



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, September 29, 2022 - 1:30 p.m.
600 North Street – Baton Rouge

MINUTES

1. Call to Order and Comments, Chairman Michael C. “Mike” Ginart, Jr.

A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Michael C. Ginart, Jr. on Thursday, September 29, 2022, at approximately 1:40 p.m.

The following Board members were present:

Zita Andrus	Lou Daniel	Flozell Daniels
Pat Fanning	Michael Ginart	Holly Howat
Lyn Lawrence	Allyson Melancon	Donald North
Frank Thaxton		

The following Board member was absent: Frank Holthaus

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 Mitchell, Trial Level Compliance Officer
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juvenile Compliance Officer; Legislative Director
Erik Stilling, Information and Technology Director

a. Commendation: District Defender Derwyn Bunton, District 41 (Orleans Parish). Chairman Ginart commended outgoing District Defender Derwyn Bunton for his service to Orleans and public defense. Mr. Bunton thanked the Board.

b. Introduction: Budget Administrator, Kevin Broussard. State Public Defender Rémy Starns welcomed Budget Officer Kevin Broussard. Mr. Broussard introduced himself and gave a brief employment and personal background. The Chair welcomed Mr. Broussard.

c. **Executive Session Meeting Date.** Mr. Ginart indicated he has talked with a number of Board members and has quorum for Monday, October 10, 2022, from 1:00 – 4:00 for a Board meeting to interview candidates for the open District Defender positions. The location is to be determined and announced.

2. **Adoption of the Agenda.** Ms. Allyson Melancon moved to adopt the agenda. Mr. Lyn Lawrence seconded the motion which passed unopposed.

3. **Public Comment.** Chairman Ginart indicated public comment would be taken up throughout the meeting.

Chairman Ginart moved agenda item 6 – FY23 ULM Contract up on the agenda for discussion.

6. **FY23 ULM Contract*.** Chairman Ginart reported that at the last meeting (June 28, 2022) a Negotiating Team was formed made up of Dr. Holly Howat, Judge Lou Daniel, Ms. Allyson Melancon and SPD Starns to negotiate and develop a contract with ULM to provide trainings, as mandated by the legislature. Dr. Howat and Mr. Starns reported to the Budget Committee that the contract has not yet been written, rather an MOU has been agreed upon which outlines the scope of services with a cap on the amount LPDB is responsible for paying ULM for providing these trainings. Mr. Starns reported that ULM's initial proposal was for greater than \$700,000 and, after negotiations, he and Dr. Howat were able to finalize an agreement with ULM for under \$300,000. Dr. Howat indicated that this is a good proposal with checks and balances in place to ensure that LPDB is paying only for services rendered. She then moved to accept the proposal and go forward with the final contract. Judge Frank Thaxton seconded the motion.

Mr. Flozell Daniels urged the Board to consider the opportunity to streamline its response to the legislative mandate so that the other contract programs providing services are not harmed and he inquired where the funding would come from to support this contract and, if from the other programs, how much is being cut from them. Mr. Starns reported he has begun discussions with contract program heads about realigning their scopes of work to save money so he does not yet have the answer to that question. Further, he indicated that staff has reviewed and cut money from the administrative budget to ensure this contract would be covered. Having done that, he indicated that it is incumbent upon the Board to also review the existing contract programs for savings to ensure that the Board is spending money responsibly.

Chairman Ginart summarized that the \$300,000 proposal is a ceiling which is an amount substantially less than ULM's starting proposal; that the Director of Training position is not going to be filled -- which provides one-third of the costs; and, that the Board should move forward in good faith with the agreed upon proposed cap of \$300,000.

Mr. Fanning asked for the motion to be restated. Dr. Howat indicated her motion is to accept the proposal and move forward with the contract. Mr. Daniels asked Dr. Howat if the cap could be negotiated down. Dr. Howat indicated she did not believe it could be for the following reasons: it took multiple meetings to reach this agreement; ULM is not happy with this final number but has agreed on it; this number is a ceiling, but payment amounts are dependent on the services being provided before payment is made. Additionally, Dr. Howat reminded the Board that the program contracts were approved very quickly because the fiscal year end was approaching and were not looked at closely for ways improvements which would still allow the programs to provide excellent services. The training contract would ensure, as well, that there are highly trained public defenders defending indigent people.

Professor North asked how, under the terms of the ULM proposal, the Board can justify spending this money on a criminal investigator, a project manager, a social worker, a communications expert, a public administrator, and a graduate student. Dr. Howat replied that the scope of work provided the types of trainings that are proposed statewide. She added that other than the law, our public defenders also need to understand how social and public systems work and these training opportunities will benefit the attorneys and the clients they serve.

Judge Louis Daniel asked for clarification on the motion and whether it is to enter into a contract for \$300,000 or continue negotiations of the contract with a cap of \$300,000. Dr. Howat clarified the motion is to enter into the contract with a specification that some of that money is not a fixed cost but is to be reimbursed to LPDB.

Mr. Daniels offered a friendly amendment that the Board would agree not to cut any of the existing program budgets in light of executing this contract. Dr. Howat did not accept the amendment.

Ms. Zita Andrus stated that the goal presented in the scope of work is to have two, six-hour in-person trainings in each of the 8 regions for 30 public defenders per district during the first year. She asked if the \$298,900 is an accurate sum that will reach this goal. Mr. Starns indicated it is. General Counsel Barbara Baier further clarified that the contract would not be paid out in equal monthly installments, but that ULM would invoice LPDB according to what services were rendered monthly – capped at \$298,900 for the year.

Chairman Ginart called again for a vote. After the vote, Dr. Howat's motion to accept the proposal and move forward with a contract capped at \$300,000 passed with six members in favor (Andrus, Fanning, Howat, Lawrence, Thaxton, Ginart) and four members against (Daniel, Daniels, North, Melancon).

- a) **FY23 501(c)3 Contract Review and Amendments.** This item was not address.

4. **Adoption of the Minutes, June 28, 2022 Meeting.** Mr. Lawrence moved to adopt the Minutes of the June 28, 2022, meeting. Judge Louis Daniel seconded the motion which passed unopposed.

5. **Budget and Financial.** Mr. Starns reported that the issues below were vetted in the Budget Committee and there would be some recommendations from the Committee.

a. **Financial Report*.** Mr. Fanning moved to adopt the financial report as presented. Mr. Daniels seconded the motion which passed unopposed.

b. **Report and Recommendations from the State Public Defender*.**

- i. O-Level Funding Process.
- ii. Identify and Apply a Method of Service Delivery for Each District.
- iii. Regulate Expenditures
 1. Capital Outlay
 2. Altering Delivery Methods
 3. Other Expenditures Out of Sync with Revenues
 4. Restriction of Services (ROS)
- iv. Set Salaries and Expenditure Limits on Each District
- v. Committee Restructure – Compliance and DAF
 1. Resolution: Budget Requirements and Protocol
(La. R.S. 39:1310-1311)

Chairman Ginart reiterated that the issues above were discussed in the Budget Committee with a consensus that there would be a collaborative effort between the SPD and the districts. He reported that the districts expressed strong opposition to being micro-managed, but he stated there are ways for the Board to get needed information to make informed decisions.

SPD Starns stated that he understands that the recommendations on the issues he presented are difficult and that he expected no action to be taken at the meetings today. He reported he intends to meet collaboratively with all of the district defenders and develop a tailored plan/framework for each district and present concrete resolutions. Mr. Starns reported he would come back to the Board with recommendations on the service delivery methods for each district. Professor North indicated that the districts need to maintain some independence. Mr. Daniels urged the Districts Defenders to address the Board with their concerns.

District Defenders Deirdre Fuller (District 9 (Rapides Parish), Fen Swann (District 29 (St. Charles Parish), Richard Tompson (District 24 (Jefferson Parish); David Marcantel (District 31 (Jefferson Davis Parish), and Steve Gatlin District 2 (Bienville, Claiborne, Jackson Parishes) addressed the Board with their specific district concerns including: the risk of becoming an “employee” as opposed to a contractor (Fuller); the disparities in attorney salaries in neighboring parishes/districts (Swann); budget reviews (Tompson) and the 5% budget deviation reporting requirement (Gatlin/Marcantel).

Professor North reported that the Committees need to have smaller membership and new leadership. Chairman Ginart asked for volunteers for the Budget Committee. The following Board members volunteered for the Budget Committee¹: Zita Andrus, Flozell Daniels, Pat Fanning, Holly Howat, and Lyn Lawrence. Mr. Fanning nominated Dr. Howat as Chairman. There was no opposition. Dr. Howat accepted and expressed her appreciation.

c. **Solvency Projections.** This issue was not presented to the Board.

7. **O-Level Disbursements***

a. **Title IV-E.** Deputy Public Defender Richard Pittman gave a summary of the Title IV-E disbursements that were held back last fiscal year due to emergencies in District 15 (Acadia, Lafayette and Vermilion Parishes) and District 19 (EBR Parish). There is now a proposed distribution from FY23 O-Level funds to the districts that did not receive the Title IV-E funds. The districts to receive funds are District 1 (Caddo Parish) - \$50,000; District 9 (Rapides Parish) - \$50,000; District 21 (Livingston, St. Helena, Tangipahoa) - \$3,851.28; District 30 (Vernon Parish)/District 36 (Beauregard Parish) - \$25,000; and District 41 (Orleans Parish) - \$25,000. Professor North indicated the Budget Committee favorably recommended adoption of this disbursement. Mr. Daniels seconded the Committee's recommendation which passed unopposed.

b. **Non-Capital Expert Witness Fund.** Professor North indicated the Budget Committee favorably recommended adoption of the creation of a Non-Capital Expert Witness Fund to be funded with \$50,000 of O-Level monies. Judge Thaxton seconded the Committee's recommendation which passed unopposed.

c. **Other.** SPD Starns reported there are other categories or items that are being reviewed for O-Level funding and he will have recommendations on all of them.

8. **LPDB 5-Year Strategic Plan*.** Mr. Starns reported the Strategic Plan as presented is an update to the last plan passed by the Board. Mr. Daniels inquired when the plan is due. Mr. Starns indicated the plan was due to the Office of Planning and Budget on July 1. Mr. Daniels urged the Board for more time to review and digest the presentation. Dr. Howat expressed concern on the ambitiousness of the plan as presented. Mr. Starns reported the plan is for the next five years and is primarily aspirational. Dr. Howat asked to change language in the vision statement and received clarification. There was no further discussion. Mr. Lawrence moved to adopt the Strategic Plan. Dr. Howat seconded the motion which passed unopposed.

9. **District Issues**

a. **Interim District Defender, District 41, Ratification* .** SPD Starns reported District Defender Derwyn Buntun has resigned effective September 23rd and he (Starns) has appointed District Defender Thomas

¹ New Budget Committee members replace: Donald North (chair), Frank Thaxton and Frank Holthaus.
5_Board Minutes_Sep 29 2022

Gernhauser, District 34 (St. Bernard Parish), as interim at a salary of \$3,000. He chose Mr. Gernhauser for the following reasons: he is a current district defender; he is from an adjacent district but resides in Orleans Parish and knows the area; his interim responsibilities will mostly be reporting and supervision during the interim period, which he has experience in; and he will not be a candidate for the permanent position in Orleans. Mr. Starns asked for ratification of the appointment. Mr. Fanning moved to appoint Tom Gernhauser as interim in District 41 (Orleans Parish) at a salary of \$3,000 per month. Mr. Lawrence seconded the motion. Mr. Daniels expressed opposition to the appointment and inquired why no one was given any advanced notice, especially in such a large district. Out-going District Defender Bunton addressed the Committee and recommended Deputy District Defender Sierra Thompson for the interim position in an effort to maintain continuity, history, and tradition in that district. Further, he reported there is no policy requiring the appointment of an adjacent district defender and someone with ties to the office is needed with the local budget season looming. He urged the board to appoint Ms. Thompson who knows the system and the budgetary process. Mr. Gernhauser addressed the Board and respectfully declined the appointment as interim. Mr. Fanning withdrew his motion. Mr. Daniels moved to appoint Sierra Thompson as interim district defender in District 41 (Orleans Parish). Ms. Andrus seconded the motion. Upon vote the motion passed with one member in opposition (Thaxton).

b. District Defender Performance Reviews and Evaluations Discussion. This item was not discussed.

10. Act 219 of 2022 – Information/Discussion. SPD Starns gave a summary of Act 219 passed by the Legislature in 2022 which requires a Court to conduct a hearing to determine indigency and ability to pay fees, which the court could waive. Mr. Starns indicated that staff and the districts are monitoring this issue for negative impact. There was no further discussion.

11. District 14 (Calcasieu Parish), Building Purchase-Status. SPD Starns reported that Lake Charles still has not purchased a building and the funds have been put aside. He indicated the costs continue to soar and that there is a possibility of having to build an office as locations are still scarce in the area.

12. Divisional Reports. SPD Starns reported the LPDB divisional reports are in the materials for review.

- a. Capital/Compliance
- b. Juvenile
- c. Training

13. Next Scheduled Meetings: Thursday, December 15, 2022; Thursday, March 10, 2023; and Thursday, June 23, 2023. Location: Louisiana State

Licensing Board for Contractors, 600 North Street, Baton Rouge. Time: 1:30 p.m. or as otherwise announced.

Chairman Ginart reminded everyone of the meeting set for Monday, October 10, 2022, from 1:00 – 4:00. The location is to be announced.

14. **Adjournment.** Mr. Lawrence moved to adjourn. Ms. Melancon seconded the motion and the meeting adjourned, unopposed, at approximately 3:25 p.m.

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 29th day of September 2022 in Baton Rouge, LA, as approved by the Board on the 6th day of December, 2022, Baton Rouge, LA.



MICHAEL C. GINART, JR., CHAIRMAN



LOUISIANA PUBLIC DEFENDER BOARD

Board Meeting

Thursday, Sep 29, 2022

1:30 PM

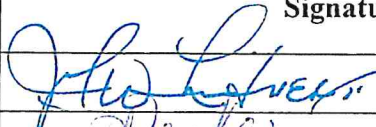
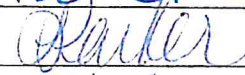
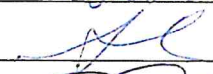

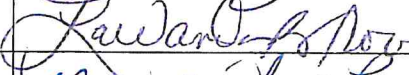
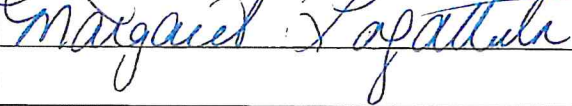
Louisiana State Licensing Board for Contractors

600 North Street, Baton Rouge, Louisiana

Guest Sign In

	GUESTS Please Print	Signature
1	Thomas Bernhausen 3411	
2	Rickman 2214	RICHARD M TOMPSON
3	Paul Blomberg 2412	
4	Kathy Cleodra	
5	Steve Gattin 220	
6	David Marcantoni	
7	Maggie LeBlanc	
8	Tony Champagne	
9	Andrea Stantz	
10	Fen Swann	
11	Herman A. Castata	
12	Kyla Romanach	Kyla Romanach
13	Daniel Egelberg	
14	Sierra Thompson	
15	Joe Park	
16	Jean Faria	Jean Faria
17	Jackie DeRobertis	Jackie DeRobertis
18	Chanel Long	
19	Deirdre Fuller	Deirdre Fuller
20	John Hogue	John Hogue II

Guest Sign In
Board Meeting
Thursday, Sep 29, 2022

	GUESTS Please Print	Signature
21	JOHN W LINDNER	
22	Lisa Parker	
23	Aaron Clark-Rizzo	
24	Fontella Baker	
25	Lawanda Brown	
26	MALCOLM LAGATTULA	
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