



LOUISIANA PUBLIC DEFENDER BOARD

Friday, April 30, 2021

1:30 p.m.

Zoom¹

<https://us02web.zoom.us/j/82522462902?pwd=b2k0cmdUUzRpWWhKdU5zUzVEelR2QT09>

Meeting ID: 874 6088 8134

Passcode: 588972

MINUTES

1. **Call to Order.** A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Friday, April 30, 2021 via ZOOM video-conference (see footnote) at approximately 1:35 p.m.

The following Board members were present²:

Zita Andrus	Flozell Daniels	Pat Fanning
W. Ross Foote	Frank Holthaus	Donald North
Allyson Prejean	Cynthia (Cindy) Woodard	

The following Board member was absent:

Mike Ginart	Lyn Lawrence
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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
Anne Gwin, Executive Assistant
Michael Mitchell, Trial Level Compliance Officer
Robert Noel, Deputy Public Defender, Director of Training
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.** Judge Ross Foote moved to adopt the agenda as presented. Mr. Pat Fanning seconded the motion which passed unopposed.

¹ This meeting is being held via a ZOOM video-conference pursuant to La. R.S. 42:17.1 (Act 302 of the 2020 Regular Session)

² Judge Cynthia (Cindy) Woodard (Ret.) is newly appointed by Chief Justice John Weimer, replacing Mr. Willie Hunter. One seat remains vacant.

3. **Public Comment.** Chairman Holthaus indicated public comments would be taken with each item.

4. **Minutes – February 25, 2021 Meeting.** Mr. Flozell Daniels moved to adopt the Minutes of the February 25, 2021 meeting. Professor North seconded the motion which passed unopposed.

5. **Budget Information**

a. **LPDB Proposed FY22 Budget Appropriation.** Budget Office Natasha Carter reported a budget of \$43.2M (\$43,164,607) has been proposed for FY22. She reported this amount is a reduction from the FY21 total allocation of approximately \$8.8M which represents a five million cut in State General Fund to the districts, three million in State General Fund for renovations or purchases of office space for district defender offices and \$491,862 received in grant funds for the COVID 19.

b. **Solvency Projections.** Dr. Erik Stilling indicated that based on data submitted as of March 15, 2021, four districts could be facing insolvency by the end of the fiscal year: District 5 (Franklin, Richland and W. Carroll Parishes) -\$6,218; District 19 (EBR Parish) -\$472,842; District 33 (Allen Parish) -\$3,353 and District 41 (Orleans Parish) -\$276,140. He reported that there are sufficient funds remaining in the 5% withheld at the commencement of the fiscal year and in the capping residual to cover these shortfalls. SPD Starns indicated that there is approximately \$2.2 million remaining to distribute and that the Board will need to decide on a plan for the distribution of those funds. No further action was taken.

c. **Financial Report through March 31, 2021.** Budget Administrator Natasha Carter reported \$44,033,897 expended or encumbered to date; \$7,618,023 projected to be expended through June 30 and zero (-0-) funds available for reallocation. Professor North moved to adopt the financial report that indicates \$7,618,023 projected to be expended through June 30th and \$2,852,000 remaining in the Building Acquisition fund. Judge Foote seconded the motion which passed unopposed.

d. **District Assistance Formula (DAF).** SPD Starns gave a brief summary of the proposed distribution method for FY22 which includes tiered funding levels. He reported that CUFs are still not back to normal levels which resulted in a request for an extra \$3.78M for FY22 from the legislature. The board heard from District Defenders from District 40 (St. John the Baptist Parish) – Richard Stricks; District 25 (Plaquemines Parish)-Chanel Long; District 15 (Acadia, Lafayette and Vermilion Parishes) – G. Paul Marx; District 41 (Orleans Parish)-Derwyn Bunton and Board members North and Daniels before agreeing to defer the issue to the next meeting which they set for May 13, 2021 at 3:30 p.m.

e. **Contracts FY22.** SPD Starns recommended all contracts with the exception of CAP, LCCR and CPCPL (operating) be renewed at the same rates as FY21. He recommended increasing CPCPL's operating contract by \$15,000 and that negotiations with CAP and LCCR on their FY22 contract amounts and scope of services are ongoing. Mr. Daniels express dismay at the zero-dollar recommendation presented for CAP and LCCR. Mr. Starns stated that before presenting recommendations for LCCR and CAP, a review of the scope of services is being done. Specifically for LCCR, he is reviewing the juvenile portion of their contract and how funding their handling of the Orleans Public Defender Office's Juvenile caseload decreases the percentage of the mandatory 70% to

the districts. Further, he is reviewing whether the recent *Jones*³ case affects the *Miller* and *Montgomery* cases that LCCR handles. He indicated that he and CAP have been negotiating an amended scope of services. Mr. Fanning reported that CAP was funded at \$1.1M for FY21 for 7 capital cases and 2 direct appeals. He stated that Mr. Starns is just trying to allocate limited resources properly. Ms. Cecelia Kappel, Executive Director of CAP, indicated negotiations with Mr. Starns include more service provision for less money in FY22. Judge Foote then moved to accept the recommendation as presented but to exclude CAP and LCCR and present those at the May 13 Board meeting. Mr. Daniels urged that none of the contracts be taken up for consideration until full clarification on amounts, scope of work and the 70-30% split issue. Mr. Starns reported that any funds that go to the contract programs is 30% money and his recommendations are not necessarily for less funding but rather the best allocation for services rendered. Judge Foote then withdrew his motion. The issue was then deferred to the May 13, 2021 Board meeting. No further action was taken.

6. Policy Committee Report and Recommendations. Judge Foote stated the Policy Committee met and presented the following Committee recommendations for Board vote:
 - a. Status of New District Defenders - To adopt the following Resolution: as district defenders are replaced, new hires will be on a full-time basis and that this requirement will be part of the job description. That the policy does not affect current appointed part-time or hybrid district defenders, and if full time positions cannot be justified, alternative methods to deliver the services shall be considered and submitted to the Board. SPD Starns indicated he believes that this direction is injurious for the public defender system and the wrong direction; however, he will implement any policy adopted by the Board. Chairman Holthaus seconded the Committee's recommendation. Upon vote the motion passed six in favor and two in opposition. (D. North, P. Fanning).
 - b. Regionalization Guidelines - To accept a motion that the State Public Defender, with the assistance for staff, Board members, and/or District Defender seeking to have input, shall create a plan and procedure, including a list of protocols and factors for the consideration of consolidation of District Defender offices into a Regional Office pursuant to article 159 of the Public Defender Act. This procedure shall be applied to all districts in which an opening for District Defender arises or is announced to arise. The procedure is to take into account all time requirements for advertising for a new district defender contained in the act and reports on advisability of creating or enlarging a region shall be submitted to the Board for determination in advance of any hiring decisions for the vacancy. Professor North seconded the motion which passed unopposed.
 - c. Oversight Duties of the Board – Resolution to the Board that the Board Chairman be asked to appoint a performance review committee that would determine the specifics for a performance review of our state defender. Mr. Holthaus inquired if this was just a study. Judge Foote reported before there is an appointment of a personnel committee that the Board Chair appoint a performance review committee to determine what specifics and how the review should be conducted. Professor North indicated that the Board already has this authority and inquired why would there be a need for this policy. Mr. Daniels reported that it is standard for Boards to have a review process of its executive; and, it is important for the Board to be able to say to the public that there is proper and appropriate oversight as well as the director having clearly drawn out expectations to ensure success. Mr. Holthaus assured everyone that the Board and the State Public Defender would meet

³ [Jones v. Mississippi](#), 141 S.Ct. 1307 (2021)

and come up with a method that meets statutory requirements. Judge Foote indicated that the Policy Committee voted unanimously on this recommendation. There was no second to the committee recommendation and no further action was taken.

d. Gender Awareness in the Workplace. Judge Foote reported that the Committee discussed how to get notification or reports to the Board of any gender issues, litigation or claims that are made and what the Board's obligation may be. The Committee requested that General Counsel Barbara Baier and the State Public Defender look at the issue and report back as to how the Board can be notified of any Sexual Harassment issue that happens in the field under Board supervision without invading privacy while maintaining oversight duties. There was no further action taken.

7. District Issues

a. Office Acquisitions. Mr. Daniels inquired if there is the possibility of obtaining an extension on the expenditure of the funds. Ms. Carter clarified that in order to carry forward funds there must be a bonafide obligation meaning that there has to be a contract, purchase order, or some other sort of "thing" or service pending and a Board approved amount in order to disburse the funds to a district. She indicated that June 30th is a hard deadline. Mr. Starns added that a complicating factor is that the statute also allows for the funds to be expended on renovations and to do that the building has to be purchased. Mr. Bob Noel reported that the state office continues to receive building offers and proposals from contractors. Mr. Starns reported that there are two districts - District 17 (Lafourche Parish) and District 13 (Evangeline Parish) with buildings under \$200,000 that are either turn-key or need very little repair work done. He urged the Board to approve funds up to a certain amount which would give everyone the opportunity to negotiate and move forward.

Mr. Daniels urged that staff compile a chart enumerating each investment opportunity for the districts, what the building purchase and any renovations or improvement amounts are, any other extra expenses to the district (taxes, maintenance, etc.) and how staff is prioritizing the recommendations as all building requests cannot be approved. Mr. Starns indicated that Calcasieu Parish is a priority and that staff is working on getting all final numbers as negotiations continue. Mr. Daniels also inquired what the impact would be on the Board's budget after the purchase of these buildings, going forward.

Judge Foote agreed that authorization should be given up to a certain amount for properties that are turn-key, solve a rent problem, are in final negotiations (i.e. site visits are complete, etc.) and little or no renovations are needed. Mr. Starns indicated with this authority, two or three building could be purchased before the May 13 Board meeting. Judge Foote then moved that the State Public Defender be authorized to commit to a sale and fund turn-key properties up to \$250,000 that have little or no other repairs included. Ms. Prejean seconded the motion which passed unopposed.

b. Westlaw Proposal. Mr. Pittman reported that the staff has worked out a discounted rate with Westlaw for all districts. There is a minimum order of 200 and district chiefs would need to commit to a certain number of passwords to order. This would be paid for through each districts' DAF at the beginning of the fiscal year by withholding the amount necessary to pay for their Westlaw accounts. No further action was taken.

8. Executive Session^{4,5}. Mr. Daniels moved to go into Executive Session. Ms. Andrus seconded the motion which passed unopposed. Professor North moved to leave Executive Session. Mr. Daniels seconded the motion which passed unopposed.

9. District Defender Vacancies and Selections

a. District 36 (Beauregard Parish) - SPD Recommendation for Appointment and Salary*. This issue was deferred to the May 13, 2021 meeting.

b. District 12 (Avoyelles Parish) – SPD Recommendation for Appointment and Salary*. This issue was deferred to the May 13, 2021 meeting.

c. District 11 (Sabine Parish)/District 42 (Desoto Parish). Ratification of Appointment of Interim and Salary- Brian McRae*. SPD Starns reported he appointed Mr. Brian McRae as Interim at a salary of \$2500 a month. He reported Mr. McRae accepted the interim appointment but declined the salary. Professor North moved that Brian McRae receive the position of interim district defender in the Districts 11/42 at the salary recommended (-0-). Mr. Fanning seconded the motion which passed unopposed.

d. District 6 (E. Carroll, Madison and Tensas Parishes)-status. This issue was deferred to the May 13, 2021 meeting.

e. District 19 (EBR Parish) – status. This issue was deferred to the May 13, 2021 meeting.

f. District 21 (Livingston, St. Helena, Tangipahoa)-status. This issue was deferred to the May 13, 2021 meeting.

10. District Defender Salary Policy – Discussion. This issue was not addressed.

11. LPDB Division Reports. Chairman Holthaus indicated that the division reports are available in the materials.

a. SPD

b. Training

i. The ULM Project

c. Capital

d. Database Compliance. Mr. Bob Noel gave a brief summary of the written report on database compliance requested by the Board at the last meeting. There were no questions.

e. Juvenile. Mr. Richard Pittman reported that pursuant to the grant he is required to give regular progress reports to the Board. He reported that the contract with LCCR has been approved, that LCCR has begun work and currently serves 75 clients, has closed 11 cases, and is working on additional fundraising.

e. Legislative. Dr. Tiffany Simpson gave a brief summary of a few bills which LPBD is following: HB1 is schedule for Monday, May 3; the elimination of JLWOP and the legalization of marijuana made it out of committee.

⁴ 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: *Joseph Allen et al v. John Bel Edwards*, et al, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge and *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.

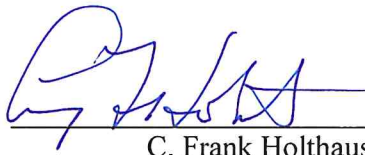
⁵ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character 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 the applicants/appointments in District 36 (Beauregard Parish) and District 12 (Avoyelles Parish); and, the salaries for the district defenders in those districts.

12. Next Meeting. The next meeting was scheduled for Thursday, May 13, 2021 at 3:30 pm.

13. Adjournment. Mr. Daniels moved to adjourn. Ms. Andrus seconded the motion which passed unopposed.

GUESTS: (See Zoom participants list, attached)

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 30th day of April, 2021 as approved by the Board on the 13th day of May, 2021⁶.

A handwritten signature in blue ink, appearing to read 'C. Frank Holthaus', is written over a horizontal line.

C. Frank Holthaus, Chairman

⁶ The meeting at which these minutes were approved was held by Zoom video-conference pursuant to La.R.S. 42:17.1, effective October 29, 2020.

Board Meeting
April 30 2021

Name

Jack L. Simms# Jr.
Jill Pasquarella's iPhone
Lisa Parker
Richard Bourke (he/him)
Tom Nelson
Richard B. Stricks
Deirdre Fuller
Michelle M. AndrePont
Chase
don kneipp
Jack L. Simms# Jr.
Richard Tompson
Glen Cella
Matilde Carbia
cecelia
Julie Gregory
Brian McRae
Kristen Rome
DonPaul Landry
mike courteau
Lindsay Blouin
lisa leblanc
J (J. Pellerin)
Christopher Aberle
Mitchell Bergeron
Aaron Clark-Rizzio
JEE (she/her)
Trisha Ward
Elizabeth Coe
Brett Brunson
crwhitehead3
Rick Candler
Paul Fleming
Louis Champagne
Glen Cella
Margaret Lagattuta

Chad Guillot
Rick Candler
Carol Kolinchak
Anthony Champagne
Mike Miller
Gary Clements
Cecelia Kappel
Reginald McIntyre
emily ratner
kerry cuccia
David Marcantel
Dannielle Berger
elaine benjamin
Derwyn Bunton
Jill Pasquarella
Maggie LeBlanc
Herman Castete
thomas gernhauser
clope
Fenwick Swann
Tony Tillman
G Paul Marx
juliaodonoghue
Cathy Lopez
Steve Robinson
AndreaStentz
aliseia williams
Kyla Romanach
margaret lagattuta
Gabrielle Woodard
Sarah Ottinger
Deon Bergeron
Chanel Long
Charlie Whitehead
J.Albert Ellis

Board

W Ross Foote
Zita Andrus
Allyson Prejean
Flozell Daniels# Jr.
dnorth
Patrick Fanning
Frank Holthaus
Cynthia Woodard

Staff

Richard Pittman
Anne Gwin
Erik Stilling
14B-Robert Noel
Rémy Starns
Barbara Baier
Tiffany
Michael A. Mitchell
NCarter