



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, March 9, 2023

1:00 p.m. – 6:00 p.m.

Bluebonnet Regional Branch Library

9200 Bluebonnet Boulevard

Baton Rouge, LA 70810

MINUTES

1. Call to Order and Comments, Chairman, Michael C. 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, March 9, 2023, at approximately 1:15 p.m.

The following Board members were present:

Zita Andrus
Pat Fanning
Holly Howat

Lou Daniel
Michael Ginart
Donald North

Flozell Daniels
Frank Holthaus
Frank Thaxton

The following Board members were absent: Lyn Lawrence, Allyson Melancon.

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

Rémy Voisin Starns, State Public Defender
Barbara Baier, General Counsel
Kevin Broussard, Budget Officer
Anne Gwin, Executive Assistant
Michael A. Mitchell, Trial Level Compliance Officer
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance/Legislative Director
Erik Stilling, IT Director

2. Adoption of the Agenda. Mr. Frank Holthaus moved to adopt the agenda. Ms. Zita Andrus seconded the motion which passed unopposed.

3. Public Comment. Three people pre-registered for public comment: Louisiana State Representative C. Denise Marcelle (District 61); G. Paul Marx and Lynn Legier. Mr. Ginart indicated that he would defer public comment until the agenda item is presented.

4. Adoption of Minutes - December 6, 2022 Meeting. Mr. Flozell Daniels moved to adopt the Minutes of the December 6, 2022 meeting as presented. Professor Donald North seconded the motion which passed unopposed.

7. **Executive Session**¹

Chairman Ginart asked for a motion to amend the agenda and to go into Executive Session (Agenda Item 7) earlier on the agenda. Mr. Holthaus so moved. Judge Lou Daniel seconded the motion which passed unopposed. Mr. Pat Fanning moved to return to regular session. Judge Frank Thaxton seconded the motion which passed unopposed.

8. **District Issues**

- a. **District Defender, District 41 (Orleans Parish) Appointment and Salary.**
Upon return to regular session, Chairman Ginart indicated for the record that Board member Flozell Daniels had left the meeting². Judge Frank Thaxton then moved to appoint Mr. Daniel Engelberg as the District Defender in District 41 (Orleans Parish). Mr. Fanning seconded the motion. Upon a roll call vote, the motion carried six in favor (Thaxton, North, Fanning, Daniel, Andrus, Ginart) and two in opposition (Howat, Holthaus) to the appointment of Mr. Engelberg. Professor North moved that Mr. Engelberg's salary be set at the same rate as past District Defender Bunton (\$137,000). Mr. Holthaus seconded Professor North's motion. Upon vote, the motion carried with seven in favor and one abstention (Howat). Chairman Ginart congratulated Mr. Engelberg and thanked the other candidates.
- c. **District 19 (EBR Parish) Status and Discussion**
- d. **District 25 (Plaquemines Parish) Status and Discussion**

Chairman Ginart reported that Items 8c and 8d, duly noticed to be reported to the Board in Executive Session, have been requested by District 19 (EBR Parish) District Defender Lisa Parker and District 25 (Plaquemines Parish) District Defender Chanel Long to be heard publicly. State District Representative C. Denise Marcelle addressed the Board and expressed her concerns with District 19 (EBR Parish) District Defender Parker's continued employment -- having requested her removal one year earlier -- and urged that the Board form a Search Committee for a new District Defender. Board member North questioned Representative Marcelle regarding the turnover of attorneys and staff during the prior administration and the number of complaints she has received regarding Ms. Parker. Representative Marcelle indicated she did not have turnover numbers but that the complaints being received were not just about Ms. Parker individually, but about the office administration as a whole. Board member Fanning thanked Representative Marcelle for her interest and clarified that the Board's intention and effort in assigning Ms. Parker to the interim position in District 23 (Ascension, Assumption and St. James Parishes) was in the hope that the smaller district would be better suited to Ms. Parker, resulting in the 19th position opening up for new leadership.

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 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 discuss the Chief District Defender applicants/appointments in District 41 (Orleans Parish): Mr. Daniel Engelberg; Ms. Meghan Garvey; Mr. Kenneth Hardin; and, Mr. L. Scott Sherman. The Board may also discuss District 25 (Plaquemines Parish) District Defender Chanel Long and District 19 (EBR Parish) District Defender Lisa Parker.

² Quorum was not lost.

Mr. Starns reported that as the issues to be discussed in both District 19 and District 25 were brought to his attention, he had tasked staff to look into them and compile the reports for the Board's information. Additionally, Mr. Starns reported that LPDB's contract auditor, Ms. Corlis Green, would be providing reports based on her audit findings.

Ms. Green introduced herself and provided an extensive report on District 19's (EBR Parish) financial reporting required by statute and contract with LPDB. Mr. Richard Pittman then provided his report resulting from an office visit to the 19th PDO following the PDO's submittal of an O-Level funding request in the amount of \$378,178.52. Finally, Dr. Tiffany Simpson provided a report which corresponded with the District Defender's FY23 contract, emphasizing specifically contract Sections I (Scope of Services), IV (Reports), XIII (Revenue Collection), Section XIV (Duties and Responsibilities). Dr. Simpson gave explanations for the supporting documentation that was provided for each issue/section.

Mr. Fanning asked for clarification regarding the lawsuit in the 19th PDO in which the office is being held liable for the non-payment of earned leave to employees who left the office after the change of administration³. Prior District 19 District Defender Michael Mitchell reported that an office leave policy was in place in 1994 and before. Additionally, he reported that he explained the existing office policy to Ms. Parker and what he believed she should do. Mr. Mitchell indicated that General Counsel Barbara Baier also explained to Ms. Parker that she had a responsibility to pay those employees and that SPD Starns indicated to Ms. Parker as well that she should pay the employees their earned leave.

Mr. Paul Marx addressed the Board regarding the recent audits of District 13 (Evangeline Parish), District 19 (EBR Parish) and District 25 (Plaquemines Parish) by the Louisiana Legislative Auditor's (LLA) office. He provided a letter to the Chairman urging the board to establish rules and protocols for notification to any district prior to any such action. Mr. Starns clarified that he contacted the LLA to address issues that were beyond the expertise of staff or because he could not get the cooperation of the District Defender to provide necessary information critical for staff to do their work such as projecting district solvencies for an equitable funding disbursement. He stated specifically in District 19 their CUF's collection issue and non-reconciliation of financial records because of a server crash in 2020; and, in District 25 concerns with the large expenditures of the district and report submittals that are 10 and 12 months behind. He added that he asked the LLA to visit District 41 (Orleans Parish) also because of a recent server crash (which the LLA declined to do at this time) and that the auditors chose to go to the 13th based on prior information received and not at his request.

District 10 (Natchitoches Parish) District Defender Brett Brunson addressed the Board and indicated that he represents District 25 (Plaquemines Parish) District Defender Chanel Long. He presented a letter expressing Ms. Long's due process concerns. Chairman Ginart clarified that Ms. Long chose to have the informational report to the

³ The initial payment to the 6 employees would have cost the 19th PDO \$23,465.64. Ms. Parker, against advice of her own counsel, LPDB General Counsel and SPD Starns, opted not to pay the employees their earned leave and the employees sued the PDO. Judgment was rendered in February of 2023 in plaintiffs' favor, including penalties, court costs and attorneys' fees in excess of \$167,000, to date.

Board provided publicly and that this meeting is not a hearing. Mr. Starns expressed strongly that he and staff are entirely dependent on solvency projections to disburse public funds and to project the state of the districts requires accurate reporting from all the districts, which staff is not getting from either of these districts.

Dr. Simpson then presented her report on District 25 in the same format, following the FY 23 District Defender contract sections, specifically: I (Scope of Services), IV (Reports), XIV (Duties and Responsibilities), and XVII (Compensation for Services) in addition to Other Issues. Auditor Green then presented her financial report.

District 10 (Natchitoches Parish) District Defender Brunson addressed the report issues briefly on behalf of Ms. Long. Chairman Ginart reiterated that this Board meeting is not a disciplinary or adversarial hearing and that Ms. Long would be provided with a copy of the information given to the board in order to respond, if she so chose.

5. **Budget and Financial**

a. **Financial Report through February 28, 2023.** This item was not discussed.

b. **SPD Strategic Plan.** This item was briefly discussed after item 5c.

c. **FY 23 DAF/O-Level Funding Disbursements (Col. C)**

i. **FY23 Year-End Solvency Projections thru Jul 15 2023 (Col. H).**

Dr. Erik Stilling reported that the amounts being proposed for disbursement today (in Column C on page 44 of the materials) would bring all districts back to their FY22 total distribution amounts (not including CINC reimbursements). Districts 15 and 19 were excluded in this disbursement because of large bailouts already received and would be addressed at year-end. In the calculations, a handful of districts (8) have already exceeded their FY22 total disbursement so they were provided a cap of \$10,000 with the exception of the PDO in District 10 (Natchitoches Parish) which would have been left slightly in the red without the additional funding. SPD Starns provided District 10 with the additional \$10,000 in order for staff to be able to focus on the solvency of two larger districts (15 and 19) for the remainder of the year. The total disbursement amount of \$2,760,211 leaves a balance of \$910,861 in reserves to be distributed in June. Mr. Starns asked that the Board approve the disbursement, as presented, plus an additional \$16,000 from O-Level funds to District 19 (EBR Parish) to cover attorney costs for a recent special appointment murder case. Mr. Fanning moved that the Board approve the disbursement as presented with the additional O-level funding to District 19 (\$16,151.95). Judge Frank Thaxton seconded the motion.

District 1 (Caddo Parish) District Defender Michelle AndrePont expressed opposition to some districts that received hurricane relief money in FY22 and some districts still accruing to continue to receive O-Level funds. Chairman Ginart suggested she bring her concerns to SPD Starns' attention. He then called for a voice vote on Mr. Fanning's motion that the Board approve the disbursement as presented with the additional O-level funding to District 19 (\$16,151.95) which had been seconded by Judge Thaxton. The motion passed unopposed.

b. **SPD Strategic Plan.** Mr. Starns gave a summary of a few of his recommendations outlined in his strategic plan, specifically the formation of Regional Service Centers pursuant to La. R. S. 15:164 to handle Miller/Montgomery cases and non-capital appeals to replace contracting with the Louisiana Center for Children's

Rights (LCCR), the Capital Appeals Program (CAP) and the Louisiana Appellate Project (LAP) for the provision of those services. The service regions would not require additional funding, rather, they would use monies currently used to fund LCCR, CAP, and LAP. He indicated that there would be Miller/Montgomery panels within the service centers and that those attorneys in the contract programs could serve on Miller/Montgomery panels, would be Miller/Montgomery certified, and would be paid on a case-by-case basis rather than salaried, as the most cost effective way to handle the few remaining Montgomery cases and Miller cases as they arise.

The formation of an appellate service region would include a statewide writ taking program using the funds that have been used for direct appeals, not costing the districts any additional money.

Chairman Ginart urged all of the 501(c)3 programs to obtain a copy of SPD Starns' Plan, review it, and get with Mr. Starns with any questions before the June Board meeting.

d. Contracts - FY24 501(c)3 Contract Recommendations. This item was not discussed.

6. Division Reports. SPD Starns reported that all the divisional reports are in the Board materials.

a. SPD Report. Mr. Starns reported that the two mandatory reports below to the Legislature were timely filed.

i. 2022 Annual Report to Legislature (Feb 1 2023)

ii. 2022 JLCB Report to Legislature (Mar 1 2023). This report is in the materials.

iii. District 14 building status. District 14 (Calcasieu Parish) District Defender Harry Fontenot reported to the Board that he has a building for purchase in Lake Charles located at 120 W. Pujol Street and he is currently waiting on the appraisal. Additionally, the building houses another agency and will produce income for the PDO.

b. Legislative Report (Session: Apr 10 – Jun 8 2023). This item was not discussed.

c. Juvenile Report. This item was not discussed.

d. Training. This item was not discussed.

8. District Issues

b. District 15 (Acadia, Lafayette, and Vermilion Parishes) Status and Discussion. District Defender Amanda Martin reported on the difficult issues she faces in her district including attorney turn-over, the status of the building purchased in Vermilion Parish and continued CUFs decline. She reported on her mitigation efforts that include cuts in lawyer and administrative salaries and office expense, and office, storage and parking rental expenses. She was commended by the Board for her efforts.

e. FY24 District Contracts. This item was not discussed.

9. Next Meeting(s):

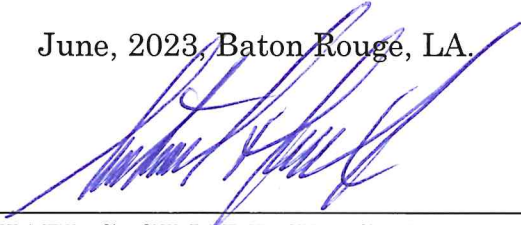
a. Thursday, June 22, 2023 – 1:30 p.m. (La State Licensing Board for Contractors)

10. **Adjournment.** The meeting adjourned at approximately 5:45 p.m.⁴

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 9th day of March, 2023 in Baton Rouge, LA, as approved by the Board on the 2nd day of

June, 2023, Baton Rouge, LA.

A handwritten signature in blue ink, appearing to read "Michael C. Ginart, Jr.", is written over a horizontal line.

MICHAEL C. GINART, JR., CHAIRMAN

⁴ Quorum was lost with the absence of Board Members Daniel, Daniels, North, and Holthaus.
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