



# LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING  
Thursday, September 4, 2014  
LSU Law Center, Tucker Room  
Baton Rouge LA 70806  
2:00 p.m.

## MINUTES

**1. Call to Order and Remarks of the Vice-Chairman.** A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Thursday, September 4, 2014, at 2:20 p.m. the LSU Law Center in the Tucker Room.

The following Board Members were present:

Robert Burns, Chairman  
Hampton Carver  
Add Goff  
Frank Holthaus  
Robert Lancaster  
Hector Linares  
Herschel Richard  
Gina Womack

The following Board Members were absent:

Leo Hamilton  
Rebecca Hudsmith  
Herbert Larson  
Tom Lorenzi  
Jacqueline Nash  
Stephen Singer

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

Jay Dixon, State Public Defender  
Barbara Baier, General Counsel  
Natashia Carter, Accountant

Anne Gwin, Executive Assistant  
Richard Pittman, Deputy Public Defender, Dir. Of Juvenile Defender Services  
Tiffany Simpson, Juvenile Justice Compliance Officer  
Erik Stilling, Information Technology and Management Officer

Chairman Burns announced Stephen Singer's membership on the Board. Professor Singer represents Loyola Law Center. Judge Burns then introduced new staff members Barbara Baier, General Counsel and William Boggs, Deputy State Public Defender, Director of Training. Ms. Baier briefly addressed the Board. Mr. Boggs was absent.

2. **Call for Public Comment.** No one presented for public comment.
3. **Adoption of the Agenda.** On motion of Ms. Womack seconded by Mr. Goff the agenda was adopted as presented.
4. **Review of the May 12, 2014 Meeting Minutes.** On motion of Mr. Carver, seconded by Mr. Goff, the Minutes of the May 12, 2014, meeting were adopted, unopposed.
5. **Budget Committee Reports and Recommendations.** Deputy State Public Defender Richard Pittman presented the following report and recommendations on behalf of the Budget Committee.
  - a. **Appointment of a Committee Chairman.** The Budget Committee has requested that the Board formally appoint a Budget Committee Chairman. Professor Larson has been serving as the Interim Chairman pending a formal appointment. Mr. Carver moved that Mr. Larson be appointed as Chairman. Ms. Womack seconded the motion which passed unopposed.
  - b. **Committee Membership Increase.** In an effort to reach quorum at future meetings, the Committee has requested that its membership be increased from four to five. Judge Burns asked for volunteers. Ms. Womack moved to defer this agenda item to the next Board meeting for more input from members. Mr. Carver seconded the motion which passed unopposed.
  - c. **Financial Report.** Acting Budget Officer Natasha Carter reported that the Budget Committee is recommending adoption of the financial statement as presented. After a brief discussion regarding reallocation funds, Mr. Holthaus seconded the recommendation which passed unopposed.
  - d. **FY 16 Budget Request.** Mr. Pittman reported that the Budget Committee is recommending adoption of staffs' recommendation of the FY16 budget request in the amount of \$62,165,241, an increase of last year's budget by approximately nine million dollars. Included in the request is additional or increased funding for RICO cases in Baton Rouge and Lake Charles, Expert Witness Funding, Mitigation Capital Investigators, Child Support Defense, CINC-Parent representation, Angola 5, and the DNA Testing Fund. Dr. Tiffany Simpson provided a brief explanation of the State's budget process and fielded a few questions. Dr. Erik Stilling clarified that by comparison to other defense stakeholders' annual working budgets, this request is not unreasonable. Professor Linares seconded the Budget Committee's recommendation which passed unopposed.
  - e. **District Defender Salary Increases.** Mr. Pittman reported that he and Dr. Simpson completed two, one-half day site visits to District 29 (St. Charles Parish) and based on their report, the Budget Committee is recommending a five percent salary increase to District Defender Vic Bradley, per his request. Mr. Goff moved to defer

discussion of this issue in Execution Session. Mr. Holthaus seconded the motion which passed unopposed. Mr. Pittman also reported that the District Defenders in the 41<sup>st</sup> (Orleans) and the 16<sup>th</sup> (Iberia, St. Martin, St. Mary) have requested salary increases and that staff will submit their recommendations after the appropriate site visits.

**f. Parent Representation Project.** Mr. Pittman reported that, because of submittal deadlines, the Budget Committee has approved staffs' request to submit a grant application to Baptist Community Ministries in the amount of \$416,400. The grant, if awarded, would fund a three-year project in Jefferson Parish to provide social workers support for CINC attorneys. Because of time constraints, staff has submitted the grant proposal and is requesting ratification of their action. Mr. Pittman clarified that no district office or LPDB funds would be used in the project. Mr. Holthaus seconded the Budget Committee's recommendation for ratification of staff's submittal of the grant application. The motion passed unopposed.

**6. Policy Committee Reports and Recommendations.** The Committee submitted no reports or recommendations to the Board not having met prior to this meeting. The full Board took up the following policy issues:

**a. Public Defense – Policy Changes and Recommendations.** Mr. Dixon presented a brief PowerPoint presentation outlining staffs' recommendations and proposed policy changes in an effort to being addressing the foreseeable public defense funding crisis, as follows:

**i. Adjustment Formula Usage.** Staff is requesting holding the adjustment formula in abeyance for FY 15. Mr. Dixon clarified that the use of the adjustment formula served a purpose in the past but is no longer a viable option to keep the districts solvent and in some instances could do more harm than good. Ms. Womack moved to adopt the policy as presented which was seconded by Mr. Holthaus and passed unopposed.

**ii. Infrastructure Needs - Expense Allowances to PDOs.** Staff is recommending that the Board pursue Legislation that would require local police juries (or their equivalent) to provide an expense allowance for basic office operational needs and support staff salaries and benefits. Dr. Stilling clarified that these basic infrastructure needs are currently provided to other justice system entities but that public defender offices needs are funded out of LPDB's general appropriation. Dr. Simpson clarified that the legislation would not be new, but rather would have to be a change made to ACT 307. Mr. Richard moved to adopt a policy that legislation entitling District Defender Offices to an expense allowance for operational expenses to be paid by police juries and/or their equivalent be pursued. Mr. Holthaus seconded and the motion passed unopposed.

**iii. DAF/Funding Stream Inclusions/Exclusions.** Staff is recommending a policy that would remove any local, non-statutory funds established by the District Defender from that district's annual DAF calculation. Pursuant to the policy, those funds would not be considered revenue or a reduction of expenditures in the calculation for that district's allocation of state funding. Mr. Richard moved to adopt the policy as presented. Mr. Goff seconded the motion which passed unopposed.

**iv. Compensation/Representation of Non-Statutory Cases.** Staff is recommending a policy to seek additional funding for child support representation, which is currently offered by a few districts at an expense of over \$700,000 per year, and for which public defenders are not obligated to provide

representation. Staff is recommending a policy that if no state or local funding is obtained to provide the representation that the Districts no longer provide the representation. Mr. Richard moved to defer this policy to the next meeting. Mr. Holthaus seconded the motion.

v. **Case Weighting/Timekeeping.** Mr. Dixon reported that, as required by statute, staff will begin a pilot timekeeping program in both Orleans and East Baton Rouge Parish public defender offices and will keep the Board apprised of progress.

b. **Board Policies – Confirmed.** Mr. Dixon informed the board that several policies exist from prior Board action, but have never been committed to paper. The following policies require Board ratification:

i. **Curators – CINC.** Public defenders are being currently being appointed in CINC cases which are outside any statutory mandate and which can raise conflicts. After a brief discussion, Mr. Holthaus moved to defer this issue until staff has had sufficient time to research CINC appointment activity statewide. Staff was also instructed to draft a protocol for communicating Board policies other stakeholders. Mr. Richard seconded the motion which passed unopposed.

ii. **Executive Staff Evaluations.** The Board's current policy reads that all executive staff are to be evaluated annually. Mr. Dixon requested that the Board amend its practice of annual evaluations to bi-annual evaluations with the exception that any executive staff member or the State Public Defender can be evaluated whenever deemed necessary. Mr. Holthaus moved amend the policy as presented to clarify that "biannual" is every two years and not twice annually. Mr. Goff moved to adopt the policy as amended. Mr. Holthaus seconded the motion which passed unopposed.

iii. **Contract Investigators – Licenses Mandatory.** The Board's current policy reads that any contract investigator providing public defender services in conflict cases must be licensed by the State Board of Private Investigator Examiners. After a brief discussion regarding the different types of contract investigators being used, Mr. Holthaus moved to defer the issue to another meeting. Mr. Lancaster seconded the motion which passed unopposed.

c. **District Defender Salary Review.** Ms. Womack moved to defer this issue to Executive Session which was seconded by Mr. Lancaster and passed unopposed.

7. **FY15 Contract Resolution – John Holdridge.** General Counsel Barbara Baier reported that a new law was passed in the 2014 legislative session requiring any contract that provides for "legal services" to have as an attachment a resolution defining the services to be provided. The Board agreed to the Resolution as presented with the discussed changes and Mr. Holthaus moved to adopt the resolution as amended. Mr. Richard seconded the motion which passed with eight votes in favor and zero votes against. There were six absent members, one of whom holds non-voting status (ex-officio).

8. **FY 15 CINC Distribution.** Dr. Stilling explained that the annual CINC allocation has not yet been distributed to the districts. The CINC funds will be dispersed in two installments over the course of the fiscal year. Mr. Holthaus moved to adopt the CINC disbursement amounts as presented. Ms. Womack seconded the motion which passed unopposed.

9. **CAPOLA Assessment.** Mr. Dixon reported that contracts have been executed between LPBD and Ms. Juliet Yackel and Mr. Nick Trenticosta who are currently in Shreveport assessing CAPOLA. These assessment contracts must also meet the new state contract law requirements to include the Board's scope of services resolution. Mr. Holthaus moved to amend both resolutions striking "and employ" from the text and adopting both, as amended. Mr. Richard seconded the motion which passed with eight votes in favor and zero votes against. There were six absent members, one of whom holds non-voting status (ex-officio).

10. **2014 Legislative Session Results - SCR 54, SB 168, SR 150.** Mr. Dixon reported on several Senate resolutions which involve LPDB. Senate Concurrent Resolution 54 formed the Capital Punishment Fiscal Impact Commission. Mr. Dixon reported that Mr. John Di Giulio has been asked to represent LPDB on that Commission and has accepted. Senate Bill 168 authored by Senator Mike Walsworth (West Monroe) requires LPDB to apprise any appointment entity of the Board of their responsibility to consider appointing persons from the lesser represented areas of the state, specifically North Louisiana. Senate Resolution 150 formed the Pretrial Services Commission which is tasked with reviewing state pretrial service laws and policies. Staff member William Boggs will represent LPDB on this Commission.

11. **Executive Session.** Mr. Holthaus moved to go into Executive Session. Mr. Linares seconded the motion. Mr. Holthaus moved to leave Executive Session, seconded by Ms. Womack.

Upon return to the regular Board session, the Budget Committee's recommendations to approve District Defender, Vic Bradley's five percent salary increase request, raising his annual salary to \$112,879 was seconded by Mr. Holthaus and passed unopposed

12. **SPD Report.** Mr. Dixon stated the SPD report is available in the books for review. Mr. Holthaus commended staff on a well written report.

13. **Other Business.** There was no other business presented for discussion.

14. **Next Meeting Date\*.** The Board set the next Board meeting for Thursday, November 13, 2014, in Baton Rouge, with the location to be announced. Staff was instructed to poll the whole Board for attendance/non-attendance.

15. **Adjournment\*.** Mr. Goff moved to adjourn which was seconded by Mr. Richard.

Guests:

Michael A. Mitchell  
Steve Thomas  
Reggie McIntyre  
Derwyn Bunton  
Craig Colwart  
Shelley Goff

John Burkhardt  
Tony Champagne  
Herman Castete  
Brian McRae  
Alan Robert  
Steven Thomas

Anita Byrne  
Jim Looney  
Richard Tompson  
Vic Bradley  
Matt Robnett  
Chris Aberle

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 4th day of September, 2014, as approved by the Board on the 13<sup>th</sup> day of November, 2014, at Baton Rouge, Louisiana.



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Robert Burns, Chairman