

LOUISIANA PUBLIC DEFENDER BOARD

Monday, December 14, 2020

12:00 p.m.

Zoom¹

<https://us02web.zoom.us/j/81563499900?pwd=MEFvUW80Y1VMR2FsaDhqbHVlcFhQdz09>

Meeting ID: 815 6349 9900

Passcode: 278235

MINUTES

1. **Call to Order and Comments by Chairman, Frank Holthaus.** A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Monday, December 14, 2020, via ZOOM video-conference (see footnote) at approximately 12:05 p.m. Chairman Holthaus announced that Professor North is the 2020 recipient of the Louisiana Bar Foundation's Distinguished Professor Award and congratulated him.

The following Board members were present²:

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:

Willie Hunter, Jr.

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
Robert Noel, Director of Training
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance Officer-Legislative Director
Erik Stilling, Information and Technology Director

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

3. **Public Comment.** Chairman Holthaus indicated public comments would be taken with each item.

4. **Adoption of the October 8, 2020 Minutes.** Professor North moved to adopt the Minutes of the October 8, 2020 meeting. Mr. Lyn Lawrence seconded the motion which passed unopposed.

5. **Budget Committee Report and Recommendations**

¹ This meeting is being held via a ZOOM video-conference pursuant to La. R. S. 42:17.1 (Act 302 of the 2020 Regular Session)

² Mr. Flozell Daniels arrived late – approximate 1:01 pm. Voting on action items prior to his arrival was not affected as quorum was noted with 9 members present.

a. **FY21 Contract Amendments.** State Public Defender Starns reported earlier that the LPDB budget showed a \$445,000 deficit for the 2021 fiscal year which was created by maintaining static FY21 contract amounts for the 501(c)3 programs simultaneous with a 5% statutory increase of the public defender fund allocation to the districts (from 65% in prior years). Mr. Starns reported the program directors met and agreed to contract reductions totaling \$445,000 to make up the deficit and contract amendments have been submitted to the office of contract review. Professor North reported that he disagrees with the process to get to this end but that he would vote in favor of the amendment. He then moved to recommend the contract amendments as presented to the full Board. After discussion, Chairman Holthaus stated that going forward contract issues are to go through the Budget Committee for decision and action. Upon vote, Professor North's motion passed unopposed.

b. **FY22 Budget Request, \$68,235,844.** SPD Starns reported that a budget request was submitted for FY22 in the amount of \$68,235,844 which is slightly higher than FY20. Professor North moved to recommend adoption of the FY22 Budget Request submittal in the amount of \$68,235,844 and upon vote the motion passed unopposed.

6. **Policy Committee Report and Recommendations**

a. Policy Recommendation – District Regionalization pursuant to La. R.S. 15:159. Judge Foote reported that it is the recommendation of the Policy Committee to adopt the policy that a staff working group determine if, upon the opening (vacancy) of a District Defender position, replacement of the position or regionalization of the district/area would be the more effective/appropriate method for the delivery of services for that district. The current process automatically starts a clock running; this policy would allow staff to suspend the current process while reviewing the district to determine which is appropriate -- regionalization or district defender replacement -- and bring a recommendation to the Board for action. Professor North moved to adopt the committee's policy recommendation. Upon vote, Professor North's motion passed unopposed.

b. Public Defenders Running for Public Office. Mr. Starns reported that at the last Board meeting Mr. Pat Fanning and Mr. Flozell Daniels agreed to meet to finalize discussions on this issue and bring a recommendation back to the Board. He indicated that a date to meet has been set in early January. Professor North suggested that some of the public defenders who recently ran for office should be included in the conversation. Mr. Fanning urged any of those candidates to contact him and stated any input is welcomed.

7. **FY 21 Supplemental Funding for District Public Defender Office Building Purchases - Renovations.** SPD Starns reported that pursuant to the protocol/plan and Board directive he went to Beauregard Parish and met with interim District Defender Tony Tillman and the owners of a prospective building to be purchased for the District 36 (Beauregard Parish) Public Defender Office. He reported he also met with District 14 (Calcasieu Parish) District Defender Harry Fontenot and the Southwest Louisiana legislative delegation regarding office space issues in that district.

SPD Starns indicated that he is asking for the authority to move forward with the purchase of the building in Deridder for \$159,000 as that district, since Hurricane Laura, is currently without an office. Mr. Tillman reported the building, 100 yards from the courthouse, will house 2-4 people with a conference room to meet clients, has state-of-the-art technology and off-street parking. Professor North objected to the process and urged that more properties – at least three -- should be inspected before agreement is made to purchase and that it should go before the Budget Committee. General Counsel Barbara Baier clarified that the purchase price for this building is below the public bid law base of \$250,000 for political subdivisions. Judge Foote reminded the Board that at the last meeting it was agreed that this was a great opportunity but that the State Public Defender was to inspect the property and determine if it is a sound purchase. Mr. Chris

Bowman asked if that had been done. Mr. Starns reported he visited the location in Deridder, met the owners, noted that there is very little office space available in the downtown Deridder area and that the proposed building, recently renovated, is in excellent condition.

Mr. Ginart asked if the building will appraise well with regard to the purchase price. Mr. Tillman indicated he did not obtain an appraisal. Further discussion clarified that the combined utilities (appx. \$100/mo) and annual insurance (\$1,250) is cheaper than the \$350/month rental payments paid for the previous policy jury space and from which the public defenders were recently evicted.

Mr. Fanning indicated that this location was brought to the Board's attention at the last meeting, the State Public Defender has completed an inspection and agrees with the validity of the purchase and general counsel has confirmed that the sale price is not subject to bid law. He then moved to authorize the District Defender to purchase the building subject to appraisal and inspection.

Mr. Chris Bowman inquired if the Joint Legislative Committee on the Budget must approve the purchase and if the Board goes forward with the purchase, is it consistent for which the funds have been allocated. Mr. Starns indicated that JLCB does not have oversight and he has no concerns with going forward with this purchase as this is consistent with the intent of the legislation. Mr. Bowman then seconded Mr. Fanning's motion.

Mr. Ginart suggested that the motion be a preliminary approval pending the appraisal and inspection and pending a letter from general counsel that all laws are being followed and that a buy-back provision by the Board be addressed. Chairman Holthaus indicated staff's response to his questionnaire made it clear that the Board cannot own, buy or sell property without a special act of the legislature; however, the office of the district defender can.

Mr. Fanning then restated his motion that the Board authorize the Public Defender -- the District Office -- to purchase the building being discussed, subject to appraisal, inspection and the funds being made available from the state. Mr. Bowman seconded the motion. Upon vote, with seven in favor (Andrus, Bowman, Fanning, Foote, Lawrence, Ginart, Roberts) and two in opposition, (North, Holthaus) the motion carried³.

8. Executive Session.⁴ Mr. Mike Ginart moved to go into Executive Session. Mr. Chaz Roberts seconded the motion which passed unopposed. Mr. Lyn Lawrence moved to exit Executive Session and return to Regular Session. Mr. Fanning seconded the motion which passed unopposed.

9. District Issues

a. District Defender Selection and Salary Recommendation District 13 (Evangeline Parish). Ms. Zita Andrus moved to hire Ms. Trisha Ward as the District Defender in District 13 (Evangeline Parish). Mr. Flozell Daniels seconded the motion. Upon vote, Ms. Andrus' motion passed unopposed⁵. SPD Starns indicated he does not have a salary recommendation at this time. He reported the previous district defender was

³ Daniels had not yet joined the meeting. Hunter was absent.

⁴ The Board may vote to go into executive session pursuant to La. R.S. 42:16 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. Accordingly, the Board may discuss the following: *State v. Covington*, Docket: 2020-KK-00447; *Allen v Edwards*, 19th JDC Docket: 655079, Sec: 27; 2019 CA 0125; *Susan Henry Hebert v. LPDB*, 19th JDC, Docket: C-694429, Sec 27. Also exempted from public discussion pursuant to La. R.S. 42:17 are matters that include discussion of the character and professional competence of a person; however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). The Board will be reinterviewing and discussing the qualifications of these candidates for the District Defender position in District 13 (Evangeline Parish): Ms. Trisha Ward, Mr. Anthony Dupre and Mr. Gilbert Aucoin. No final or binding action will be taken during executive session.

⁵ Mr. Willie Hunter was absent. Professor Donald North lost the ZOOM connection and missed the formal vote call; however, upon his return to the meeting during the discussion on the 13th District Defender position, Professor North confirmed his vote in favor of Ms. Ward.

paid \$56,500 but a review of the office's operations and its finances is needed. His recommendation is for Ms. Ward to start in the position on January 1, 2021.

b. Interim District Defender Appointment and Salary Recommendations

i. District 6 (E. Carroll, Madison and Tensas Parishes). SPD Starns congratulated District Defender Angela Claxton on her recent victory in her campaign for judge in District 6 (E. Carroll, Madison and Tensas Parishes). He reported that Ms. Claxton has submitted her resignation as District Defender effective December 31, 2020, and that he is recommending District 5 (Franklin, Richland and W. Carroll Parishes) District Defender John Albert Ellis as interim in District 6 (E. Carroll, Madison and Tensas Parishes) at the interim salary of \$3,000 per month effective January 1, 2021, pending the Board's decision on how to move forward in that district. Judge Foote moved to authorize Mr. Starns to appoint John Albert Ellis as the interim for District 6 (E. Carroll, Madison and Tensas Parishes). Mr. Lawrence seconded the motion which passed unopposed.

c. District 9 (Rapides Parish) – Contempt Issue. This issue was addressed in agenda item 10a.

d. ROS. SPD Starns reported that he wants to end restriction of services in the districts and has talked with the eight districts that are currently in ROS and asked them to present plans. Judge Foote asked for clarification. Mr. Starns indicated that restriction issues in the districts should be handled on a case-by-case basis. Mr. Daniels asked for a policy memo on the proposal going forward. Mr. Starns indicated he would provide one.

10. Staff Reports

a. SPD. Mr. Starns reported that the LPDB administrative office's COVID policy is in effect and that he had taken every step to follow the guidelines issued by the Governor and the Division of Administration. He indicated that should circumstances change, the policy would be revisited.

Mr. Starns reported that he was informed that some people tested COVID positive during a jury trial in the 9th Judicial District (Rapides Parish – Alexandria) and several line defenders there are now quarantined. He reported that this comes on the heels of a District 9 line defender being held in contempt last week for not coming to court because of COVID concerns. That issue is being taken up on writs by District Defender Deirdre Fuller. Mr. Starns urged Board support for them in some way, possibly in the form of an Amicus. Professor North indicated that the Board needs to hire counsel to represent the Board on this particular issue because the same issue is going to occur in the different parishes. Judge Foote asked Professor North to clarify if he was suggesting that an Amicus be filed in this case. Professor North confirmed that he was and that he was also suggesting that counsel be retained for possible future litigation statewide, and he so moved. Mr. Daniels seconded the motion and there was no opposition.

b. Capital. Mr. Starns reported that the Capital report is in the materials and that the information that Mr. Ginart has been asking for is included with the report.

c. Juvenile. Mr. Richard Pittman reported that contracts have been sent out for signature to appellate attorneys to start the CINC appellate program using Title IV-E federal funds made available in the last year. This is scheduled to start January 1, 2021. This program uses money that did not come from the LDPB system. There has never been an appellate program in Child in Need of Care cases and termination of parental rights cases before and this will make a big difference for clients and for the child welfare system.

d. Training. Mr. Starns reported the Training Division report is in the materials.

11. Next Meeting. The next meeting was not set.

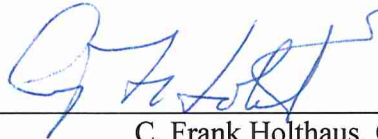
Mr. Ginart asked that Chairman Holthaus form a group who would look at the model of funding for capital before the next meeting as he indicated he would do in the Board minutes (October 8, 2020) on page 400. Chairman Holthaus indicated he would do so before the next meeting.

12. **Announcements.** There were no announcements.

13. **Adjournment.** Mr. Fanning moved to adjourn. Mr. Lawrence seconded the motion which passed unopposed.

GUESTS: (See Zoom participants list, attached)

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 14th day of December, 2020 as approved by the Board on the 25th day of February, 2021⁶.



C. Frank Holthaus, Chairman

⁶ The meeting at which these minutes were approved was held by Zoom video-conference pursuant to La.R.S. 42:17.1, effective October 29, 2020.