



LOUISIANA PUBLIC DEFENDER BOARD
BOARD MEETING
May 29, 2012
Ascension Parish Sheriff's Office Training Facility
Gonzales, Louisiana
2:00 PM

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 at 2:15 p.m. on Tuesday, May 29, 2012, at the Ascension Parish Sheriff's Office Training Center in Gonzales, Louisiana.

Mr. Neuner thanked District Defender Alan Robert (District 23/Ascension/Assumption/St. James Parishes) for his assistance in securing the meeting facility.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Sam Dalton
Add Goff
Leo Hamilton
Luceia LeDoux
Tom Lorenzi
Pam Metzger
Jacqueline Nash
Majeeda Snead

The following Board Members were absent:

Frank Holthaus
Dan Krutz
Lucy McGough
Herschel Richard
Gina Womack

The following *ex officio* Board Members were absent:

Judge Robert Brinkman
Rebecca Hudsmith

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

Julie Kilborn, Deputy Public Defender–Director of Training
John Di Giulio, Compliance Officer
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Jack Harrison, Juvenile Justice Compliance Officer
Erik Stilling, ITM Officer
Angel Williams, Budget Officer

2. **Review and Approval of the Agenda.** On motion of Mr. Lorenzi, seconded by Mr. Hamilton the agenda as presented was approved without opposition.

3. **Review and Approval of the Minutes.**

a. **April 10, 2012 Meeting.**

b. **May 15, 2012 Emergency Meeting.** Mr. Lorenzi moved to accept the Minutes of the April 10, 2012 and May 15, 2012 meetings. Prof. Metzger seconded the motion which passed unopposed.

4. **Budget Committee Recommendations and Updates.**

a. **Financial Report, May 24, 2012.** Budget Officer Angel Williams gave a brief summary of the financial report as presented and explained the new format for presenting current financial information to the Board. The new format has been approved for use by the Budget Committee and is to be reviewed/revisited by that Committee in one year for usefulness. There were no significant general budgetary items brought for discussion.

b. **Contract Amendments for Angola 5.** Ms. Kilborn reported that HB 1059 which provides supplemental funds in the amount of \$197,000 for the Angola 5 appeals by CPCPL and CAP passed through Senate Committee on May 28, 2012. On May 15, 2012, the Budget Committee approved payment to the two programs up to but not to exceed \$197,000.

i. **Resolution.** On motion of Mr. Lorenzi, seconded by Prof. Metzger, the Committee approved a resolution authorizing Ms. Kilborn to amend the CPCPL and CAP contracts increasing them by \$72,629.30 and \$123,484.84, respectively, for services rendered through the FY12 on behalf of two Angola 5 defendants, Jeffrey Clark and David Brown. There was no opposition to the motion which passed unopposed.

c. **Salary Review – 31st District Defender.** Dr. Stilling informed the Board that District Defender David Marcantel (District 31/Jefferson Davis Parish) has requested a 3.6% salary increase. Dr. Stilling reported that the increase meets Board policy requirements, that the district has the local revenue to cover this request and that Mr. Marcantel's caseloads are similar to other district defenders whose salaries are currently in the range Mr. Marcantel is requesting. Ms. LeDoux, on behalf of the Budget Committee moved to recommend the increase effective July 1, 2012. Mr. Hamilton seconded the motion which passed unopposed.

5. **Policy Committee Recommendations and Updates.**

a. LACE Program. Mr. Di Giulio reported that most districts receiving local monies apportioned to public defense do not get an itemization which specifies how much is derived from LACE tickets. All parishes are different and no one knows how the LACE program is managed in the different parishes. Mr. Di Giulio reminded the Board that Act 366 of 2011 requires agencies to provide itemized breakdowns with check remittals.

Mr. Hamilton moved to amend the agenda to make this discussion an item for board action. Mr. Lorenzi seconded the motion which passed unopposed. Mr. Hamilton then moved for the Board to ask the Legislative Auditor for a review of the methodology for the collection of funds statewide and for a recommendation for a uniform collection procedure. Mr. Lorenzi seconded the motion which passed unopposed.

b. LPDB Staff Timesheets. Ms. LeDoux, on behalf of the Policy Committee, moved to require LPDB staff to begin keeping timesheets to be used as a basis to help allocate staffs' time for on-going projects as well as to meet statutory obligations. Mr. Hamilton seconded the motion which passed unanimously.

c. Travel Expense Policy and Rates. Mr. Neuner informed the Committee that neither the contract programs nor the districts are required to have travel and expense reimbursement policies in place. Mr. Neuner moved, on behalf of the Policy Committee, that the contract programs and the districts be required to have travel and expense reimbursement policies which are in line with the State Travel Regulations. Several District Defenders expressed concern that the language proposed will require them to reimburse when in fact each district may want to define specifically what they will and will not reimburse. After a brief discussion, it was agreed that the language requiring reimbursement policies would include maximum allowable amounts for travel and for expense reimbursement as allowed by state reimbursement policies. Mr. Lorenzi seconded the motion which passed unopposed.

6. HB 325 Updates. Mr. Neuner reported that HB 325 left the Senate favorably with a 37 to 1 vote with a four-year sunset provision as opposed to the initially proposed two-years. Mr. Neuner thanked everyone for their efforts and outreach to legislators.

7. **FY 13 Contracts.**

a. District Defenders. Mr. Harris reported on a change to the FY13 district contracts which would require any District Defender to execute an addendum should his/her district restrict services during the term of the contract. The addendum contains additional requirements, including, but not limited to, regular caseload assessments and reporting, weekly financial reporting, quarterly contract reviews and any other terms and conditions that the Board deems appropriate at the time.

i. Resolution. On motion of Mr. Hamilton, seconded by Judge Burns, the resolution requiring the addendum to the FY 13 district contracts was approved without opposition.

b. Contract Extensions. Mr. Lorenzi moved to amend the agenda to include an action item regarding extension of FY12 contracts into FY13. Mr. Hamilton seconded the motion and the agenda was amended. After a brief explanation, Mr. Lorenzi moved to authorize Ms. Kilborn to sign FY 13 contracts with District Defenders which was seconded by Prof. Metzger. The motion was unopposed. Mr. Lorenzi then moved to authorize Ms. Kilborn to execute FY 13 contracts with the following entities in the following amounts: Brian Buel,

\$15,000; Don Dovie, \$10,000; David Greer, \$47,500; John Holdridge, \$25,000, David Newhouse, \$47,500 and JusticeWorks, \$46,000. Mr. Hamilton seconded the motion which passed unopposed.

8. Grants.

a. BJA. Ms. Kilborn informed the Board that a significant BJA grant was submitted timely on May 24, 2012 by staff, in advance of Board approval. She submitted for Board approval a resolution ratifying staff action. The \$350,000 grant would, if awarded, over a two year period, employ two people and assist staff and the districts in meeting statutory case weighting obligations. Mr. Lorenzi moved to approve the resolution which was seconded by Prof. Metzger and passed unopposed.

b. LCLE. Dr. Stilling reported that the Federal Byrne-JAG grant provided through LCLE in the amount of \$126,309 is funding one employee for one year to work with staff in running and compiling reports from the new CMS database, identifying unclear data from the previous CMS, and formulating methods to make data more accurate. In addition, grant funds were used to purchase new laptops for 17 districts with outdated software/hardware. The remaining funds are being used to upgrade the LPDB server. Dr. Stilling reported that the recent statewide database training tour netted 179 participants and earned an overall 4.43 rating on a 0-5 scale.

Ms. LeDoux moved to amend the agenda to include an action item regarding LCLE grants. Mr. Lorenzi seconded the motion and there being no opposition, the agenda was amended.

Ms. LeDoux moved to authorize Ms. Kilborn to seek CY 13 LCLE grants to be used to fund additional projects. Mr. Lorenzi seconded the motion and there being no opposition, the motion passed.

9. NLADA Membership. Mr. Neuner reported that the National Legal Aid and Defender Association (NLADA), a non-profit organization, recently sued employees Mr. David Carroll, Ms. Phyllis Mann and Mr. Jon Mosher. Considering these three career defenders' expertise was not made available to Louisiana during critical and significant times (Orleans Restriction of Services, critical funding legislation in the 2012 session, for example), Mr. Neuner requested the Board consider cancellation of LPDB's programmatic membership with NLADA. A brief discussion followed.

Mr. Lorenzi moved to amend the agenda to make this an action item which was seconded by Prof. Metzger and passed unopposed.

Mr. Lorenzi then moved to not renew the programmatic membership until and/or unless significant additional information is provided to change the Board's position. Prof. Metzger seconded the motion which passed unopposed.

Prof. Metzger then moved to amend the motion to include that LPDB communicate to NLADA their reasons for the cancellation. Mr. Hamilton seconded the motion and the original motion was amended without opposition. Mr. Neuner and Prof. Metzger agreed to collaborate on the correspondence to NLADA.

10. Juvenile Working Group. Mr. Neuner reported that Prof. Lucy McGough has submitted her resignation from the Board to take a position as Dean of Appalachian School of Law in Grundy, Virginia. Her replacement on the Board has not yet been named. Mr. Neuner asked for volunteers for the Juvenile Working Group, on which Prof. McGough was a member. Members Jacqueline Nash, Gina Womack, and Tom Lorenzi agreed to participate in the working group. Rev. Krutz was assigned in his absence.

11. Legislative Updates. Mr. Harris gave a brief update on the Legislative session and bills pertinent to LPDB. There was no discussion.

Two items were approved by the Committee to be added to the agenda for discussion.

A recent Attorney General opinion (11-0243), has concluded that the proposed transfer of funds to the Public Defender Office in settlement of the Court's underpayment of court costs pursuant to La. R. S. 15:168 would be considered a gratuitous donation of public funds, a violation of La. Const. art. VII, §14. On behalf of the Policy Committee, Mr. Neuner moved that the Board contact the Attorney General, provide case law which is contrary to their opinion, and request a review/reconsideration. Mr. Goff seconded the motion which passed unopposed.

Mr. Neuner reported that public defender Nevil Hollingsworth is withdrawing from the Barry Edge (Angola 5 case) which is set for trial in September 2012 and that presiding Judge Jerry Winsberg is looking for replacement counsel. Mr. Di Giulio suggested that staff compile a list of capital case certified attorneys who are not employees of any district public defender office or contract program. Mr. Di Giulio and Ms. Kilborn will be compiling the list for Judge Winsberg.

12. Staff Updates. Ms. Kilborn brought to the Board's attention the protocol developed by staff, as directed by the Board, which addresses the recent Board exception in District 30 allowing the felony defender who is now the City Prosecutor to continue to defend indigent clients in district court proceedings. There was no discussion.

Mr. Harris reported that a protest has been filed with IRS regarding the recent notification of underpayment of taxes by District 3 and District Defender Lewis Jones and staff are waiting for a response.

Mr. Di Giulio reported that Mr. Neuner, Ms. Kilborn, and he met recently with the local private bar to discuss possible pro bono counsel in District 9, which began implementation of service restriction with layoffs two week ago. Mr. Di Giulio and Ms. Kilborn will meet with the district judges on June 1, 2012.

13. Executive Session. On motion of Ms. LeDoux which was seconded by Mr. Hamilton, and passed unopposed, the Board went into Executive Session to discuss potential legal action against the New Orleans Traffic Court and recent issues in the District 25 (Plaquemines) Public Defender's Office.

On motion of Judge Burn, seconded by Mr. Hamilton, the Board left Executive Session and returned to the regular agenda.

Mr. Neuner moved to create a Plaquemines Working Group of the Board which would be authorized to investigate and take action as necessary with issues in the District 25 Public Defenders' Office and report back to the Budget Committee and Board at the next scheduled meetings. After a brief discussion, Mr. Hamilton, Mr. Neuner and Professor Snead agreed to be participants of the working group. Mr. Hamilton seconded the motion which passed unopposed.

14. Other Business. Professor Metzger moved to amend the agenda which was seconded by Mr. Goff.

Ms. LeDoux reported that staff has been in the process of reviewing pro forma budgets submitted by the districts and will come to the next Budget Committee meeting to recommend DAF based on revenues projections and submitted budgets. Ms. LeDoux requested authorization for the Budget Committee to act on behalf of the Board to distribute the FY 2013 DAF once HB-1 becomes official. Prof. Metzger so moved and upon Mr. Goff's second, the motion passed.

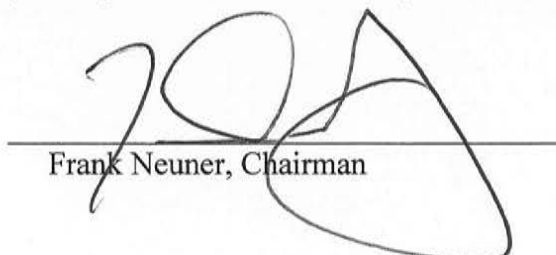
15. Next meeting(s). The next meeting will be Tuesday, September 11, 2012, in Lafayette. The location will be announced.

16. Adjournment. Upon motion by Mr. Hamilton seconded by Prof. Snead, the meeting adjourned at 5:10 p.m.

Guests Present:

Vic Bradley	Richard Tompson
Tony Champagne	Brian McRae
Bradley Dauzat	Steven Thomas
Derwyn Bunton	Alan J. Robert
Reggie McIntyre	Peter Barbee
Buzz Anderson	

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 29th day of May, 2012, as approved by the Board on the 11th day of September, 2012, in, Lafayette, Louisiana.



Frank Neuner, Chairman