

LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Tuesday, April 2, 2013
LSU Law Center, Tucker Room
Baton Rouge, LA
2:00 pm.

AGENDA

1. **Call to Order**
2. **Roll Call**
3. **Remarks of the Chairman**
 - a. **Welcome Board Member - Robert E. Lancaster**
 - b. **Capital Case Coordinator – Jean Faria**
4. **Review of Agenda – pgs. 71-75**
5. **Review of the Minutes* – February 20, 2013 Meeting - Tab 1, pgs. 76-79**
6. **Election of Vice-Chair***

Presenter: Frank Neuner
Summary: Pursuant to R.S. 15:151(C), the board shall elect a vice chairman.
7. **DISTRICT DEFENDER, 25TH JUDICIAL DISTRICT* - Tab 2, pgs. 80-81**

Presenter: John Di Giulio
Summary: The Selection Committee for the 25th Judicial District, District Defender position submitted five candidates for interviews. Staff has completed all interviews and will submit their final recommendation to the Board for approval.
8. **BUDGET COMMITTEE REPORT – Tab 3**
 - a. **Financial Report, March 27, 2013* - pgs. 82-86**

Presenter: Angel Williams

b. 501c3 Contracts, FY 14* - pg. 87

Presenter: Angel Williams

Summary: The Budget Committee accepted staff recommendation that FY14 funding to the contract programs be the same as FY 13 and that the contract terms be for six months, through 12/31/13.

c. Consulting and Professional Contracts, FY 14* - pg. 88

Presenter: Angel Williams

Summary: The Budget Committee approved staff's requests to approve the following professional services contracts: Mr. David Greer, Auditor, \$47,500; Mr. John Holdridge, to continue assistance in the Capital Division, up to \$50,000; Collectively, \$200,000 divided among four S.O.A.P. attorneys for legal services with \$50,000 reserved for expert witnesses; and, an extension to 12/31/13 of the current FY 13 contracts with CPCPL and CAP for legal services on the Angola 5 appellate cases.

For Consulting Services: Baby Mogul – two separate contracts for website hosting and designer services in the amounts of \$1,800 and \$10,000 respectively; Don Dovie, for I.T. emergency back-up services in the amount of \$10,000; for Justice Works for on-going upgrades and customizations to the CMS database in the amount of \$46,000 and to David Newhouse, for work in conjunction with Justice Works for further development and data compilation in the amount of \$47,500.

d. Out of State Travel Exception, July 25-26, 2013, COD NY Conference*-pg. 89

Presenter: Julie Kilborn

Summary: Staff requests the Board to consider an exception to its out-of-state travel restriction policy. The Budget Committee passed a motion to present the issue to the full Board for approval.

e. DAF Disbursement – 14th Judicial District (Calcasieu)*- pgs. 90-91

Presenter: Angel Williams

Summary: Based on staff projections, District 14 faces a shortfall of \$116,109 for FY 2013. The Budget Committee, pursuant to staff's projections, recommends an immediate DAF disbursement to the district in that amount.

f. CINC-Partnership For Training and Strategic Planning*

Presenter: Julie Kilborn

Summary: The Budget Committee approved staff's request to enter into a partnership with the Louisiana Supreme Court, Court Improvement Program to develop a comprehensive training curriculum and 12-month strategic plan for CINC parent representation.

g. Budget Updates

i. DAF and Pro forma Budgets

Presenter: Angel Williams

Summary: Pro forma budget templates have been sent electronically to the districts. All pro forma budgets were due from the districts to LPDB by April 1, 2013. Until more updated projections can be provided, the districts have been advised to use their FY13 DAF amounts to prepare their FY14 pro forma budget submittals.

ii. Contract Auditor Position

Presenter: Angel Williams

Summary: All interviews have been held and a candidate chosen. Staff has submitted a contract to the Office of Contractual Review for approval.

iii. HB -1, 2013

Presenter: Julie Kilborn

Summary: FY 14 proposed allocation is \$33,612,948.

9. POLICY COMMITTEE REPORT – Tab 4

a. Performance & Compensation Protocol*- pgs. 92-101

Presenter: Julie Kilborn

Summary: This issue was originally presented to the Budget Committee in October, 2012 as a tool for assessing and/or considering district defender salary increases. As directed by the Budget Committee in October, staff has restructured the original protocol and presents it as a protocol for assessing district and district defender performance and for maintaining a record of districts' progress.

b. Capital Case Timekeeping*

Presenter: Jean Faria

Summary: Staff recommends a different form of timekeeping for capital cases.

c. Whistleblower Policy* - pgs. 102

Presenter: John Di Giulio

Summary: Staff has researched and drafted a proposed policy for Board consideration upon Policy Committee recommendation.

d. Public Records Request, Expert Funding*- pgs. 103-124

Presenter: Roger Harris

Summary: Committee to discuss and make a recommendation on an issue affecting expert funding.

- e. **Policy Updates**
 - i. **District Assistance Fund Formula Adjustment**

Presenter: John Di Giulio

Summary: Staff is considering making adjustments to the current DAF formula to distribute limited state funds taking into account additional criteria. This issue was presented to the Budget Committee on March 5, 2013 and to the DDAC on March 6, 2013.
 - ii. **Delivery Definitions - pgs. 125-126**

Presenter: Julie Kilborn

Summary: Service Delivery definitions (Full-time, Contract, Transitioning, Hybrid) are one part of the DAF formula adjustment discussions.
- 10. **JUVENILE UPDATE – Tab 5**
 - a. **Deputy Defender-Director of Juvenile Services Position*- pgs. 127-128**

Presenter: Julie Kilborn

Summary: Staff has conducted interviews and will submit their recommendation for the Deputy Defender – Director of Juvenile Services position.
- 11. **BOARD DUTIES AND RESPONSIBILITIES - Tab 6, pgs. 129-141**

Presenter: Roger Harris

Summary: Pursuant to Board directive on February 20, 2013, General Counsel has prepared a summary of the Board’s compliance with Act 307.
- 12. **LLA PERFORMANCE AUDIT - Tab 7, pgs. 142**

Presenter: Frank Neuner

Summary: Entrance meeting scheduled for April 2, 2013.
- 13. **DISTRICT ISSUES – Tab 8**
 - a. **District 3 (Lincoln/Union) – IRS Issue Update**

Presenter: Roger Harris
 - b. **District 14 (Calcasieu) – ROS Update**

Presenter: John Di Giulio
 - c. **District 15 (Lafayette), pgs. 143-146**

Presenter: John Di Giulio
 - d. **District 41 (Orleans) – Open Society Grant, pgs. 147-148**

Presenter: Julie Kilborn
- 14. **CAPITAL UPDATE**

Presenter: Jean Faria

- 15. LEGISLATIVE UPDATE - Tab 9, pg. 149-153**
Presenter: Roger Harris
Summary: Mr. Harris will discuss a variety of bills including SB 113 filed by Senator Rick Gallot on March 28, 2013 which, if passed, will amend R.S. 15:147(E), 149.2(B)(1) and (D), 154(A)(2) and (B)(1), and 158(A)(3)).
- 16. STAFF UPDATES – Tab 10**
 - a. ISPD Report, pgs. 154-173**
 - b. Media, pgs. 174-176**
- 17. OTHER BUSINESS**
- 18. NEXT MEETING(S)**
- 19. EXECUTIVE SESSION¹**
 - a. New Orleans Traffic Court
 - b. State v. Barbara Vincent
 - c. Stanley v. Casanave
- 19. ADJOURNMENT***

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: New Orleans Traffic Court lawsuit (LPDB, et al v. Jones, et al, Docket: 614262, 19th JDC, EBR Parish), litigation in Calcasieu (Stanley v. Casanave, Docket: C613472, Section 23, 14th JDC), and State v. Barbara Vincent, Docket 24292-10, 14th JDC).



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Tuesday, April 2, 2013
LSU Law Center, Tucker Room
Baton Rouge, LA
2:00 pm.

MINUTES

1. Call to Order. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Tuesday, April 2, 2013, at the LSU Law Center in Baton Rouge, Louisiana.

2. Roll Call.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Addison Goff
Leo Hamilton
Dan Krutz
Luceia LeDoux
Tom Lorenzi
Herschel Richard
Majeeda Snead

The following Board Members were absent:

Frank Holthaus
Jacqueline Nash
Gina Womack
Pam Metzger

The following *ex officio* Board Members were absent:

Robert Brinkman
Rebecca Hudsmith

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

Julie Kilborn, Interim State Public Defender
John Di Giulio, Trial-Level Compliance Officer
Jean M. Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Irene Joe, Assistant Training Director
Erik Stilling, Information Technology and Management Officer
Angel Williams, Budget Officer

3. **Remarks of the Chairman.** Chairman Neuner welcomed incoming Board Member Mr. Robert E. Lancaster and announced that Jean Faria has accepted the position of Capital Case Coordinator. He thanked Special Projects Advisor Heather Hall for her help in getting *Gideon* letters published recently in the Shreveport and Lafayette newspapers. Mr. Neuner brought to the Board's attention the recent Orleans Public Defender Office's annual report and the new annotated agenda format for future Board meetings. He reminded all Board members of the May 15 deadline to submit their personal financial reports to the Board of Ethics and finally he welcomed guests Mr. Tim Mathis, Ms. Irina Zheludkova and Ms. Emily Wilson from the Louisiana Legislative Auditors Office. Mr. Neuner explained that LPDB will be going through a performance audit over the next six to 12 months.
4. **Review and Approval of the Agenda.** There being no changes, the agenda was approved as presented.
5. **Review and Approval of the Minutes of the Meeting.** There were no changes to the proposed Minutes from the February 20, 2013, meeting and upon motion of Mr. Lorenzi, seconded by Mr. Richard, the Minutes were adopted.
6. **Election of Vice-Chair:** Reverend Krutz moved to nominate Judge Robert Burns as Board Vice-Chairman, in compliance with R.S. 15:151(C). Mr. Hamilton seconded the motion which passed unopposed.
7. **District Defender, 25TH Judicial District.** Compliance Officer John Di Giulio reported that five people were interviewed for the 25th Judicial District, District Defender position and that Staff is recommending Mr. Matthew Robnett for the position. Judge Burns moved to accept staff recommendation which was seconded by Mr. Hamilton and passed unopposed. Mr. Neuner thanked Mr. Richard Tompson, Interim District Defender, for his assistance with the 25th District Defender duties since July of 2012.
8. **Budget Committee Report.**
 - a. **Financial Report, March 27, 2013*.** Budget Officer Angel Williams gave a brief financial update based on available information as of March 26, 2013. Ms. Williams reported that 92% of the 2013 budget has been spent or encumbered and estimates \$2.3M to be expended or encumbered by June 30, 2013. Of the \$13.3M funds allocated for the contract programs, \$9.3M has been expended to date with an expected \$3.8M to be

expended by June 30. Upon recommendation of the Budget Committee to approve the financial report, seconded by Ms. Ledoux, the financial report was approved unopposed.

b. 501c3 Contracts, FY 14*. Ms. Williams reported that the Budget Committee accepted staff recommendation that FY14 funding to the contract programs be the same as FY 13 and that the contract terms be for six months (through Dec. 31, 2013). Ms. LeDoux seconded the Budget Committee recommendation which passed unopposed.

c. Consulting and Professional Contracts, FY 14*. Ms. Williams reported that the Budget Committee recommended staff's requests to approve eight professional services contracts for the following amounts/services: Mr. David Greer, Auditor, \$47,500; Mr. John Holdridge, to continue assistance in the Capital Division, up to \$50,000; collectively, \$200,000 divided among four S.O.A.P. attorneys for legal services with \$50,000 reserved for expert witnesses; and, an extension to December 31, 2013, of the current FY 13 contracts with CPCPL and CAP for legal services on the Angola 5 appellate cases.

Additionally, the Budget Committee recommended approval of five contracts for Consulting Services: Baby Mogul – two separate contracts for website hosting and designer services in the amounts of \$1,800 and \$10,000 respectively; Don Dovie, for I.T. emergency back-up services in the amount of \$10,000; for Justice Works for on-going upgrades and customizations to the CMS database in the amount of \$46,000 and to David Newhouse, for work in conjunction with Justice Works for further development and data compilation in the amount of \$47,500.

Mr. Lorenzi seconded the Budget Committee recommendation which passed unopposed.

d. Out of State Travel Exception, July 25-26, 2013, COD NY Conference*. Ms. Kilborn requested that the Board consider an exception to its out-of-state travel restriction policy allowing five or six executive staff members to attend the Community Oriented Defense Conference in New York in July, 2013, at a cost not to exceed \$9,500. Judge Burns asked for a clarification on the value of the trip. Ms. Kilborn explained that LPDB is a member of the COD network and the annual conference serves to educate attendees on holistic representation. Ms. Kilborn reported that the Budget Committee passed a motion to present the issue to the full Board for approval. Mr. Hamilton seconded the recommendation. Upon a full vote of the Board, the recommendation passed seven to one, with Judge Burns dissenting and Mr. Neuner abstaining.

e. DAF Disbursement – 14th Judicial District (Calcasieu)*. Ms. Williams reported that based on staff projections, District 14 faces a shortfall of \$116,109 for FY 2013. She further reported that the Budget Committee, pursuant to staff's projections, recommends an immediate DAF disbursement to the district for \$116,109. Ms. LeDoux seconded the committee recommendation which passed unopposed.

f. CINC-Partnership for Training and Strategic Planning*. Ms. Kilborn explained that the Louisiana Supreme Court, Court Improvement Program will pay for expenses for one staff member and four additional juvenile defenders to attend a ABA Parent Attorney conference in Washington D. C. in return for those five then working with the Supreme Court to develop trainings and a 12-month strategic plan for the

delivery of parent representation. Mr. Richard moved to approve the collaborative partnership which was seconded by Mr. Lorenzi and passed unopposed.

g. Budget Updates.

i. DAF and Pro forma Budgets. Ms. Williams reported that the pro forma budget templates have been sent electronically to the districts and all pro forma budgets were due from the districts to LPDB on April 1, 2013, and that staff will begin reviewing them next week. She explained that until updated projections can be provided, the districts have been advised to use their FY13 DAF amounts to prepare their FY14 pro forma budget submittals.

ii. Contract Auditor Position. Ms. Williams reported that interviews for the contract auditor position have been held, a candidate has been chosen, and the contract for services has been submitted to the Office of Contractual Review for approval. The auditor, being funded by an LCLE grant, will be responsible for compiling a uniform financial handbook and reviewing district financial reports.

iii. HB -1, 2013. Ms. Kilborn reported that Mr. Neuner, Rev. Krutz, General Counsel Roger Harris, Budget Officer Angel Williams and she attended the hearing for HB 1 in the House Committee on Appropriations on March 12, 2013, and were asked no questions regarding LPDB's budget request for FY 14. The proposed allocation to LPDB is \$33,612,948.

9. Policy Committee Report.

a. Performance & Compensation Protocol. Ms. Kilborn informed the Board that this issue was originally presented to the Budget Committee in October, 2012, as a tool for assessing and/or considering district defender salary increases. Staff, as directed by the Budget Committee in October, has made some changes to the original protocol and presents it to the Board as a protocol for assessing district and district defender performance and for maintaining a historical record of districts' progress. Ms. Kilborn explained that the protocol being presented contains changes to the evaluation scale to correspond with the State's Performance Evaluation System (PES) in an effort to be uniform and fair. Ms. Kilborn indicated that the Policy Committee recommends approval of the protocol as amended. Upon a second to the recommendation by Ms. LeDoux, the motion to accept the protocol as amended passed unanimously.

b. Capital Case Timekeeping*. Capital Case Coordinator Jean Faria reported that Staff recommended to the Policy Committee the adoption of a policy that districts be required to log all time spent on capital cases. Ms. Faria clarified that district offices do not currently keep record of time spent on capital cases and this information is critical to maintaining and obtaining funding and resources. Ms. Faria explained that the contract programs do have timekeeping mechanisms, but they are not uniform. The Policy Committee is recommending adoption of a uniform capital time keeping policy. Mr. Lorenzi seconded the recommendation which passed unopposed.

c. Whistleblower Policy*. Mr. Di Giulio reported that the Policy Committee has recommended for Board consideration the proposed Whistleblower Policy which protects any public defense employees and contractors who report wrongdoing from retaliation or threat of retaliation by an employer or contractor. Mr. Lorenzi seconded the recommendation which passed unopposed.

d. Public Records Request, Expert Funding*. Mr. Neuner reported that LPDB staff received a Public Records Request for information regarding expert assistance in a capital case, specifically, Barry Edge, an Angola 5 defendant. Mr. Neuner reminded the Board that they have already developed policy on funding Department of Corrections cases. Judge Burns requested that staff provide the Board's policy to defense counsel. No further action was taken.

e. Policy Updates

i. District Assistance Fund Formula Adjustment. Mr. Di Giulio reported that staff is considering making adjustments to the current 5-year old DAF formula to determine equitable distribution of limited state funds taking into account additional criteria. Ms. LeDoux suggested a presentation to the Board on the formula and the formation of a working group of Board members to address the current working formula and modifications.

ii. Delivery Definitions. Ms. Kilborn reported that the Service Delivery definitions - one part of the DAF formula adjustment discussion - have been sent out to the districts for input and that staff will report the findings back to the Board.

10. Juvenile Update. Deputy Defender-Director of Juvenile Services Position*. Ms. Kilborn reported that staff has conducted interviews and recommends Mr. Richard Pittman for the position of Deputy Defender Director of Juvenile Services position. Rev. Krutz moved to accept staff recommendation which, seconded by Addison Goff, passed unopposed.

11. Board Duties and Responsibilities. General Counsel Roger Harris reported that pursuant to the Board's directive on February 20, 2013, he prepared a summary of Act 307 outlining the Board's statutory duties and responsibilities.

12. LLA Performance Audit. Mr. Neuner explained that the Louisiana Legislative Auditor's office is conducting a performance audit of LPDB as required of all agencies every seven years.

13. District Issues.

a. District 3 (Lincoln/Union) – IRS Issue Update. Mr. Harris reported that an initial report from the IRS on an issue in District 3 whether staff attorneys are employees or contractors resulted in the IRS requesting that the district office change a form and the IRS's subsequent acceptance of that change. Mr. Hamilton moved that the agenda be amended to make this issue an action item. Ms. LeDoux seconded the motion which passed. Mr. Harris further reported that he was not aware if attorney Ralph Stephens, who handled the issue pro bono for District 3, was aware of the IRS's recent communications with District 3, indicating their acceptance of the change. Mr. Hamilton moved that staff forward the IRS's most recent correspondence to Mr. Stephens and request his formal opinion as to whether the issue is resolved by the actual form change or if there is further action required by the District. Ms. LeDoux seconded the motion.

b. District 14 (Calcasieu) – ROS Update. Mr. Di Giulio reported that District 14 continues in service restriction.

c. District 15 (Lafayette). Mr. Di Giulio indicated that while local revenues are up and the District Defender has implemented numerous reduction steps, District 15 is still facing a shortfall.

d. District 41 (Orleans) – Open Society Grant. Ms. Kilborn reported that OPD is working on a 15-month grant awarded by the Soros Foundation. Ms. LeDoux expressed concern that the language in the grant is not Orleans Parish specific but rather is a statewide campaign. She indicated that the Board should review any campaign material before it is available for public view to be clear in the Board's role and any future involvement expectations. Professor Snead made a motion that staff work with District Defender Derwyn Bunton to include in the project proposal a budget as well as specifics on how the funds are to be spent. Rev. Krutz moved to amend the agenda to make this an action item, which was seconded by Mr. Goff and passed unopposed. Professor Snead moved that District Defender Bunton and staff work together and propose a plan for Board review and recommendation that better defines the District-Board partnership. Mr. Goff seconded which passed unopposed.

14. Capital Update. Capital Case Coordinator Jean Faria reported that the Capital Working Group will begin meeting to discuss expert witness funding and invoicing policy and protocols and how to handle staffing capital cases.

15. Legislative Update. Mr. Harris discussed a variety of bills including SB 113 filed by Senator Rick Gallot on behalf of LPDB on March 28, 2013, which, if passed, will amend R.S. 15:147(E), 149.2(B)(1) and (D), 154(A)(2) and (B)(1), and 158(A)(3)); and HB 1 which provides for LPDB's general funds for FY 14 in the amount of \$33,612,00.

16. Staff Updates. Ms. Kilborn stated that the ISPD report and media logs are included in each board book.

17. Other Business. There was no further business brought for discussion.

18. Next Meetings(s). The next Board meeting date is scheduled for Tuesday, May 21, 2013, at a location to be determined.

19. Executive Session¹. Upon motion of Mr. Richard, seconded by Mr. Goff, the Board went into executive session. Upon motion of Ms. LeDoux, seconded by Professor Snead, the Board left executive session.

Upon returning to regular session, Mr. Richard moved to formally object to the Attorney General's dismissal in *Stanley v. Casanave* (Calcasieu Parish/District 14) unless all costs are paid by someone other than the Board. Mr. Goff seconded the motion which passed unopposed. Staff was instructed to convey the Board's decision to the AG's office.

20. Adjournment*. Upon motion of Ms. LeDoux, seconded by Prof. Snead, the meeting adjourned.

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: New Orleans Traffic Court lawsuit (LPDB, et al v. Jones, et al, Docket: 614262, 19th JDC, EBR Parish), litigation in Calcasieu (Stanley v. Casanave, Docket: C613472, Section 23, 14th JDC), and State v. Barbara Vincent, Docket 24292-10, 14th JDC).

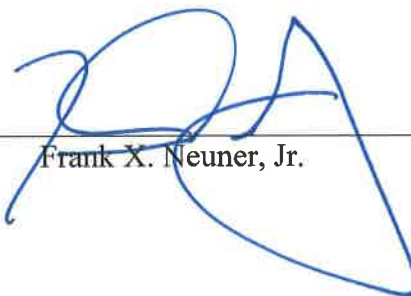
Guests:

Kathryn Sheely
Chris St. Julien
Irina Zheludkova
Bruce Unangst
Richie Tompson
Herman Castete
Robert Lancaster

Michael A. Mitchell
G. Paul Marx
Tim Mathis
Mike Courteau
Vic Bradley
Derwyn Bunton

Jay Dixon
Emily Wilson
Bradley Dausat
Tony Champagne
Reggie McIntyre
Matthew Robnett

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 2nd day of April, 2013, as approved by the Board on the 21st day of May, 2013, at Baton Rouge, Louisiana.



Frank X. Neuner, Jr.