



## LOUISIANA PUBLIC DEFENDER BOARD

Thursday, July 15, 2021

600 North Street

Baton Rouge, LA

1:30 p.m.

### MINUTES

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its newly appointed Chairman Michael C. Ginart on Monday, July 15, 2021 at approximately 1:45 p.m.

The following Board members were present<sup>1</sup>:

Flozell Daniels  
Michael Ginart  
Allyson Prejean

Pat Fanning  
Frank Holthaus  
Cindy Woodard

W. Ross Foote  
Donald North

The following Board members were absent:

Zita Andrus

Lyn Lawrence

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

Rémy Voisin Starns, State Public Defender  
Barbara Baier, General Counsel  
Natashia Carter, Budget Administrator  
Anne Gwin, Executive Assistant  
Michael Mitchell, Trial Level Compliance Officer  
Robert Noel, Dep. Public Defender, Director of Training  
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services  
Erik Stilling, Information and Technology Director

Chairman Ginart announced commendations for the following:

a. C. Frank Holthaus – Mr. Holthaus has served as the Board's chairman since 2016 and has been on the Board since 2008. Mr. Ginart thanked Mr. Holthaus for his congeniality, evenhandedness, humility, and civility. Mr. Holthaus indicated it has been a pleasure to serve as Board chairman and will be a pleasure to keep serving as a Board member. He thanked everyone.

<sup>1</sup> Board Members Ross Foote and Flozell Daniels arrived at approximately 2:00 pm. Quorum was not affected by their late arrival. There remains one vacant Board seat.

b. District Defender Steven Thomas - District 11 (Sabine Parish) and District 42 (Desoto Parish). Mr. Thomas retired in March of 2021 after 40 years as a public defender and having served as District Defender for two contiguous districts. District Defender Brian McRae accepted on behalf of Mr. Thomas.

c. District Defender Reginald McIntyre - District 21 (Livingston, St. Helena, Tangipahoa). Mr. McIntyre announced his retirement as the Chief District Defender for District 21 in April of 2021 after serving 31 years in that capacity. He officially retired on June 30, 2021. Mr. McIntyre addressed the Board and thanked them for the recognition. He expressed his appreciation for the Board's efforts throughout his tenure as a district defender.

d. District Defender Robert Kennedy - District 35 (Grant Parish). Mr. Kennedy announced in early 2021 his intention to retire and officially left the 35<sup>th</sup> District Public Defender position on June 30, 2021, after over 50 years of public defense service. District Defender Herman Castete accepted on behalf of Mr. Kennedy.

Chairman Ginart thanked them for their service and dedication.

**2. Adoption of the Agenda.** Professor North moved to adopt the agenda as presented. Mr. Holthaus seconded the motion which passed unopposed.

**3. Public Comment.** Chairman Ginart indicated District Defender Richard Stricks, District 40 (St. John the Baptist Parish) pre-registered to speak on agenda item 12. Mr. Ginart indicated public comments would be taken with each agenda item.

**4. Minutes – June 14, 2021 Meeting.** Professor North moved to adopt the Minutes of the June 14, 2021 meeting. Mr. Holthaus seconded the motion which passed unopposed.

**5. Next Meetings.** Chairman Ginart indicated that the four annual Board meetings mandated by statute would be set today and any additional meetings would be set on an as needed basis. The Board set the following meetings: Thursday, September 30, 2021; Thursday, December 16, 2021; Thursday, March 10, 2022; and Thursday, June 23, 2022. The meetings will start at 1:30 p.m. and the locations will be announced once confirmed.

**6. Budget and Financial – Informational.** Budget Officer Natasha Carter reported that the districts are in receipt of all FY21 supplemental monies and the FY22 DAF voucher is prepared and ready to go to OFSS once the FY22 budget loads. Trial Level Compliance Officer Michael Mitchell reported that the "O" Level Funding application is being tweaked for clarity and uniformity. SPD Starns indicated that districts should get "O" Level funding requests in as soon as possible for staff review and recommendations to the Board for discussion/approval.

**7. Building (District Office) Acquisitions Report – Informational.** SPD Starns reported that a full detailed report on the district office building acquisitions is forthcoming. That report will be submitted to the full Board, the legislature, Division of Administration, and Governor's Office providing full transparency on the fund expenditures.

**8. Board Committees – Discussion and Recommendations.** Chairman Ginart reported that since the formation of the Budget and Policy Committees there has been redundancy of efforts. He indicated he has spoken with each Board member individually and is recommending replacing these committees with DAF and "O" Level Funding work study groups made up of public defenders, staff, and Board members. His vision is for these groups to meet once a month

or as needed. The Board would be kept apprised by memoranda. There would be no voting within these groups or a quorum of the Board in their makeup. SPD Starns clarified that the idea is to have working groups made up of the SPD, appropriate staff, chief defenders, and some Board members for discussing and determining appropriate and fair methods of dividing and disbursing the public defense fund. Mr. Holthaus urged that the Board take time to consider the steps in dissolving the committees and implementing a policy.

Mr. Ginart directed staff to research the possibility of District Defenders being able to either Zoom in (but not participate in) or be able to watch by other means the Board meetings in lieu of traveling to attend.

**9. District Defender Selection Committees.** Mr. Starns gave a brief status on each Selection Committee, as follows:

- a. District 2 (Bienville, Claiborne, Jackson Parishes) – the SPD and Chief Judge have made appointments to the three-member committee. The Louisiana State Bar President has been informed and once that appointment is made, the statutory clock starts.
- b. District 6 (E. Carroll, Madison, Tensas Parishes). There has been difficulty finding qualified participants for this committee and the State Bar President has not made the final appointment.
- c. District 11 (Sabine Parish). The SPD reported he is vetting participants for his appointment and is also awaiting the State Bar President’s appointment.
- d. District 21 (Livingston, St. Helena, Tangipahoa). This committee is formed and has issued an August 10 application submittal deadline. SPD Starns reported he would have a recommendation for the position at the September 30th Board meeting.
- e. District 35 (Grant Parish). The SPD has selected the final candidate and hopes to finalize the committee next week.
- f. District 42 (Desoto Parish). The SPD reported he is vetting participants for his appointment and is also awaiting the State Bar President’s appointment.

Staff was instructed to provide the Board with the job description used to advertise the District Defender positions.

**10. District Defender Salary Increase Request.** SPD Starns reported District Defender Michelle AndrePont (District 1 - Caddo Parish) has requested a salary increase which prompts a site visit to her district. He indicated staff would provide their report at the next meeting. Ms. AndrePont addressed the Board and provided an explanation for her request. Judge Ross Foote indicated that Ms. AndrePont’s request should be retroactive the time of her one-year review as indicated by the Board at the date of her hire on February 20, 2020. (Ms. AndrePont’s request is retroactive to July 1, 2021). The Board agreed to revisit the issue at the next meeting. Professor North indicated that staff and the Board are headed in the right direction to get this done. No further action was taken.

**11. ROS Protocol Update – Informational.** SPD Starns reported that staff and chief defenders are working on a protocol to guide districts to exit restriction of services and that protocol would be available at the next meeting. Mr. Daniels urged that all districts with experience in ROS be involved in the on-going discussions. Mr. Starns agreed.

**12. Database Compliance – Discussion.** This issue was included for discussion with item 15(c) on the agenda.

13. **District Regionalization Discussion.** This item was not discussed.

15. **Division Reports – informational**

a. SPD. Mr. Starns gave a brief summary on the new pilot program on the statewide writ project. He reported that the Capital Appeals Program (CAP) and some District Defenders have met about how that project will take writs in the 4<sup>th</sup> and 5<sup>th</sup> Circuits. Mr. Paul Fleming reported working with CAP on a recent case in District 24 (Jefferson Parish) and he commended them for the excellent work they provided. Mr. Starns reported that he would provide updates to the Board going forward.

He then reported on current capital litigation and the changes to capital protocol including the appointment of a line-defender to every case along with the assigned capital program. The goal is to get capital off the table as quickly as possible. He reported that there is currently no capital waitlist and the lowest number of capital indictments in the state right now that he remembers. He credits these successes to the hard work and efforts of the three capital trial programs in collaboration with LPDB staff.

b. Training. Mr. Bob Noel reported having been to 38 districts since March 2021 and having had 1000+ attendees at LPDB sponsored trainings since April, including District Chiefs and investigators. He reported all trainings are being video-taped and archived.

c. Database Compliance. Mr. Starns requested Board consideration of a policy that would declare that information entered by line defenders or chief defenders in defenderData is attorney-client privileged. He clarified that would exclude the mandatory data that is compiled for publication in the annual report to the legislature. District 40 (St. John the Baptist Parish) District Defender Richard Stricks addressed the Board and expressed his concerns regarding compliance and database reporting. He urged the board for a confidentiality policy regarding database entries so that line defenders do not have to maintain dual/triple files which can become overly burdensome. After discussions, Mr. Ginart directed staff to draft language for board consideration at the next meeting. He urged Board members to talk directly with SPD Starns if there is anything specific they want to add to the draft policy.

d. Compliance/Capital. This item was not addressed.

e. Juvenile. Mr. Richard Pittman provided the mandatory quarterly report on the grant program in Baton Rouge juvenile defense where federal funds are supporting social workers or juvenile defenders. He reported having navigated the administrative hurdles towards getting the Louisiana Center for Children’s Rights (LCCR) paid on their contract with LPDB. LPDB subsequently gets reimbursed that payment by the federal grant. He further reported that in the last six months LCCR has served 110 clients in EBR Parish and they have paired with youth advocates for private fundraising.

14. **Executive Session<sup>2\*</sup>.** Mr. Holthaus moved to go into Executive Session. Professor North seconded the motion which passed unopposed. Mr. Holthaus moved to leave Executive Session for regular Session. Professor North seconded the motion which passed unopposed.

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<sup>2</sup> 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. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following litigation: Jami Pellerin v. State of Louisiana, through Indigent Defender Board, *et al*, Docket No: C2021-1647-1, 15<sup>th</sup> Judicial District Court, Lafayette Parish and potential litigation involving recent district office building acquisition buy-sell agreements.

Upon return to regular session, Mr. Holthaus moved that he and Chairman Ginart be authorized to speak to the Board's Lafayette litigation lawyer regarding litigation aspects as well as talk to Stone Pigman about personnel and other issues at the same time. He clarified that they were simply notifying Lafayette counsel. Ms. Prejean seconded the motion. Judge Foote offered an amendment to the motion that the terms of agreement be written out with Stone Pigman so that the contract with them is for a limited scope of services. Ms. Prejean seconded the amendment. Upon vote the motion as amended passed with five voting in favor (Daniels, Foote, Holthaus, Prejean, Woodard) and two in opposition (Fanning, North). The Chair abstained.

Mr. Holthaus moved that the agenda be amended to allow the Board to take action on the contract with respect to the building acquisition in District 13 (Evangeline Parish). Ms. Prejean seconded the motion. Upon vote, there was opposition.

Mr. Holthaus then moved that Chairman Ginart and the State Public Defender be given the authority to re-negotiate the contract with the buyer/seller of the property purchased in District 13 (Evangeline Parish). Ms. Prejean seconded the motion which passed with seven voting in favor and one member abstaining (North).

**16. Adjournment.** A motion was made to adjourn, seconded and passed unopposed.

Guests:

|                   |                 |                    |
|-------------------|-----------------|--------------------|
| John Albert Ellis | Fen Swann       | Michelle AndrePont |
| G. Paul Marx      | Brian McRae     | Richard B. Stricks |
| Chuck Reid        | Lisa Parker     | Margaret Lagattuta |
| Kim Hayes         | Kerry P. Cuccia | Deirdre Fuller     |
| Paul Fleming      | Maggie LeBlanc  | Tony Champagne     |
| Thomas Gernhauser | Lindsay Blouin  | Herman Castete     |
| Reginald McIntyre | Kyla Romanach   | Cecelia Kappel     |

**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 15th day of July, 2021 as approved by the Board on the 30th day of September, 2021<sup>3</sup>.



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MICHAEL C. GINART, JR., CHAIRMAN

<sup>3</sup> The meeting at which these minutes were approved was held by Zoom video-conference pursuant to La. R.S. 42:17.1.