



## LOUISIANA PUBLIC DEFENDER BOARD

Friday, May 8, 2020  
12:00 p.m.  
Zoom<sup>1</sup>

### Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Friday, May 8, 2020, via ZOOM video-conference (see footnote) at approximately 12:03 p.m. Mr. Holthaus acknowledged quorum.

The following Board members were present<sup>2</sup>:

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

The following Board members were absent:

Lyn Lawrence	Chaz Roberts
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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. Professor North moved to adopt the agenda which was seconded by Judge Ross Foote and passed unopposed.

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

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<sup>1</sup> This meeting is being held via a ZOOM video-conference pursuant to Executive Proclamation JBE 2020-30 – Additional Measures for COVID-19 Public Health Emergency Section 4.

<sup>2</sup> Mr. Daniels arrived at approximately 12:12 pm and Ms. Andrus arrived at approximately 12:28 pm. Voting on action item prior to their arrival was not affected as quorum was noted with 7 members present.

4. Adoption of the Minutes. Professor Donald North moved to adopt the Minutes of the April 30, 2020 meeting as presented. Judge Foote seconded the motion which passed unopposed.
5. Chairman's Working Group. Chairman Holthaus reported he would send out next Monday a list of items that the working group will be gathering for the full Board's consideration. He reported four members on the group at this time and that he has not gotten responses from everyone. He also reminded everyone that the ability to meet via video-conference may be ending soon and any meetings may have to then be held in person. Clarification was made that all Board members are welcomed to provide input whether on the working group or not.
6. Resolution – Declaration of Emergency Pursuant to La. R.S.15:166. SPD Starns reminded the Board that they gave him the authority at the last Board meeting to reach out to the Chief Justice for an emergency declaration and that the required Resolution supporting that action has been drafted. He is asking for its adoption and will then write to the Chief Justice. Professor North moved to adopt the Resolution – Certification of Emergency Shortfall Pursuant to La. R.S. 15:166. Judge Foote seconded the motion which passed unopposed.
7. Executive Positions: TLCO and DoT. SPD Starns reported that two statutory position still remain unfilled and he expressed concern that those positions and/or the funding for them could be lost for failure to fill them. He asked the Board to put this item on an agenda this fiscal year to ensure that funding and the positions remain intact. Chairman Holthaus indicated he would talk with SPD Starns regarding an effective timetable and would let the Board know. Judge Foote indicated that unless it is done by Zoom, it may be difficult to do this in person in the near future. Professor North asked how the district defenders feel about the emergency need to fill the position. Chairman Holthaus asked SPD Starns to poll the district defenders. SPD Starns indicated he would and would provide any feed-back from the districts to the Board. He clarified that both positions are statutory, original to the Public Defender Act, and it has been presented a hardship with the positions not filled for an extended period of time. Mr. Daniels agreed these positions should be filled even in this financial environment; however, one of the positions is an oversight position and he is unsure of the roll of district defenders advising on them. Chairman Holthaus indicated the Board should act soon and discussion would be held at the next meeting to come up with an approach and the Board can decide what the Board wants. No further action was taken.
8. ZOOM Video-Conferencing. Chairman Holthaus reported that the LPDB's current Zoom account limits the number of people who can log in to the video-conference meetings (100) and he asked staff to research the cost and benefits of moving to the next level service. Mr. Pittman reported the next level up would result in \$200 per month additional costs to LPDB for a capacity of 300. Mr. Chris Bowman stated that the savings in mileage reimbursement for even one Board member covers that cost. Mr. Pittman suggested a simultaneous YouTube transmission which would allow late comers who cannot log in to the Zoom meeting to at least view the meeting. They would not be able to participate. Mr. Bowman asked General Counsel Barbara Baier if the Board is at a risk of a challenge by the

public by not allowing people access. Ms. Baier indicated that the Governor's Order allowing video-conferencing states that entities are to do the best that they can to have open meetings and that the Board can adopt procedures and rules pursuant to the Order. She also indicated that there is a cost/benefit analysis – the Board should weigh the benefit of the additional cost under the circumstances. Judge Foote suggested waiting and addressing the issue in the future. No action was taken.

9. Update on April 30, 2020 Board Requests. Dr. Simpson gave a brief update on board requests from the last meeting: **1)** staff submitted a response to the Senate Finance request from Chairman Bodi White; **2)** staff has surveyed the districts to find out what information they want to include in the LCLE grant – responses are due on Tuesday; **3)** staff surveyed the districts to find out how many of the furloughed attorneys or staff have received either PPP benefits or unemployment; **4)** staff contacted the contract programs that have received the PPP to find out what portion of the PPP is expected to be forgivable. To date, four of the programs have received funding: CPCPL – \$156,300; CDPSELA - \$115,000; LCCR - \$72,750 for juvenile representation and \$149,000 for JLWOP; and, CAP – \$189,000. LAP was approved however since the PPP guidance came out, it has been determined that the program is not eligible because LAP only has contract attorneys and not employees -- technically not a payroll. Since the loan is probably not forgiven, LAP likely will return the money as it is of no benefit to them if it is not forgivable. Mr. Starns clarified that until it is known for sure if the monies are forgivable, the amounts will not be included in any projections. Chairman Holthaus indicated that no entity funded by LPDB ought to be borrowing money – if the funds are not forgivable, the programs should meet the non-penalty return deadline (Thursday, May 14); **5)** LPDB contract monitors have confirmed fund balances with the contract programs and Mr. Starns reported he is satisfied that the reported amounts are accurate; and, **6)** Per Mr. Ginart's request at the last meeting, staff ran a calculation comparing the number of cases as provided by the Supreme Court and the number of charges that public defenders handled in 2019 to support the claim that 85% of criminal cases are represented by a public defenders. The actual percentage is 87.9%.

10. SPD Report. Mr. Starns reported that he has returned 20% staff to the office pursuant to the Division of Administration's guidance and in the coming weeks he would be increasing that percentage in an effort to ease staff back to work; that the Legislature is back in session; and that there are some bills in the legislature that remove mandatory collection of fees in Orleans Parish which could have an impact on LPDB. Professor North asked if this is an avenue to have LPDB make a proposal to change the way the public defender system is funded in this state. Mr. Starns indicated that case could be made and that his top focus is finding that recurring, reliable, sufficient source of revenue that is not a conviction or user fee.

Mr. Daniels suggested that the Board strongly consider a resolution that supports a 21<sup>st</sup> century funding model that is not based on user fines and fees. Professor North urged that LPDB find a legislator to promote the idea. Mr. Starns indicated that first the Board has to decide on exactly what the funding mechanism would be. Dr. Simpson reminded everyone that the Board's options are limited at this point. She indicated a dollar amount or additional revenues can be requested at this time but

that it is too late to file a new piece of legislation in the 2020 regular session. She indicated that she has been working with House Appropriations Committee to hopefully have a number for when they pass HB105. Mr. Daniels urged not to lose the opportunity to ask for the right number. He reported that the money that the state has gotten for state municipal recovery for COVID19-only response may be loosened up and it is to our benefit to have a request in in the event rules change – get in line now for those resources even though they are not available right now. Dr. Simpson stressed that we also have to be mindful of the financial climate of the entire state.

Mr. Pat Fanning suggested, pursuant to the 5<sup>th</sup> Circuit’s ruling that the court cannot have an interest in receiving the money for fines that it imposes, that the money could go directly into the state treasury. Then, the state could fund LPDB by that same amount but by direct appropriation.

Chairman Holthaus stated if it is too late to submit legislation for this general session that the Board has to have a plan soon in the event of a special session. Professor North asked that Mr. Starns be directed to find a legislator who will propose legislation consistent with Mr. Fanning’s suggestion for a direct appropriation to the Public Defender Board. Chairman Holthaus asked Mr. Starns to come up with a plan of action for the Board to act in a special session on these fiscal needs.

Mr. Daniels stated that consistently user fees do not work universally and as a matter of policy, they are bad for our clients and create debtors’ prison situations. He urged a turn toward a consistent source of funding and to remind the legislature and the Governor’s Office that we are a constitutional mandate and should be in the budget accordingly.

11. Executive Session<sup>3</sup>. Professor North moved to go into Executive Session. Judge Foote seconded the motion which passed unopposed. Mr. Pittman, Zoom meeting administrator, removed/excluded all meeting participants except Board members, General Counsel Barbara Baier and himself from the session. Candidates for the District 29 position were interviewed individually by the Board. Mr. Bowman moved to leave executive session which was seconded by Mr. Daniels and passed unopposed. The regulate meeting resumed at approximately 2:30 p.m.

12. District Defender – District 29 (St. Charles Parish). Upon return to regular session, Mr. Bowman moved to hire Mr. Fenwick Swann as District Defender in District 29 (St. Charles Parish). Mr. Pat Fanning seconded the motion. Upon vote the motion carried with five in favor and four against (Andrus, Daniels, North, Williams).

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<sup>3</sup> 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 interview the final three candidates (Atoundra Lawson, Fenwick Swann and Wendy Williams) for the position of district defender in District 29 – St. Charles Parish.

13. Next Meeting. Chairman Holthaus set the next meeting for next Friday (May 15,2020) at Noon.

14. Adjournment. Mr. Bowman moved to adjourn, seconded by Mr. Daniels and passed unopposed.

GUESTS: See attached Zoom participants record.

**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 8th day of April 2020, as approved by the Board on the 29<sup>th</sup> day of May, 2020<sup>4</sup>.

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C. Frank Holthaus, Chairman

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<sup>4</sup> The meeting at which these minutes were approved was held by Zoom video-conference pursuant to Executive Proclamation 59JBE 2020 Section 2(C).

LPDB Board Meeting - May 8, 2020

Name

Jacqueline DeRobertis  
Jee Park  
Herman Castete  
Emily Zolynsky  
Paul C Fleming Jr  
GHampson  
Mike Courteau  
Gary Clements  
Michelle AndrePont  
Louis Champagne  
Anthony Champagne  
Dewryn Bunton  
Richie Tompson  
Emily Ratner  
Steven Thomas  
G Paul Marx  
crwhitehead3  
Robert Noel  
Jeremy McDaniel  
Renee Bourg  
Angela L. Claxton  
Aliseia Williams  
Harry Fontenot  
Dan Schilling  
Bettye  
J.Albert Ellis  
Trisha Ward  
Michael Miller  
Darrilyn Favorite  
Reginald H McIntyre  
Deirdre Fuller  
Dpoffice  
Alan Robert  
Wendy J  
David Marcantel  
Mikes Iphone  
Lauren James

Name

Don Kneipp  
Deacon  
Carol Kolinchak  
Caitlin Graham  
Richard Bourke  
Derrick Carson  
Lindsay Blouin  
Fenwick Swann  
Conor Gaffney  
15046503001  
Ben  
Richard Stricks  
Maggie LeBlanc  
Kerry Cuccia  
Hannah Van De Car  
Kyla Romanach  
Brett Brunson  
13186230390  
Elizabeth  
Michael Mitchell  
John Lindner  
Aaron Clark-Rizzio  
Matilde Carbia  
JDRAJD18  
Atoundra Lawson  
15046697446  
Brian McRae  
Kristen Rome  
Christopher Aberle  
Crystal  
Kristin Wenstrom  
Kenn Barnes Jr.  
Rick Candler  
Chanel Long  
Thomas Gernhauser  
Dannielle Berger  
Dwight

Name

Natalie Lawton  
Bruce Unangst# II  
Mark Plaisance  
Molly Fowler  
Sade Lee  
M. Naquin  
Steve  
Arthur Rowe  
Gary Clements  
Hannah Van De Car  
Cecelia Kappel  
Stephanie Mouhot  
Kristen Rome

**BOARD**

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

**STAFF**

Richard Pittman  
Anne Gwin  
Tiffany Simpson  
Jean Faria  
Natashia Carter  
Barbara Baier  
R.V. Starns  
Erik Stilling  
Chase May