert Ellis
G Paul Marx
Trisha Ward
Emily Zolynsky
Donny's iPad
Reginald McIntyre
S. Renee Bourg
Harry Fontenot
Alan Robert
Kristin Wenstrom
John Lindner
Renee Bourg
Kristen Rome
Angela Claxton
MMitchell
emily ratner
david marcantel
Brian McRae
Richard Stricks
Jacqueline DeRobertis
CKolinchak
13183310439
Michael Miller
12036759143
Samantha Lopez
Annie Flanagan
Kyla Romanach
K Walker

Cecelia Kappel
Aaron
LJames
kerry cuccia
Hannah Van De Car
nicholas trenticosta
fwiggins
Matilde Carbia
Maggie LeBlanc
Rachel Gassert
Jill P (Aaron Clark-Rizzio)
Gary Clements
Elizabeth
Fen Swann
Christopher Aberle
lisa leblanc
owner's iPhone
Tony Tillman
Thomas Gernhauser
Darrilyn Favorite
rlcan
Renée Slajda
slee
Dannielle Berger
M. Naquin
Meg
SRobinson
Chris Dommermuth
12032317285
Michael Mitchell
Steven Thomas
Katie Lerer
Michael A. Mitchell
Dan Schilling
TSimpson
Trisha Ward
Richard Bourke
Daniel Engelberg

Board

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D North
Zita Andrus
Frank Holthaus
Chris Bowman
W Ross Foote
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NCarter
Mike Ginart
Pat Fanning
Moses Williams
Flozell Daniels

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BBaier
RVStarns
JFaria
Tiffany
Erik Stilling
Ncarter