



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, June 22, 2023 – 1:00 p.m.
Louisiana Licensing Board for Contractors
600 North Street
Baton Rouge, LA

MINUTES

1. Call to Order and Comments, Chairman, Michael C. “Mike” Ginart, Jr. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by Chairman Michael C. Ginart, Jr. on Thursday, June 22, 2023 at approximately 1:05 p.m.

The following Board members were present:

Adrejia Boutté	Lou Daniel	Pat Fanning
Michael Ginart	Frank Holthaus	Holly Howat
Lyn Lawrence	Charles Porter	Frank Thaxton

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
Kevin Broussard, Budget Administrator
Anne Gwin, Executive Assistant
Michael A. Mitchell, Trial Level Compliance Officer
Richard Pittman, Dep. Public Defender, Director Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance/Legislative Director
Erik Stilling, IT Director

Chairman Ginart announced the retirement of long-time District Defender Jerome (Jerry) D’Aquila (District 18-Iberville, Pointe Coupee, WBR Parishes). He reported Mr. D’Aquila became the Chief Public Defender in District 18 in 1968 and has held that position without a break for 55 years. He thanked Mr. D’Aquila for his service and dedication.

2. Adoption of the Agenda. Mr. Pat Fanning moved to adopt the agenda which was seconded by Judge Charles Porter and passed unopposed.

3. Public Comment. Reverend Alexis Anderson and District 29 (St. Charles Parish) District Defender Fen Swann registered for Public Comment. Mr. Ginart indicated that Public Comments would be taken with each item.

4. Adoption of Minutes – June 2, 2023 Meeting. Mr. Lyn Lawrence moved to adopt the Minutes of the June 2, 2023, meeting as presented. Dr. Holly Howat seconded the motion which passed unopposed.

5. Budget and Financial

a. FY24 LPDB Appropriation (HB1). State Public Defender Starns reported that \$48,163,845 has been appropriated to LPDB for FY24. He reported the Legislature also appropriated an additional \$2M to LPDB for operations and \$1.3M for building purchases, for a total of \$51,463,835. He reported that the \$1.3M building fund monies will be disbursed as follows: District 14 (Calcasieu Parish) - \$900,000 to assist in purchasing that district's building in Lake Charles; District 32 (Terrebonne Parish) - \$280,000 – to replenish monies used from that district's fund balance to purchase the PDO building; and District 35 (Grant Parish) - \$120,000 - to purchase the building currently owned by the previous District Defender and being leased for \$2,000 per month. In addition to those monies, the Governor has signed into law ACT 414, a dedicated tax which, in part, goes to the Louisiana Public Defender Board to be used for employee salaries and benefits.

b. FY24 Disbursements. Mr. Starns reported that the Board approved an initial FY24 DAF disbursement at the last meeting but that approval was before the end of the legislative session. Dr. Erik Stilling has updated the numbers based on the final FY24 appropriation.

Dr. Stilling reported that pursuant to HB1, the districts shall receive a minimum of 70% of the Public Defender Fund (\$47,262,791) or \$33,083,954. However, at the June 2, 2023 meeting, the Board approved the initial FY24 DAF disbursement to the districts of \$30,732,250 (that includes the \$460,000 to District 41 (Orleans Parish) for juvenile representation formally provided by LCCR). In order to meet the 70% minimum mandate, an additional \$2,351,703 will be disbursed to the districts before FY24 year-end. Additionally, \$1.2 for emergencies (this amount includes \$91,297 from the 30% administrative monies¹) and \$1.243 for CINC reimbursements to the districts has been set aside in the O-level fund. Full disbursement of these funds to the districts by year end totals \$33,175,250 or 70.19%.

Mr. Starns reported that with the amounts in reserve, all districts should receive at least as much or more state money in FY24 than received in FY23.

6. SPD Report

a. Act 414 of 2023 (HB 635). Mr. Starns reported that a portion of a tax on vape products and nicotine delivery devices effective July 1st has been allocated to the Louisiana Public Defender Board for salary increases and benefits for employees; however, it will be months before any of these monies will be realized. He indicated that the Budget Committee had addressed the issue of salary ranges at one time but discussions never got off the ground. Mr. Starns indicated he would like to address this issue and others through working groups

¹ Since the inception of the Tiered DAF disbursement mechanism, \$1.2M has been withheld from the initial disbursement of the Public Defender Fund for unforeseeable emergencies in the districts throughout the year. For DAF consistency and continuity, the extra \$91,297 was taken from the administrative (30%) side of the LPDB allocation to bring this historical holdback up to the \$1.2M amount.

consisting of district chiefs, board members, and his staff.

b. Working Group Formation

i. Compensation. Mr. Starns indicated that this working group would look at salary ranges, salary increases, COLAs, for chief defenders and health insurance and retirement benefits for all public defenders. Chairman Ginart indicated that the working groups would follow open meeting rules but could be held by video teleconference. He asked for volunteer Board members. The following volunteered: Frank Thaxton, Lyn Lawrence, Adrejia Boutté, and Holly Howat.

ii. Standards and Guidelines. He urged that the LPDB Capital Standards and Guidelines be reviewed and brought up to date. He asked for a Standards and Guidelines Working Group made up of all of the capital program directors, his staff and some board members for these discussions.

Mr. Ginart indicated in recent years there has been more transparency regarding capital program funding, but some Board members feel strongly about some needed changes.

Mr. Pat Fanning indicated he had requested information from LPDB staff regarding required data reported by the capital programs. That information included caseloads, how much is spent on each case, how long cases take for disposition, and timekeeping. Dr. Stilling indicated that the capital programs are not required to submit this information in the database which has resulted in incomplete and/or inaccurate data being compiled from the information that the programs do submit in paper form, which is then compiled on a spreadsheet by LPDB staff. Mr. Fanning indicated his willingness to vote to renew the program contracts for FY24 with the agreement that 1) they provide better reporting; 2) the Board explore other options for providing capital defense in the event the Board discovers that funding these capital programs is not the most efficient use of the funds; and, 3) that training be increased so that more attorneys are certified to handle capital cases in the district offices.

Mr. Lyn Lawrence agreed with Mr. Fanning and indicated he did not understand why the district defenders have to report in detail on the database yet the capital programs do not.

Judge Frank Thaxton indicated his concern is and has always been that the Board is approving large amounts of money without knowing how the money is actually being expended by the programs and that the Board's only obligation is to the people charged with crimes and not to funding the programs, especially without accountability. He indicated that he has never questioned the quality of the work by these programs, but is concerned that the Board does not know how the money is being spent.

Mr. Frank Holthaus reiterated that a working group is needed to create clarity for these programs on what information the Board needs for accountability and justification for the funding and then to effectuate ways and means to require and

obtain the information from the programs.

Chairman Ginart asked for Board members to be involved and to make a commitment to try to get this working group going as soon as possible. Mr. Holthaus, Judge Thaxton, Mr. Fanning and Mr. Lawrence volunteered. Mr. Ginart indicated he would also participate.

SPD Starns thanked the Board for the formation of the working groups and stressed it is important to discuss and determine what information is needed, the best way of reporting it, and to have evidence to provide to the decisionmakers in the legislature and elsewhere why laws regarding the death penalty and first-degree murder should be changed.

Mr. Holthaus asked that Board member Judge Lou Daniel, a former capital prosecutor, be involved to add that perspective to the working group. Judge Daniel indicated he would join the working group, clarifying he would be working full time starting in July and his participation may be limited.

7. FY24 501(c)3 Contract Recommendations.

a. Capital Trial-Level Contracts.

- i. Baton Rouge Capital Conflict Office (BRCCO) - \$1,280,000**
- ii. Capital Defense Project of Southeast (CDPSLA) - \$1,280,000**
- iii. Louisiana Capital Assistance Center (LCAC) - \$1,390,000**

Mr. Starns stressed the importance of the work that the capital trial programs do. He indicated six or seven capital trials are set in the next nine months and the work on those trials should not be interrupted. He strongly urged the Board to renew the capital program contracts for FY24 in the amounts presented.

Judge Charles Porter moved to adopt the recommendation for the renewal of the FY24 contracts for the three capital trial level program's contracts – Baton Rouge Capital Conflict Office (BRCCO), Capital Defense Project of Southeast Louisiana (CDPSLA) and the Louisiana Capital Assistance Center (LCAC), in the amounts presented. Dr. Holly Howat seconded the motion. Upon vote, the motion passed with eight in favor (Boutté, Daniel, Fanning, Holthaus, Howat, Lawrence, Porter, Ginart) and one in opposition (Thaxton).

b. Capital Appeals Project (CAP) Operations - \$1,050,000

c. Mwalimu Center for Justice (MCFJ) *formerly CPCPL*- \$1,265,036

Mr. Starns asked to take items 7b and 7c together. He reported the Capital Appeals Program filed 51 clemency petitions with the Pardon Board recently and the Mwalimu Center for Justice continues to represent people in post-conviction cases. He stressed that with the clemency hearings pending it is not the time to consider defunding or limiting funding for either of these programs. Judge Porter moved to renew FY24 contracts for the Capital Appeals Project (CAP - Operations) and Mwalimu Center for Justice (MCJ) for the amounts presented. Dr. Howat seconded the motion. Upon vote, the motion passed with eight in favor (Boutté, Daniel, Fanning, Holthaus, Howat, Lawrence, Porter, Ginart) and one in opposition (Thaxton).

d. Innocence Project New Orleans (IPNO) - \$360,000. Mr. Starns reported that the

Innocence Project (IPNO) represents people pursuant to Louisiana Code of Criminal Procedure Article 930.7 which provides that the state must pay for actual innocence in post-conviction cases once a judge orders an evidentiary hearing. The Louisiana Public Defender Board contracts with IPNO at \$30,000 per month for these services. However, La. C.Cr.P. Art. 930.7 does not state that the Louisiana Public Defender Board is required to pay for these services and the question is whether it should. He reported on the recent practice that once people are exonerated, civil lawsuits are being filed for their wrongful imprisonment. The question then becomes since the evidence used in the civil suits is largely derived from LPDB's contract with IPNO (paid with public funds), should LPDB be able to recover those expenses. He further reported that after discussions with IPNO Executive Director Jee Park, it is his recommendation that La. C.Cr.P. Art. 930.7 be brought to the Legislature in the Spring of 2024 as that is the proper venue to address these issues and pending that, funding to IPNO for FY24 should be renewed. Mr. Holthaus moved to renew the IPNO contract for FY24 in the amount presented. Board member Adrejia Boutté asked for clarification on the motion. Mr. Holthaus clarified his motion is simply to approve the FY24 IPNO contract for \$360,000, as recommended. Judge Porter seconded the motion. Upon vote, the motion passed with eight in favor (Boutté, Daniel, Fanning, Holthaus, Howat, Lawrence, Porter, Ginart) and one in opposition (Thaxton).

e. Expert Witness Funds

- i. Capital Trial-CPCPL/MCJ (LPDB/EWF) – up to \$595,000**
- ii. CPCPL/MCJ Post Conviction (CPCEWF) - up to \$360,000**
- iii. Miller/Montgomery – IPNO (MMEWF) up to \$120,000**

Mr. Starns reported that the expert witness funds are an essential part of effective representation. He explained that the request to renew the funds “up to” an amount is to bring those funds’ current balances back up to the amount that each is funded every fiscal year (year end balances roll over into the new fiscal year). He clarified that some expert witness fund contracts are cancelled near the end of a fiscal year and those surplus monies are redistributed to the districts. For these three Expert Witness Funds, Mr. Starns asked that the Board approve up to those amounts just to bring the funds back up to where they started off the past fiscal year.

Mr. Holthaus urged to include in the scope of the working group discussions any options clarifying the reporting of how expert money is used and reported. He then moved to approve the recommendation to renew the Capital Trial -CPCPL/MCJ, CPCPL/MCJ Post Conviction and Miller/Montgomery – IPNO Expert Witness Funds *up to* the amounts presented. Upon vote, the motion passed unanimously.

f. Stanley-Reuter FY24 Contract Resolution. General Counsel Barbara Baier reported that Stanley-Reuter is the law firm representing the Board in the *Hebert*² case. She reported that contracts can only be amended for three years and this contract is approaching the end of its third year. With a new contract, a new Board Resolution must also be presented to the AG’s Office. She indicated that the case is being ramped up, but that a trial date has not yet been set. Mr. Starns clarified the contract is for \$60,000. Dr. Howat moved to approve the Stanley-Reuter FY24 contract for \$60,000. Mr. Lyn Lawrence seconded the motion which passed unopposed.

² *Hebert v. LPDB*. Plaintiff Susan Henry Hebert (Public Defender) alleges she is/was a state employee for the purpose of retirement benefits eligibility.

8. **District Issues**

a. **District Defender Selection Process.** This specific issue was not discussed.

b. **Appointment/Ratification of Interim, District 19 (EBR Parish) and Salary.** Mr. Starns reported that he has appointed Reverend Tommie Gipson as interim District Defender in District 19 (EBR Parish) at a salary of \$8,000 per month. Mr. Starns reported that Rev. Gipson brings extensive experience and a leadership team made up of Mr. Greg Rome, Mr. Brandon DeCuir and Ms. Alaina Bloodworth to assist him in addressing the significant issues in that district. Mr. Starns indicated that the Selection Committee for District 19 has been formed and it is his hope that a permanent Chief will be found quickly. He and Rev. Gipson have agreed to an initial interim appointment of six months (through December 31, 2023) at which time, if a permanent Chief is not appointed, Rev. Gipson's interim appointment will be revisited by the Board.

Rev. Gipson thanked the Board for the opportunity and assured them they would get 200% from him.

Reverend Alexis Anderson with the East Baton Rouge Prison Reform Coalition briefly addressed the Board regarding the District 19 Public Defender's Office and services in East Baton Rouge Parish. Mr. Ginart thanked her for her comments.

Mr. Starns urged the Board to ratify Rev. Gipson's interim appointment and the salary. Mr. Holthaus so moved and Judge Thaxton seconded the motion which passed unopposed.

c. **Interim Appointment in District 25 (Plaquemines Parish).** Mr. Starns reported he has appointed public defender Paul Fleming (District 24 (Jefferson Parish) to serve as interim district defender in District 25 (Plaquemines Parish) at a monthly salary of \$3,500. He indicated that Mr. Fleming is an experienced administrator having served as the Deputy District Defender in District 24 (Jefferson Parish) under Mr. Richard Tompson. He asked the Board to ratify Mr. Fleming's appointment effective July 1, 2023. Mr. Fanning moved to ratify the appointment of Mr. Fleming as interim District Defender in District 25 (Plaquemines Parish) at a salary of \$3,500 a month. Dr. Howat seconded the motion which passed unopposed.

d. **Appointment/Ratification of Interim, District 18 (Iberville-Pointe Coupee-WBR Parishes) and Salary.** Mr. Starns reported he has made his appointment to the District 18 District Defender Search Committee and asked the Board to ratify his appointment of District 20 (East/West Feliciana Parishes) District Defender Rhonda Covington as interim in District 18 (Iberville, Pointe Coupee, WBR Parishes) at a monthly salary of \$3,000. Ms. Covington addressed the Board and requested an amended salary of \$3,500 per month. Mr. Lawrence asked if she would accept the position for \$3,000. Ms. Covington countered with \$3,000, plus mileage. Mr. Holthaus stated that the motion should include clarifying specifics in light of complaints received because of pay differentials. After a brief discussion, Mr. Holthaus moved to ratify the appointment of Ms. Covington as interim District Defender in District 18 and approve a monthly salary of \$3,500 on the basis that the position is temporary in District 18 and that Ms. Covington is already a full time employee (in District 20 (East/West Feliciana Parishes)) and therefore making an extraordinary sacrifice for a *temporary* period of time. Judge Porter seconded the motion which passed unopposed.

9. **Next Meeting(s):** The next meeting of the LPDB is Thursday, September 28, 2023 at 1:00 p.m. at the Louisiana State Licensing Board for Contractors, 600 North Street, in Baton Rouge.

10. **Executive Session².** Mr. Holthaus moved to go into Executive Session. Dr. Howat seconded the motion which passed unopposed. Dr. Howat moved to leave Executive Session. Mr. Lawrence seconded the motion which passed unopposed.

11. **Adjournment.** Dr. Howat moved to adjourn. Mr. Lawrence seconded the motion which passed unopposed.

Guests: See attached sign in sheet.

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 22nd day of June, 2023

in Baton Rouge, LA, as approved by the Board on the 28th day of September, 2023, in

Baton Rouge, LA.



MICHAEL C. GINART, JR., CHAIRMAN