



LOUISIANA PUBLIC DEFENDER BOARD

Bluebonnet Regional Parish Library
9200 Bluebonnet Boulevard
Baton Rouge, LA
Thursday, December 15, 2016
2:00 p.m.

AGENDA

1. Call to Order by Chairman, Frank Holthaus
 - a. Welcome New Members
2. Call for Public Comments
3. District Defender Address to the Board
4. Adoption of the Agenda* pgs. 289 – 290
5. Review of the Minutes, Jun 14, 2016 Meeting **Tab 1**, pgs. 291-293
 - a. Adoption*
6. Appointment of a Vice-Chairman* (La.R.S. 15:151C)
7. Meeting Protocol (Draft)* **Tab 2**, pgs. 294-297
 - a. Open Meeting Law pgs. 298 - 301
8. Budget and Fiscal Reports, Recommendations, Issues **Tab 3**
 - a. Final FY17 Budget Allocation (\$32,930,889)
 - b. Financial Report* pgs. 302 - 306
 - c. DAF and CINC FY17 amounts pgs. 307 - 308
 - d. Contract Programs - FY17 amounts pg. 309
 - e. Budget Reduction Plan, November, 2017 pgs. 310 - 312
 - f. FY18 Budget Request (\$62,455,320) pg. 313
 - i. House Appropriation Questionnaire pgs. 314 - 318

**Requires Board Action*

9. Executive Session^{1, 2*}
10. District Issues **Tab 4**, pgs. 319-321
 - a. District Defender, 3rd PDO (Lincoln, Union)*
 - b. District Defender, 5th PDO (Franklin, Richland, WCarroll)*
 - c. District Defender, 25th PDO (Plaquemines)*
 - d. District 8 – Dual Office Holder Issue* pgs. 322 - 335
 - e. Restriction of Services
 - i. Districts in Restriction pgs. 336-338
 - ii. Protocol – Exiting ROS* pgs. 339-343
 - f. District Audit Expenses pgs. 344 - 345
 - g. Case Weighting and Timekeeping pg. 346
11. LPDB Strategic Plan, 2017-2022* **Tab 5**, pgs. 347-356
12. Juvenile Strategic Plan – Update
13. Legislative Session, 2017 **Tab 6**
 - a. Recommended Changes in the Law pgs. 357 - 358
 - b. Concerns
14. Other Business
 - a. Board Committees/Working Groups
 - b. Annual Mandatory Training – Ethics and Preventing Sexual Harassment
15. Next Meeting(s)/Proposed* **Tab 7**, pg. 359
16. Adjournment*

**Requires Board Action*

¹ 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 after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Darwin Yarbles, Leroy Shaw and Douglas Brown v. Derwyn Bunton and James T. Dixon, Jr.* Civil Action: 3:16-cv-31, Middle District of Louisiana; *LPDB v. Dorroh, et al*, Docket: 2015CA1401, First Circuit Court of Appeal; *State v. Finister*, Docket: 04-14-0382, Section V, 19th JDC; Southern Poverty Law Center; *LPDB v. Capital Assistance Project of Louisiana*, 19th JDC, Docket: 634,701, Section 27; EEOC complaint filed by Joy R. Jackson, charge no: 846-2016-30769.

² 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 be presented with information for discussion regarding Interim District Defenders Mr. Rick Candler, Ms. Dawn Mims and Mr. Clark Beljean in Districts 3, 5 and 25 respectively pending permanent appointment of those positions.



LOUISIANA PUBLIC DEFENDER BOARD

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Thursday, December 15, 2016
2:00 p.m.

MINUTES

1. Call to Order and Remarks by the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman, Mr. Frank Holthaus, on Thursday, December 15, 2016 at 2:06 p.m. at the Bluebonnet Regional Library in Baton Rouge.

The following Board members were present:

Frank Holthaus, Chair
Thomas Davenport
Katherine E. Gilmer
Moses Williams

Chris Bowman
Patrick Fanning
Michael Ginart

Flozell Daniels
W. Ross Foote
Donald North

The following Board member was absent:

Zita Andrus

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

Jay Dixon, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Officer
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Carol Kolinchak, Trial Level Compliance Officer
Richard Pittman, Dep. State Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance Officer, Legislative Affairs Director
Erik Stilling, I.T. Director

2. Call for Public Comments. Mr. Holthaus explained that public comment is ongoing throughout the agenda and all guests are encouraged to speak on issues as they arise. Mr. Davenport stressed the importance that all District Defenders have the opportunity to be heard.

3. District Defender, Address to the Board. Mr. Brett Brunson, District Defender for District 10 (Natchitoches Parish) and President of the newly formed Public Defender Association of Louisiana addressed the board. He thanked the members for their willingness to serve and urged them to call on the district defenders whenever needed. He stated that the districts are in dire need of the remaining 5% of the 65% DAF due to them and asked that the disbursement of those funds be discussed. He also stated his belief that it is too soon for the new Board to vote on a five-year strategic plan.

4. Adoption of the Agenda*. Mr. Moses Williams moved to adopt the agenda as presented which was seconded by Mr. Daniels. Mr. Dixon requested that the board amend the agenda to include a discussion at Item #8 regarding a request for certification of a fiscal emergency by the Chief Justice of the Supreme Court pursuant to Act 571, Section 166(C). Professor North moved to approve the agenda as amended to include the fiscal emergency discussion and upon vote, with no opposition, the agenda was amended.

5. Review of the Minutes, June 14, 2016 Meeting.

a. Adoption*. Chairman Holthaus, the sole remaining member of the previous Board, stated that the Minutes as presented are a fair representation of the June 14, 2016 proceedings. Judge Foote moved to adopt the minutes as presented which was seconded by Mr. Fanning. There was no opposition and the minutes were adopted.

6. Appointment of a Vice-Chairman* (La.R.S. 15:151C). Mr. Holthaus expressed the importance of having a vice chairman, but left the decision as to whether to appoint one at this time up to the Board. Mr. Bowman moved to appoint Mr. Fanning as Vice-Chair. Mr. Fanning declined the nomination. Mr. Fanning moved to appoint Mr. Davenport as Vice-Chair. Mr. Davenport declined the nomination. Mr. Thomas Davenport nominated Professor North for the position. Mr. Bowman seconded the motion and, upon vote, passed unopposed. Professor North accepted the position.

7. Meeting Protocol (Draft)*. Mr. Holthaus informed the board that the draft protocol presented represents past practices of the Board and changes to the protocol can be submitted by any board member for discussion. Mr. Bowman moved to adopt the protocol. Mr. Williams suggested that it may be best to bring the issue before the policy committee once it is formed. Mr. Davenport moved to table the protocol for later discussion. Mr. Williams seconded the motion which passed unopposed and the issue was tabled.

a. Open Meeting Law. Mr. Dixon discussed the open meetings law.

8. Budget and Fiscal Reports, Recommendations, Issues

a. Final FY17 Budget Allocation (\$32,930,889) and Financial Report*. Ms. Natasha Carter, Budget Officer, informed the board that the correct FY17 allocation to LPDB is \$34,128,545. Mr. Davenport requested clarification of the funding. Ms. Carter explained the amount includes \$106,141 in fees and self-generated funds, \$75,000 LCLE grant funds, \$60,000 Arnold Foundation Grant Funds; \$28,500 DNA test fund and \$979,680 parent-representation funds. She also clarified that the \$32,939,224 Public Defender Fund includes FY16 carry-forward funds in the amount of \$269,778 which can only be used to fulfill contractual obligations entered into in FY16. Thus, those monies are not included in the FY17 DAF calculations. Professor North moved to accept the financial report as presented, seconded by Mr. Williams.

After discussion, it was decided that the Board would form a Capital Working Group. Chairman Holthaus accepted the following volunteers to participate in the group: Mr. Chris Bowman, Mr. Flozell Daniels, Mr. Patrick Fanning, Judge Ross Foote, Ms. Katherine Gilmer, Mr. Moses Williams and Professor Donald North as Chairman.

Mr. Ginart called the question. Professor North amended his motion to accept the financial statement as presented, subject to the working group's recommendations to the full board. Mr. Williams seconded the motion. Upon vote, the motion to approve the financial statement passed seven in favor and three against.

b. Fiscal Crisis and Emergency Declaration. Pursuant to Act 571 SPD Dixon is requesting that the board approve a Resolution declaring a fiscal emergency and correspondence to Supreme Court Chief Justice Johnson requesting her certification of the emergency in an effort to halt an LPDB budget reduction.

Mr. Davenport stated that the districts are in need of the remaining five percent of their DAF now and moved to direct staff to disperse the remaining difference of the 65% FY17 DAF due to the districts within 10 calendar days to prevent the loss of those monies to a budget reduction. Professor North suggested a friendly amendment to allow staff 30 days to come back to the full board with recommendations for the allocation of the remaining funds. In order to obtain clarification of the law, Professor North moved to go into Executive Session which was seconded by Mr. Daniels. Mr. Holthaus moved to leave executive session which was seconded by Professor North.

Upon return to regular session, Mr. Davenport accepted Professor North's friendly amendment to disperse the remaining difference of the 65% FY17 DAF approved by the Board and due to the districts within 30 calendar days.

Mr. Foote offered a substitute motion to enact the emergency resolution and request staff to present a detailed distribution plan within 30 days. Mr. Williams seconded this motion.

Upon vote, the motion of Mr. Davenport failed to pass, 3-7. The motion of Mr. Foote passed 10-0.

c. DAF and CINC FY17 amounts. The amount disbursed in DAF and CINC are provided in the materials.

d. Contract Programs - FY17 amounts. Mr. Jim Looney, Executive Director, Louisiana Appellate Program (LAP) addressed the Board. Mr. Patrick Fanning moved to ratify all amendments to CY17 contracts to date. Mr. Bowman seconded the motion. Upon vote, the motion passed with eight in favor, one against and one abstention.

Mr. Looney and Mr. Richard Tompson who serves as a member of the LAP Board of Directors discussed the accrual of monies in the Expert Witness Fund. Mr. Davenport requested information regarding all invoices paid from the fund. Staff was instructed to provide the history, Board approved procedures, forms and the aggregate amount of uninvoiced and encumbered funds.

e. A copy of the Budget Reduction Plan submitted to the Office of Planning and Budget is in the materials.

f. FY18 Budget Request (\$64,455,320). Mr. Dixon reported that Staff submitted the budget request for FY18, as required. Mr. Dixon reported that, if allocated that amount, the resultant 65% DAF to the districts would be an additional nineteen million dollars.

9. Executive Session*. Mr. Holthaus requested that Executive Session and items 10 a-d be deferred to later in agenda.

10. District Issues¹.

e. Restriction of Services

i. Districts in Restriction. Compliance Officer Carol Kolinchak reported on districts in ROS and other issues.

ii. Protocol – Exiting ROS*. The board took no action.

f. District Audit Expenses. Mr. Tony Tillman, District Defender, District 30 (Vernon Parish) informed the Board that he learned from his CPA that the Louisiana Legislative Auditor may be adding substantial audit requirements to his district audit which will mean additional expenditures to the district PDO. Mr. Tillman indicated he brought the issue to the attention of staff. Mr. Dixon reported he has contacted LLA for clarification.

g. Case Weighting and Timekeeping. Mr. Dixon reported that the case weighting study is being completed and the report should be out soon.

11. LPDB Strategic Plan, 2017-2022*. Staff was instructed to research whether the Strategic Plan as submitted can be modified and/or replaced. Mr. Davenport moved to table action on the plan. Mr. Ginart seconded the motion which passed unopposed.

12. Juvenile Strategic Plan – Update. Richard Pittman gave a brief report on the status of the juvenile strategic plan which includes, changes in the law, a new quarterly newsletter, the resurrection of the Juvenile Defender Advisory Group, LCLE grant funding, an adolescent toolkit and a new Webinar program.

13. Legislative Session, 2017

a. Recommended Changes in the Law. Dr. Tiffany Simpson reported on the changes in the law presented by staff. Mr. Daniels requested that staff provide the benefits of some of these changes. Dr. Simpson also informed the Board that staff closely monitors all legislation that deals with indigent defense.

b. Concerns. Dr. Simpson informed the Board that staff is concerned about other districts' City Courts forming their own public defense boards and staff will be monitoring the situation.

Executive Session. Mr. Holthaus moved to go into executive session, which was seconded by Mr. Daniels. Mr. Holthaus moved to leave executive session, which was seconded by Mr. Daniels.

District Issues.

a. District Defender, 3rd PDO (Lincoln/Union)*. Mr. Davenport moved to contract with Mr. Rick Candler as the permanent District Defender in District 3, who is to be

¹ Items 10a-d required Executive Session discussion by the Board. The Board deferred 10a-d until after such time as an Executive Session could be held.

allowed to maintain a private law practice but shall provide at least 40 hours per week to the PDO at a salary of \$80,000 per year. Mr. Bowman seconded the motion which passed unopposed.

c. District Defender, 25th PDO (Plaquemines)*. Mr. Leo Palazzo, applicant for the District Defender position, addressed the board regarding his law firm running the district public defender office. Several members expressed concern about the potential conflicts. Mr. Dixon submitted staff's recommendation to appoint Mr. Clarke Beljean (currently in the interim position) in the permanent position, full time, at a salary of \$80,000 per year. Mr. Ginart moved to accept the recommendation. Professor North seconded the recommendation which passed unopposed. Mr. Beljean thanked the Board for the opportunity.

b. District Defender, 5th PDO (Franklin, Richland, WCarroll)*. Ms. Dawn Mims, Interim District Defender for District 5 addressed the board and presented a letter from Judge Terry A. Doughty, 5th JDC regarding her performance. Mr. Dixon informed the Board that his recommendation is for termination of Ms. Mims' interim status as District Defender and the appointment of Mr. Robert Noel as Interim pending the compilation of selection committee for the appointment of a permanent district defender. Mr. Dixon cited too few weekly hours worked in the PDO and mandatory reporting failure as grounds for termination of Ms. Mims. Mr. Williams moved to terminate Ms. Mims as Interim District Defender and to hire Mr. Noel pending the appointment of a permanent District Defender through the selection committee process. Mr. Daniels seconded the motion which passed unopposed.

d. District 8 – Dual Office Holder Issue*. Mr. Dixon explained the dual office holding issue in District 8 in which the previous Board approved the hiring of a City Prosecutor in the PDO to handle district felony cases. Mr. Herman Castete, District Defender, District 8, addressed the Board and explained that his situation is not unique, and that there are too few attorneys to handle all the public defense cases in the parish. Mr. Williams moved not to approve such a practice because of conflicts. Professor North seconded the motion. Mr. Dixon and Mr. Castete both assured the Board that conflicts are heavily monitored. After a brief discussion, the Board took no action.

14. Other Business. Due to time constraints, the Board agreed to defer item 14 to the next meeting date.

- a. Board Committees/Working Groups
- b. Annual Mandatory Training – Ethics and Preventing Sexual Harassment

15. Next Meeting(s)/Proposed*. The next meeting is scheduled for Thursday, January 26, 2016, at 1:30 p.m. The location will be announced when confirmed.

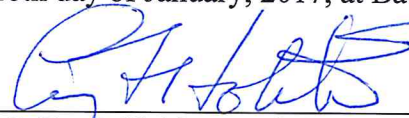
16. Adjournment*. Mr. Daniels moved to adjourn. Mr. Holthaus seconded the motion and the meeting adjourned at 5:44 p.m.

Guests:

Kyla Romanach	Cecelia Bonin	Alan J. Robert	Michael F. Miller
Mike Courteau	Jim Looney	Chris Aberle	Pam Smart
Steven R. Thomas	Paul C. Fleming, Jr.	Richard M. Tompson	Elizabeth Warner
Katheryn Jakuback	Jacob Longman	Harold Murry	Tony Tillman
Clarke Beljean	John Hogue, III	Olivier Carriere	John W. Linder

Lindsay Blouin	Royce Duplesis	Emily Maw	Kirchelle McGowan
Aaron Clark-Rizzio	Harry Fontenot	Herman Castete	Reggie McIntyre
Robert Noel	Deirdre Fuller	Brett Brunson	Derwyn Bunton
Dawn Mims	John Landis	David Price	Kerry Cuccia
Rick Candler	Richard B. Stricks	Lisa Parker	Leo Palazzo
Michael J. Monistere	Thomas Gernhauser	James R. Murray	G. Paul Marx
Ella Kliebert	Tony Champagne	Don Kneipp	Margaret Lagatutta
Mark D. Plaisance	Michael A. Mitchell	Jason Hessier	Gabriel Loupe
John Di Giulio			

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 15th day of December, 2016, as approved by the Board on the 26th day of January, 2017, at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman