

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, December 16, 2021, 1:30 PM

<https://us02web.zoom.us/j/88213106375?pwd=d1h6dlN6djFoMkVyTEhGbUd2cWxVUT09>

Meeting ID: 882 1310 6375

Passcode: 944182

MINUTES

1. Call to Order and Comments by Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Michael C. Ginart on Thursday, December 16, 2021, at approximately 1:40 p.m. He wished everyone a Merry Christmas and roll was called.

The following Board members were present¹:

Flozell Daniels
Michael Ginart
Lyn Lawrence
Cindy Woodard

Pat Fanning
Frank Holthaus
Donald North

W. Ross Foote
Holly Howat
Allyson Prejean

The following Board member was absent:

Zita Andrus

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, Dep. 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. Professor Donald North seconded the motion which passed unopposed.

¹ Board Member Allyson Prejean arrived late at approximately 1:55 pm. Quorum for voting purposes was not affected. Board member Zita Andrus was present briefly but left the meeting. She did not answer initial roll call, roll call upon return to regular session from Executive Session and she did not vote on the action items.

3. Public Comment. Chairman Ginart indicated that public comment would be taken up with each item.

4. Adoption of the Minutes. Chairman Ginart asked that the Minutes from the September 30, 2021, October 25, 2021, and November 15, 2021, meetings be addressed *in globo*. Mr. Flozell Daniels moved to adopt the minutes of the last three meetings, as presented. Dr. Holly Howat seconded the motion which passed unopposed.

5. Budget and Financial.

a. FY22 Financial Report. Budget Officer Natasha Carter reported \$39,067,143 expended or encumbered as of November 30, 2021; \$6,104,064 projected to be expended or encumbered through June 30, 2022; and, \$-0-available for reallocation. Professor North 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 that approximately \$4.3M remains in the "O" Level District Assistance Fund for disbursement and today's recommendation is for a partial disbursement for under \$700,000 (\$681,000). For this initial disbursement, staff looked first at district solvency and then staffing and one-time funding for equipment, especially in the Hurricane Ida-hit districts. Board members expressed some concerns including the unfunded emergency requests from districts in their areas, lack of additional district information including solvency projections, and possible loss or denial of services to clients. Mr. Starns indicated solvency projections are included in the materials and will be addressed with this issue. He assured the Board that all districts are in good fiscal shape and no services are being denied. Dr. Holly Howat urged the Board and the districts to be patient and give the process a fair chance for kinks to be worked out. When Professor North called the question for vote, Mr. Ginart asked that he agree for the solvency projections be addressed before a Board vote on the "O" level funding disbursement. Professor North withdrew his request for vote.

After a brief but informative report by Dr. Stilling on district solvency, which show only a few districts insolvent at the end of the fiscal year for a total amount of \$384,670, Professor North moved to approve the request for the disbursement of "O" Level funds at the recommended rates with the understanding that this is the initial disbursement and additional needs will be addressed at a later date, if needed. Before vote, Mr. Starns clarified that the recommendations in the materials were amended at the last minute to include an emergency addition of \$55,000 to District 9 (Rapides Parish) for an attorney position. Professor North amended his motion to include the \$55,000 for an attorney position for a total of \$110,000 to District 9 (Rapides Parish). Mr. Fanning seconded the motion. Upon vote, the motion passed with nine in favor and one against (Daniels).

i. Solvency Projections. This issue was addressed with “O” Level Funding.

9. **Executive Session.** Mr. Frank Holthaus moved to go into Executive Session. Mr. Daniels seconded the motion which passed unopposed. Judge Foote moved to leave executive session. Judge Woodard seconded the motion which passed unopposed.

5. c. **Executive Staff Salary Increases.** State Public Defender Starns indicated that the statute authorizes the State Public Defender to choose executive staff and the Board has the authority to set the salaries. He indicated that, after months of conferring with the Division of Administration a Board Resolution is required to set those salaries. He stated his intention was to increase the salary of Mr. Bob Noel (Deputy/Director of Training) as his salary is very low compared to others and Mr. Richard Pittman (Deputy/Director of Juvenile Defender Services) for his length of service and skills. However, he reported that since the salary issue first arose Mr. Noel has submitted his resignation as the Deputy/Director of Training effective at the end of the calendar year making that request moot. He commended Mr. Noel for his excellent work as a Deputy Public Defender/Director of Training. He then asked the Board for a Resolution to increase Mr. Pittman’s salary from \$106,000 annually to \$120,000. Mr. Lyn Lawrence moved to increase Mr. Pittman’s salary from \$106,000 to \$120,000. Judge Woodard seconded the motion which passed unopposed.

d. **Clarification/Recommendation – District 11/42 District Defender Salary.** Mr. Starns reported that the salary for Mr. McRae as District Defender in District 39 (Red River Parish), District 11 (Sabine Parish) and District 42 (Desoto Parish) remains unclear from the last meeting. He clarified that as a line defender in Districts 11 and 42, Mr. McRae was paid \$7300 per month or a total of \$87,600 annually (\$43,800 per district) and as District Defender in Red River Parish his annual salary is \$39,600. Mr. Starns asked for the Board to maintain those amounts as Mr. McRae’s salary as District Defender for all three districts for a total of \$127,200, annually. Mr. Lyn Lawrence moved to approve Mr. McRae’s annual salary at the amounts as recommended (\$7300 for the 11th and 42 (\$87,600 total) and \$39,600 for the 39th). Professor North seconded the motion which passed unopposed.

e. **Ratification of FY23 Budget Request, \$51,894,036.** Professor North moved to ratify the FY23 LPDB Budget Request submitted for \$51,894,036. Judge Cindy Woodard seconded the motion which passed unopposed.

f. **Post Dispositional Juvenile Representation Contract - \$30,000.** Mr. Starns reported that a recent amendment to the Children’s Code included a fund for post-dispositional juvenile representation; however, the funds were never provided. He reported that this has been brought to the attention of the Commissioner of Administration and although there is no line item in the LPDB budget for this specific issue, there are funds in the

FY22 LPDB budget that were set aside for legal representation for the Board that were not used which can be used to pay for this contract attorney from January through June of this year. Mr. Richard Pittman added that the plan is to build a pilot project with one attorney and to partner with LSU Clinical program under attorney Jack Harrison to provide training and externships. He indicated they would like to contract with Mr. Kevin Ambres, an attorney from District 40 (St. John the Baptist Parish) Public Defender's Office, for this pilot program. Mr. Daniels moved to accept the recommendation to approve the contract for Mr. Ambres in the amount of \$30,000 for post-dispositional juvenile representation. Dr. Howat seconded the motion which passed unopposed.

As this issue was not indicated as an action item by the Board, Judge Foote moved that the agenda be amended to make the Post Dispositional Juvenile Representation Contract issue an action item. Mr. Daniels seconded the motion which passed unopposed.

6. Database Compliance Policy. Mr. Bob Noel reported that the Database Compliance Policy was adopted, as amended by the Board, at the October 25 meeting. The amended policy presented on pages 492-493 includes those changes adopted on October 25, 2021. Professor North moved to accept the amended policy, as presented today. Mr. Daniels seconded the motion, which passed unopposed.

7. Public Defender - Approval Survey Discussion. Mr. Starns reported this issue was deferred from the last meeting and is a discussion on how to handle complaints from clients. Mr. Daniels moved to defer the issue to the next Board meeting or to the Policy Committee for the purpose of establishing an analysis of the current policy or the creation of a new policy. Mr. Noel reminded the Board that this has been tried before and urged the Board to review prior Board meetings and prior results from 2008-2009. Chairman Ginart recommended that the issue go to the Policy Committee.

8. District Issues

a. Building Acquisition Update. Mr. Starns gave a brief update on the buildings bought with funding provided by the legislature in 2020.

b. FY23 DAF Discussion. Mr. Starns reported that the tiered funding mechanism for DAF distribution in FY22 will be used in some way in FY23 and that discussions and meetings continue with staff and the district chiefs for a distribution plan to bring back to the Board.

c. LWOP Discussion. Mr. Starns reported on a discrepancy in how the Life Without Parole (benefit) cases are being entered in the database and the need to clarify the issue for accounting and reporting purposes. He stated that there are some cases in which a defendant is sentenced to life without parole (words) and in other cases the sentence may be for an actual number of years (or "numbers") which results in a longer period of time a person could possibly live. Mr. Noel added that at some point certain charges that statutorily do not carry life without benefit sentences were included to be

added in the database as LWOP cases, *i.e.* accessory-after-the-fact. Concerns were expressed whether these changes would negatively affect defendants. Mr. Fanning indicated it is not necessarily how these cases are entered, rather that everyone enter them uniformly. Judge Foote indicated that a policy would clarify the terminology as life without benefit of probation or parole is different from ten 99-year sentences. Chairman Ginart deferred the issue to the Policy Committee along with the public defender approval survey and confidentiality in database reporting.

10. FY22 Contract Programs – Status. This issue was not discussed.

11. Divisional Reports. The divisional reports were not discussed.

- a. State Public Defender
 - i. LPDB Optimal Funding Group
 - ii. Equal Justice Task Force
 - iii. Louisiana Commission on Justice System Funding
- b. Capital/Compliance
- c. Training
- d. Database Report
- e. Juvenile
 - i. Letter to Juvenile Justice Intervention Center

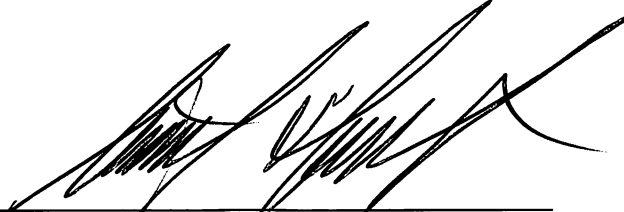
12. 2022 Legislative Session – Strategy/Tactics/Board Oversight. Judge Foote asked to address this issue as it is time sensitive. He indicated he had hoped for a policy today stating the Board’s official position in opposition to any bill that calls for the limitation of powers or elimination of the Board. Discussion continued as to whether the Board is prohibited from taking positions on legislation, *i.e.* lobbying. Mr. Daniels clarified that issues concerning the oversight or authorities of this Board should be discussed with the Board. Judge Foote urged the establishment of a policy as to the Board’s direction to the executive director in terms of legislation. Chairman Ginart indicated that Dr. Simpson will continue to provide the list of bills for review and if there is an item a member wants some action on to send it to him for further review and/or Board discussion/action.

13. Next Meeting. The next meeting is scheduled for March 10, 2022, 1:30 pm. at the LSLBC located at 600 North Street, in Baton Rouge.

14. Adjournment. Judge Woodard moved to adjourn. Professor North seconded the motion and the meeting adjourned at approximately 5:15 p.m. unopposed.

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 16th day of December, 2021 as approved by the Board on the 10th day of March, 2022².



MICHAEL C. GINART, JR., CHAIRMAN

² The meeting at which these minutes were approved was held by Zoom video-conference pursuant to La. R.S. 42:17.1.