



LOUISIANA PUBLIC DEFENDER BOARD

March 7, 2018
Bluebonnet Regional Library
9200 Bluebonnet Boulevard
1:30 p.m.

MINUTES

1. Call to Order and Comments by Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Vice-Chairman, Professor Donald North, on Wednesday, March 7, 2018, at Bluebonnet Regional Library, Baton Rouge, at 1:30 p.m.

The following Board members were present for roll call:

Zita Andrus	Chris Bowman	Patrick Fanning
W. Ross Foote	Katherine Gilmer	Mike Ginart
Donald North	Ami Stearns	

The following Board members were absent for roll call but arrived after commencement of the meeting.¹

Flozell Daniels	Frank Holthaus	Moses Williams
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The following members of the Board's staff were present:

Jay Dixon, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Officer
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Chase May, IT Specialist
Richard Pittman, Deputy Public Defender, Dir. of Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance Officer, Legislative Affairs Director
Erik Stilling, Information and Technology Director.

2. Adoption of the Agenda. Mr. Bowman indicated that he would like to amend the agenda to place the Executive Session before the DAF discussion as the litigation to be discussed in executive session includes the District Assistance Fund formula issue. Professor North asked

¹ Board Chairman Frank Holthaus arrived at approximately 1:40 pm; Mr. Flozell Daniels and Mr. Moses Williams both arrived after the Board went into Executive Session. Quorum was met without the presence of the three late arrivals. Mr. Holthaus resumed his duties as Chairman upon arrival.

for a motion adopting the agenda. Ms. Zita Andrus moved to adopt the agenda. Ms. Katherine Gilmer seconded the motion. Mr. Bowman clarified that the agenda was amended as requested earlier.

3. Call for Public Comment.

Mr. Paul Marx, District Defender, District 15 addressed the board. Mr. Marx provided an overview of his district and produced a one-page handout on his district. Of concern to Mr. Marx is 1) that 24% of the Board's appropriation ends up in Orleans Parish; 2) that if the Board decides to use the P&N study they should be required to correct averages when an ROS district is involved; and, 3) that the Board should consider whether misdemeanors should be in the P&N plan. He also urged the Board to make a decision today and use the PDAL study already provided to them and endorsed by most of the districts.

Mr. Derwyn Bunton, District Defender, District 41, addressed the board and indicated that he would reserve his comments for the specific discussion on the DAF formula.

Ms. Natalie Lopez, former Office Administrator for the 16th Judicial District Public Defenders' Office indicated that she would like to address the board on item 8a (District Defender, District 16). She indicated she would wait until that issue arose on the agenda.

4. Adoption the Minutes, January 11, 2018 Meeting. Mr. Patrick Fanning moved to adopt the Minutes of the January 11, 2018 meeting as presented. Judge Foote seconded the motion which passed unopposed.

(Chairman Holthaus arrived at 1:40 p.m.)

7. Executive Session. Mr. Chris Bowman indicated to Chairman Holthaus that the agenda was amended to take Executive Session out of order and he moved to go into Executive Session and for Executive Session to exclude everybody except Board members and parties to the pending lawsuit. Professor North seconded the motion which passed unopposed. Professor North moved to exit Executive Session which was seconded by Mr. Flozell Daniels and passed unopposed. The meeting returned to regular session at approximately 2:20 p.m.

5. Budget Committee Report and Recommendations

a. Financial Report as of January 31, 2018. Budget Administrator Natasha Carter reported \$31,773,136 expended or encumbered to date for the fiscal year; \$2,387,657 projected to be spent through June 30, 2018; and zero dollars available for reallocation. Professor North reported that it is the Budget Committee's recommendation to approve the report and Mr. Mike Ginart seconded the recommendation which passed unopposed.

b. CINC Disbursement Policy. Mr. Dixon explained that the districts only receive about one fourth of the funding that is needed to handle CINC cases statewide. He further reported that its staffs' recommendation to disburse all CINC monies at the start of the fiscal year and that the Budget Committee approved the CINC disbursement policy that provides for the distribution of those funds on a pro rata basis. Professor North moved to adopt the policy as presented. Mr. Daniels seconded the motion which passed unopposed.

c. FY18 CINC Balance Disbursement. Mr. Dixon presented the final FY18 CINC disbursement amounts to the districts totaling \$49,025, pro rata, for approval. Judge Foote

moved to approve disbursement of CINC funds as presented. Mr. Daniels seconded the motion which passed unopposed. Upon inquiry by Judge Foote, Mr. Dixon clarified that these funds are to be disbursed under the same formula as the original CINC disbursement d. FY18 DAF Distribution. Mr. Dixon reported that 5% of the FY18 DAF remains and is asking for approval to disburse 1/3 of the remaining 5% to the districts or approximately \$357,892.21, pro rata, per the original FY18 distribution method. Mr. Bowman moved to disburse the funds as presented. Professor North seconded the motion which passed unopposed.

6. FY19 District Assistance Fund Formula.
 - a. Postlethwaite and Netterville Presentation.
 - b. Scenario i2 with \$3.5M, \$4.0M and \$4.5M disbursement to Small Districts and remainder to the Big Districts.

Mr. Holthaus introduced Mr. Madison Field of the Postlethwaite and Netterville accounting firm who presented the firm's Final Preliminary Louisiana District Assistance Fund Analysis Report. Mr. Field answered questions from the Board and the audience. The Board heard comments from the district defenders on both the PDAL i2 plan and the P&N plan. After a lengthy discussion, Mr. Bowman stated that the Board has heard input from the District Defenders and that there is a consensus from them on the plan they want. He then moved that the Board adopt the PDAL (i2) plan for FY19 only. Professor North seconded the motion. More discussion followed and Mr. Williams offered a friendly amendment to amend Mr. Bowman's motion to suspend action on this issue to give the Board an opportunity to go through both plans. The amendment was not accepted by Mr. Bowman. Mr. Williams then offered a substitute motion to suspend further discussion and action until the next meeting and consider the pros and cons to make sure that the right decision is made. Mr. Ginart seconded the motion. Mr. Pat Fanning stated that votes need to be taken on all proposals on the table. General Counsel Barbara Baier asked everyone to vote viva voce.

Mr. Holthaus reiterated Mr. Bowman's original motion to adopt the PDAL plan for FY19 only and called the roll for a oral vote. Upon vote, Mr. Bowman's motion failed with 5 in favor and 6 against. Mr. Holthaus then asked Mr. Williams to restate his motion. Mr. Williams moved that the Board suspend any further discussion of the issue until the next meeting. Upon vote, the motion carried with 8 in favor and 3 against.

8. District Issues
 - a. District Defender, District 16. Mr. Dixon reported that staff interviewed the candidates submitted by the selection committee and are asking to reopen the selection process in District 16. Mr. Moses Williams moved that the selection process be reopened in District 16. Professor North seconded the motion which passed unopposed.
 - i. Interim Appointment – Ratification. Mr. Dixon reported that pursuant to the statute the State Public Defender makes interim appointments in cases of a vacancy and that he appointed Mr. Tony Champagne, District Defender in District 32, as Interim District Defender in District 16 pending the selection of a new permanent District Defender in that district. He is seeking ratification of that appointment. Mr. Ginart moved to ratify the appointment. Ms. Gilmer seconded the motion which passed unopposed.

Ms. Natalie LaBorde addressed the Board concerning the selection process in District 16. She commended the Board on the appointment of Mr. Champagne and urged that they pay special attention to the selection of the District Defender in the permanent position.

b. Mayor's Court Issue. General Counsel Barbara Baier reported that per the Board's instruction from a prior meeting, an opinion was sought by the LSBA's ethics services as to whether a Mayor's Court Magistrate handling misdemeanor traffic cases in one city may also handle felony case in another city within the same judicial district and parish. She further reported that their opinion was essentially "it all depends" and that they encouraged asking the Supreme Court Committee on Judicial Ethics for an opinion, which was also done. That committee indicated it does not issue opinions except on their own motion or unless the request comes from a judge or a judicial candidate. Mr. Paul Marx, District Defender, District 15, indicated that he knew a judge who he would ask to assist in this capacity.

c. Informational: District Defender Compliance

i. Statutory Compliance - La. R. S. 15:170. Mr. Dixon reported that the district defender contract terms and statutory compliance are available for review in the materials per the Board's request.

9. Informational: IPNO Presentation – Eyewitness Identification Legislation. Ms. Jee Park with the Innocence Project New Orleans gave a brief presentation on legislation being presented this session regarding changes to eyewitness identification.

10. Informational: 2018 Legislative Session. Dr. Tiffany Simpson gave a brief summary of some pre-filled bills for the 2018 Legislative session which staff are reviewing and monitoring. She reported having reviewed approximately 220 bills that could impact either the agency, districts, or the clients served.

11. Informational: Division Reports. Mr. Dixon indicated that divisional reports are available in the materials.

a. Capital. Capital Case Coordinator Jean Faria reported that a recent capital case, *State v. Weary*, recently reversed by the United States Supreme Court and returned to the District Court in the Caddo Parish as a non-capital case is in need of continued expert witness assistance. Ms. Faria is requesting approval to continue to provide previously approved capital expert witness funds for non-capital proceedings using the same previously approved experts, per the Board policy. The previously approved funding was for \$136,000. The new funding request – for the same expert -- is for \$85,000. After a brief discussion, staff was instructed to place this issue on the next Board agenda for action.

b. Juvenile. The current juvenile strategic plan update is available in the materials.

12. Other Business. No other business was brought for discussion.

13. Next Meeting(s). The Board set the next two meeting dates for Wednesday, April 4, 2018 and Tuesday, May 22, 2018. The location will be announced once it is determined.

14. Adjournment. Mr. Chris Bowman moved to adjourn. Professor North seconded the motion which passed unopposed and the meeting adjourned at approximately 5:15 p.m.

Guests:

Deirdre Fuller
Erica J. Rose
Mike Courteau
John W. Lindner
Tony Champagne
Alan Robert
Jim Looney
Richard Tompson
Matilde Carbia
Rev. Dan Krutz

John Albert Ellis
Michael M. Caffery
David E. Marcantel
John Hogue
Ella Kliebert
Harry Fontenot
Lindsay Blouin
Natalie Lopez
Alicia Johnson Butler
Paul Marx

Bob Noel
Derwyn Bunton
Reggie McIntyre
Michael A. Mitchell
Steve Thomas
Bruce Unangst
Thomas Gernhauser
Renee Bourg
Paul Fleming
Kerry Cuccia

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 7th day of March, 2018, as approved by the Board on the 4th day of April, 2018, at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman