



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, April 30, 2020

12:00 p.m.

Zoom¹

MINUTES

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, April 30, 2020, via ZOOM video-conference (see footnote) at approximately 12:00 p.m. Mr. Holthaus acknowledged quorum.

The following Board members were present:

Zita Andrus

Chris Bowman

Flozell Daniels

Pat Fanning

W. Ross Foote

Michael Ginart

Frank Holthaus

Lyn Lawrence

Donald North

Chaz Roberts

The following Board member was absent:

Moses Williams

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

Rémy Voisin Starns, State Public Defender

Barbara Baier, General Counsel

Natashia Carter, Budget Administrator

Jean Faria, Capital Case Coordinator

Anne Gwin, Executive Assistant

Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services

Erik Stilling, Information and Technology Director

Tiffany Simpson, Legislative Director – Juv. Compliance Officer

2. Adoption of the Agenda. Judge Ross Foote moved to adopt the agenda which was seconded by Mr. Flozell Daniels and passed unopposed.

¹ This meeting is being held via a ZOOM video-conference pursuant to Executive Proclamation JBE 2020-30 – Additional Measures for COVID-19 Public Health Emergency Section 4.

3. Call for Public Comment. Mr. Holthaus indicated public comment would be taken up with each item.
4. Adoption of the Minutes. Professor Donald North moved to adopt the Minutes of the April 17, 2020 meeting as presented. Mr. Daniels seconded the motion which passed unopposed.
5. Policy Committee Report and Recommendations
 - a. Working Group – Structural Changes. Judge Foote reported the Policy Committee is recommending to the full Board the formation of a working group to review the issues encompassed in State Public Defender Starns’ report included in the materials. He envisioned the group to report back to either the Policy Committee or full Board on the proposed cost savings and structural changes. He suggested a diverse group in race and gender composed of seven members from the Board, staff, district defenders (from small and large districts) and the contract programs with an external invitation for anyone interested to attend regularly scheduled meetings. He then moved that the Policy Committee’s recommendation is that the Board form a working group of seven members or more of board, staff, district defenders and contract directors to conduct open meetings to address organizational needs. Professor North expressed strong opposition to the Policy Committee making structural changes without the full Board being involved in the discussion and stated that the Chairman holds the responsibility of forming working groups and committees and it is the full Board’s responsibility to decide structural changes. Clarification was made that the suggested working group was not part of the Policy Committee rather a separate group to gather facts and come back to the Board for discussion. Mr. Pat Fanning stated that SPD Starns spent a lot of time on his recommendations and another committee is not needed. Mr. Flozell Daniels urged a working group with representation from all the areas mentioned. Mr. Mike Ginart stated the work is too cumbersome for the Board and that the working group would research and present facts for discussion. Chairman Holthaus stated that he would appoint a committee to look into the issues as presented and provide information to the whole Board for consideration. Judge Foote withdrew his motion and stated that he would like to be on the committee.
6. Budget Committee Report and Recommendations
 - a. Districts
 - i. Solvency Projection. Dr. Stilling gave a detailed report on the updated solvency projections and the proposed corresponding May, June, and July “payment” schedules in the materials. The schedules show seven districts and the necessary funding to get them through June 30, 2020; however, there are four districts that require funds now to get through the month of May. Professor North reported that it is the recommendation of the Budget Committee to follow the original

plan to take care of immediate needs. He moved to follow the original plan and take care of the districts identified by Dr. Stilling for the following amounts (which will take each district through the month of May): District 11 (Sabine Parish) - \$45,297; District 13 (Evangeline Parish) - \$18,649; District 25 (Plaquemines Parish) - \$13,851 and District 37 (Caldwell Parish)-\$13,642. Mr. Chris Bowman seconded the motion and upon vote the motion passed without opposition.

ii. Mitigation Updates. Dr. Tiffany Simpson reported on the mitigation efforts since last reported at the Budget Committee meeting on April 28, 2020. Staff was directed to obtain the following data: the dates that Payroll Protection Program or unemployment monies were received; how much; and the processes involved.

iii. Immediate Funding Needs

1. District 37 (Caldwell). Mr. Starns reported District 37 (Caldwell) has requested \$5,740 to rehire the office's secretary who recently left. Professor North indicated this is a favorable recommendation by the Budget Committee. Mr. Lyn Lawrence seconded the recommendation. Clarification was made that the request is for \$5,760. Upon vote the motion to approve \$5,760 to District 37 (Caldwell Parish) passed unopposed.

b. Contract Programs.

i. SPD Report. Mr. Starns addressed the Board briefly regarding the report in the materials which addresses his concerns for FY20 and FY21 and proposals for cost savings and structural changes moving forward. The Board previously decided to form a working group or a committee to address the issues presented in this report.

1. CAP report. The report by Ms. Cecelia Kappel, Executive Director of the Capital Appeals Project requested by Board member Chaz Robert is in the materials for review.

2. LCCR report. The report by Mr. Aaron Clark-Rizzio, Executive Director of the Louisiana Center for Children's Rights requested by Board member Chaz Robert is in the materials for review.

ii. Fund Balances. Dr. Simpson reported that the contract programs were asked to submit their fund balances and the amounts as submitted are in the materials. Professor North asked the Chair to direct the State Public Defender to provide documentation of these balances. Chairman Holthaus agreed and asked that the programs provide detailed confirmation – accounts or statements that show balances. Mr. Flozell Daniels reported, as a non-profit director, that the program may not be able to disaggregate their funds for reporting. Capital Case Coordinator Jean Faria reported that each program provides profit/loss statements and financials each month and that they are required to keep separate bank accounts for LPDB funds pursuant to their contracts. Budget Administrator Natashia Carter reported that the financials that are submitted by the programs are two months old. Professor North restated that the programs should

provide current, up-to-date data. Chairman Holthaus agreed the reporting should be a current bank statement that supports that the funds are on hand. Mr. Kerry Cuccia, Executive Director, Capital Defense Project of Southeast Louisiana, and Mr. Richard Bourke, Executive Director, Louisiana Capital Assistance Center, both reported that their programs' April statements would not be available and March 31, 2020 would be the most current report they could submit.

iii. Stimulus Fund – Application Status. Dr. Simpson reported that all the contract programs applied for Payroll Protection Program funds and have made savings in other areas. She reported that three of the eight programs have received funds as of April 27, 2020; however, it is not clear what portion is forgivable. Professor North inquired as to the impact on LPDB as the result of the programs obtaining these funds and if their contracts could be reduced by the amount of the loan. Dr. Simpson indicated staff would obtain the information from the programs and report back to the board. Mr. Lawrence asked what percentage of the loan must be repaid. Mr. Holthaus asked staff to identify why a portion of the funds must be repaid.

7. Request for Authorization to Obtain a Certification (La.R.S. 15:166). SPD Starns reported he is optimistic that LPDB will not experience a fund sweep this fiscal year; however, out of caution, he reported that La.R.S. 15:166(c) provides that if the Board certifies an emergency funding situation and the Chief Justice of the Supreme Court agrees with the assessment, then the Legislature and the Division of Administration is barred from taking the money. He asked the Board to certify that there is an emergency shortfall in funding to take to the Supreme Court. Professor North moved to declare that remaining funds be declared emergency funds. Judge Foote seconded the motion. Clarification was made and the motion amended to state that there is an emergency shortfall in funding certified by the Louisiana Public Defender Board. Professor North agreed to the amended motion, Judge Foote seconded and upon vote the motion passed unopposed.

8. LCLE Grant Survey. Dr. Simpson reported that LPDB will be seeking grant funding from LCLE and has submitted a pre-application for the funding for a workstation for every section of court statewide – district and city, a scanner, PPE, and a UV light for each office. Mr. Pittman added that this grant is for additional expenses/needs incurred a result of the coronavirus and if the districts provide specific needs, that information could be incorporated into the final grant request due in late May. Mr. Ginart inquired if a motion should be made that the districts provide the information to staff or that a specific formal request be required by the districts to ensure LPDB has access to the money. Mr. Pittman indicated he did not believe that it was necessary in this case. Budget Officer Natasha Carter reported past LCLE grants for district equipment did not require formal requests from the districts in order to receive the money. Ms. Faria reported having received LCLE grants in the past and urged out of an abundance of caution to require documentation and submittal of receipts by the districts. Chairman

Holthaus agreed. Mr. Ginart then moved that all district defenders make a list of items needed to accommodate the governor's orders and wishes for social distancing -- certain masks and any other items -- to go forward and properly perform their work and that be presented to the staff for collection and dissemination. Mr. Bowman seconded the motion. Judge Foote asked to include in the motion "that they need or have already purchased and can provide receipts for". Mr. Ginart and Mr. Bowman both agreed with the amendment. Upon a vote the motion as amended passed unopposed.

9. House Appropriations Request – LPDB Needs Due to COVID-19. Dr. Simpson reported being asked by House Appropriations Committee to provide, in power point format, how COVID-19 has affected the LPDB budget, that is, new expenses or effects to current revenues. She stated COVID 19 is the perfect example of how conviction and user fees do not work: court closures prevent the public from paying existing fines and fees and also prevents the assessment of new fines and fees. Further, when courts reopen, the number of people who have lost their jobs may not be able to afford the new fines and fees that are assessed. LPDB will apply for \$491,000 in LCLE grant monies to assist district offices that do not qualify for the Payroll Protection Program. LPDB will ask the legislature for \$1,423,625 in supplemental funding for FY20 (based on one month of the reductions that the offices made plus what would be needed to get them through July). For FY21, LPDB will ask the legislature for \$3,585,457.35 in addition to the \$40M that HB105 currently includes. This amount represents 75% of what was collected in conviction and user fees (\$4,780,000) for the same two months in CY 19 that courts have been closed due to COVID 19 in CY20 (March – May). This is a very low number but defensible.

Mike Ginart indicated upon review of the report that 85% defendants are represented by the public defenders and asked staff from what year that data is derived and for a district by district breakout. Mr. Starns indicated staff would provide the information.

10. Personnel Updates.

- a. District Defender – District 29 (St. Charles).
- b. Trial Level Compliance Office/Director of Training
(Items a and b were discussed together)

SPD Starns reported that all interviews have been held for the District Defender position in District 29 (St. Charles Parish) and for the two statutory positions with the Board. He suggested that the Board place these items on the next agenda and conduct interviews during an executive session. Chairman Holthaus asked the Board their preference to hold the interviews via Zoom or wait until such time as the Board resumes in-person meetings. Mr. Bowman moved to have interviews next Friday via Zoom videoconference for the District 29 District Defender position. Mr. Ginart seconded the motion. Interim District Defender Richie Tompson urged that the board move forward with the interviews as the candidates are anxious to move on and the local council is amenable to assisting the district office financially. Mr. Fanning inquired if the interviews are just for the District Defender

position or for the executive positions as well. SPD Starns clarified he wants all interviews at the same time. Professor North expressed opposition to holding the executive position interviews next Friday but agreed to the District Defender interviews. SPD Starns reported the Board may be in jeopardy of losing the two statutory positions if they are not filled by the end of the fiscal year. Upon a vote to hold the District 29 District Defender interviews next Friday (May 8, 2020) the motion passed unopposed. Chairman Holthaus reported he would be talking with the Budget and Policy Committee chairmen to discuss the executive positions and wants to know the urgency and degree of threat of losing those positions.

11. Division Updates. The Capital Division report is in the materials for review. Ms. Faria stated this report is non-responsive to the special report requested by Mr. Fanning and Mr. Ginart but that report would be forthcoming.

12. RAMOS *v.* LOUISIANA. SPD Starns gave a brief report on the recent Supreme Court decision (included in the materials) regarding non-unanimous jury verdicts. He indicated that the decision currently affects approximately 50 people in Louisiana; however, there is language in *Ramos* that tries for retroactivity and should that happen there would be a dramatic impact on Louisiana. Additionally, he sees warning signs in the dissent in *Ramos* about the future of *Gideon* and urged everyone to be mindful.

13. Next Meeting. The next meeting was set for Friday, May 8, 2020 at 12:00 p.m. via Zoom videoconference.

14. Adjournment. Mr. Lawrence moved to adjourn, seconded by Judge Foote and passed unopposed.

GUESTS: (See ZOOM participant report, attached)

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender meeting held on the 30th day of April 2020, as approved by the Board on the 8th day of May, 2020².

C. Frank Holthaus, Chairman

² The meeting at which these minutes were approved was held by Zoom video-conference pursuant to Executive Proclamation JBE 2020-30 – Additional Measures for COVID-19 Public Health Emergency Section 4.

Guests: April 30 2020, ZOOM video conference

Eve Hampson
Molly Fowler
Lyn Lawrence
Mike Ginart
Emily Zolynsky
Bettye Wall
Ben Cohen
Mike Courteau
Paul C Fleming Jr
Emily
745852
Denny LeBoeuf
Jerry D'Aquila
Chuck Reid
12167854248
G Paul Marx
Louis Champagne
Herman Castete
Jeremy McDaniel
Trisha Ward
Dan Schilling
Richie Tompson
crwhitehead3
Anthony Champagne
Angela Claxton
Adrienne Harreveld
Richard Bourke
Richard Stricks
Don Kneipp
Renee Bourg
Robert Noel
Derwyn Bunton
J. Albert Ellis
Chanel Long
Darrilyn Favorite
Harry Fontenot
Kristen Rome (Kristen)
Brad Dauzat
Michelle AndrePont
David Marcantel
Alan Robert
Jill Pasquarella
Jee Park
Jancy Hoeffel
Steven Thomas
Tony Tillman

Deirdre Fuller
Bruce Unangst
Carol Kolinchak
Kristen Richardson
Brian Mcrae
Emily Ratner (emily)
Rhonda Covington
Brett Brunson
Cecelia Kappel
Matilde Carbia
12254394574
Christopher Aberle
Elizabeth
Derrick Carson
Michael Miller
Hannah Van De Car
Kyla Romanach
Steve
Gary
15047568880
Dannielle Berger
15046697446
Natalie Lawton
Maggie LeBlanc
Kerry Cuccia
Stephen Stanford
M. Naquin
Aaron Clark-Rizzio
Thomas Gernhauser
Kristin Wenstrom
Jeremy McDaniel
Tim Carr
Michael A. Mitchell
Richie Tompson
Tim Carr
Melanie Carr
Olivia Woollam
John Lindner

Lindsay Blouin
MGarvey 6
Galaxy Note9
Olivia Woollam
15045209695
Reginald J Mcintyre
Walt Sanchez
MMitchell
Brett Brunson
Renée Slajda
Galaxy Note9
Renee Bourg
Michael Mitchell
Jeremy McDaniel
Don Kneipp
Annie Flanagan
Anthony Champagne
PDO- Fen Swann
Joshua Newville
Rhonda Covington
Lauren's iPhone
rlcan
G Paul Marx
Mauricio