



## LOUISIANA PUBLIC DEFENDER BOARD

Friday, June 26, 2020

12:00 p.m.

Zoom<sup>1</sup>

### Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Wednesday, June 26, 2020, via ZOOM video-conference (see footnote) at approximately 12:05 p.m. Mr. Holthaus acknowledged quorum.

The following Board members were present<sup>2</sup>:

Zita Andrus	Chris Bowman	Flozell Daniels
Pat Fanning	W. Ross Foote	Michael Ginart
Frank Holthaus	Lyn Lawrence	Donald North
Chaz Roberts	Moses Williams	

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

Rémy Voisin Starns, State Public Defender  
Barbara Baier, General Counsel  
Natashia Carter, Budget Administrator  
Jean Faria, Capital Case Coordinator  
Anne Gwin, Executive Assistant  
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services  
Erik Stilling, Information and Technology Director  
Tiffany Simpson, Juvenile Compliance Officer-Legislative Director

2. Adoption of the Agenda. Judge Ross Foote moved to adopt the agenda which was seconded by Mr. Pat Fanning and passed unopposed.

3. Call for Public Comment. Mr. Holthaus indicated public comment would be taken up with each item.

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<sup>1</sup> This meeting is being held via a ZOOM video-conference pursuant to Executive Proclamation 84-JBE-2020, Section 2(C).

<sup>2</sup> Mr. Lyn Lawrence and Ms. Zita Andrus arrived late. Voting on action item prior to their arrival was not affected as quorum was noted with 9 members present.

4. Adoption of the Minutes:
  - a. June 5, 2020 Minutes. Judge Foote moved to adopt the Minutes of the June 5, 2020 meeting as presented. Professor North seconded the motion which passed unopposed.
  - b. June 18, 2020 Minutes. Judge Foote moved to adopt the Minutes of the June 18, 2020 meeting as presented. Professor North seconded the motion which passed unopposed.
  
5. Policy Committee Recommendation
  - a. Act 99 of the 2020 Regular Session, Foote Miller-Montgomery Plan. Judge Foote reported that the Committee did not have a recommendation at this time but that both the Committee and the Board needed to go through all of the cases with the districts that want to take them back and a policy has to be worked out on how to proceed with transfers. No action was taken on this issue.
  - b. Proposed Policy. Judge Foote reported that there are situations when there is not enough time to gather the full Board to meet and urgent matters arise that require the State Public Defender to act timely. The Policy Committee was recommending that the Board give the State Public Defender the power to act when he determines immediate necessity, provided that there is notification to the Chairman of the Board, Policy and Budget Committees as stated in the proposed policy in the material. Mr. Roberts stated that the Board should give the State Public Defender as much authority as possible. Professor North seconded the recommendation of the Policy Committee and the following Policy was adopted without opposition.

That the State Public Defender is authorized to consult with counsel and act upon such advice as deemed proper in the State Public Defender's discretion and upon notice to the Chairman of the LPDB, the Chairman of the Budget Committee and the Chairman of the Policy Committee.

6. Miller-Montgomery.
  - a. Authority for SPD to Notify DOA of Changes Pursuant to Act 99. Mr. Starns reported that at the last meeting the Board discussed authorizing him to contact the Division of Administration regarding Act 99 and to report back to the Board as to how (the Division) interprets Act 99. Chairman Holthaus instructed Mr. Starns to notify the Division.

b. Status of the M/M Money. Mr. Starns reported that this issue was discussed at the Policy Committee meeting and until there is clarification on the Miller and Montgomery issue there was nothing to report.

7. Executive Session<sup>3,4</sup>. Mr. Flozell Daniels moved to go into Executive Session. Judge Foote seconded motion which passed without opposition. Mr. Daniels moved to leave Executive Session. Judge Foote seconded the motion which passed unopposed.

8. Executive Positions. Mr. Chris Bowman asked SPD Starns if he had a recommendation for the Director of Training position. Mr. Starns indicated his recommendation was Mr. Bob Noel. Mr. Bowman moved that the Board adopt Mr. Starns' recommendation and hire Mr. Bob Noel as the Director of Training. Professor North seconded the motion which passed unopposed.

Mr. Bowman asked Mr. Starns for his recommendation for the Trial Level Compliance Officer position. Mr. Starns' indicated his recommendation was to hire Mr. Michael Mitchell. Mr. Chris Bowman moved that the Board offer Mr. Mitchell the Trial Level Compliance Officer position as recommended by SPD Starns. Professor North seconded the motion which passed unopposed.

Professor North reported that the Board is recommending that SPD Starns consult with outside counsel regarding the LCAC issue in *State v. Howard*. He asked Mr. Starns to provide his recommendation to the Board regarding the litigation. Mr. Starns reported that he would recommend that the Board resolve to allow the SPD to confer with outside counsel to seek the appropriate remedies in the Courts of Appeal should (counsel) deem it appropriate. Additionally, the SPD would consult with the Board, Policy and Budget Committee Chairmen involving the appellate remedies. Mr. Roberts seconded that recommendation which passed unopposed.

9. FY21 DAF Disbursement. Deputy Public Defender Richard Pittman reported that under instruction from the Board, the DAF disbursal methodology and amounts were sent out to all district defenders for comment. He gave a brief summary of the results.

SPD Starns reported that the districts that did not like the DAF funding formula for FY20 will not like it this year as it may be the same formula set by statute as being proposed in HB1. However, with the increased funding also being proposed in HB 1, the reserve funds would be much larger than they have ever been to deal with any reasonably foreseeable shortfalls in FY21.

Professor North expressed concern for approving a formula that put districts back in the same situation as last year. SPD Starns clarified that if the legislature

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<sup>3</sup> 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, including character and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The Board may interview final candidates for the Trial Level Compliance Officer position including: Michael A. Mitchell, David McClatchey and Harry Landry and for the Director of Training position: Trisha Ward, Robert Noel and Tracy Schwab.

<sup>4</sup> 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. Ian Howard*, 15<sup>th</sup> JDC, Dockets: 16358 and 163534.

passes the amendment in HB1 requiring the same methodology, it will have to be used, but the DAF as presented interprets the term methodology to be broader than the formula by incorporating all of the monetary adjustments to the districts that the Board made throughout the fiscal year so the situation should not be the same as last year.

Mr. Mike Ginart expressed dismay that District 41 (Orleans Parish) will see a \$250,000 cut from last year using this same methodology that is based on post-mitigation expenses after Mr. Bunton's efforts to get increased funding from the city and the additional \$7M from the state in HB 1 for FY21. He suggested running the formula based on pre-mitigation cuts.

Professor North then moved that the full Board approve the DAF as it exists subject to there being a policy that allows the district defenders and the Budget Committee to address those districts who felt underfunded by the DAF last year.

Mr. Chris Bowman asked Professor North what amounts presented in the materials would the Board be approving for distribution if his motion passed. Dr. Erik Stilling clarified that Column 10 (page 303) showed the amounts that would go into the voucher and be deposited into the accounts of each district and column 11 was the districts' projected fund balances at the end of next year. Mr. Bowman asked if the Column 10 distribution was made, what would be left in reserves to take care of the concerned districts. Dr. Stilling reported the capping residual would result in \$1.7M and the 5% contingency fund held back at the beginning of the year for emergencies would be another \$1.67M. Mr. Bowman then seconded Professor North's motion to approve the DAF as it exists.

Mr. Ginart asked if the DAF was to be disbursed as is, would the problems for the select few districts be addressed out of the \$3.4M residual/reserve funds and, if so, when. Professor North clarified that the Budget Committee would address it at the next Budget Committee meeting.

Chairman Holthaus called for opposition to the motion and hearing none, Professor North's motion to approve the FY21 DAF as it exists passed unanimously.

10. Holdridge FY21 Contract Renewal. SPD Starns reported the vote on this consultation contract renewal for John Holdridge resulted in a tie vote at the last meeting. The Budget Committee's recommendation was to approve the contract for renewal; however, Mr. Starns reported his recommendation was to not renew as he is looking at the way that the capital office is currently structured. Judge Foote moved to renew the contract. Chairman Holthaus seconded the motion. Clarification was made that the prior vote from the Board was five to five and the vote in the Budget Committee to renew was two to one. Mr. Roberts moved to oppose renewal based on SPD Starns' recommendation. Chairman Holthaus indicated Judge Foote's motion had been made and seconded and a vote was to be taken. Professor North called the question. The motion was restated that the Board renew the Holdridge contract (FY21) as long as it is subject to a 30-day cancellation like all the others. Upon vote the motion to renew the Holdridge

contract failed with 2 in favor (Foote, Holthaus) and 7 in opposition (Andrus, Bowman, Fanning, Lawrence, Ginart, North, Roberts).<sup>5</sup>

11. Legislative Update. Legislative Director, Dr. Tiffany Simpson, reported that House Bill 1 was still being debated in the Senate. Amendments were added to bring the Public Defense Fund split back to 70-30 percent. The administrative cost proposal was deleted. Because there were Senate amendments, the Bill would still have to go back to the House for concurrence and to determine if there would be conference committees.

12. Resignation of District Defender Bradley Dausat, District 12 (Avoyelles Parish. Mr. Starns reported that he has received Mr. Dausat's resignation. He further reported that the process to select a new district defender will begin when the time delays start running again. He thanked Mr. Dausat for his years of service.

13. Announcements. There were no announcements.

14. Next Meeting. The next meeting was set for July 24, 2020 at 12:00 p.m.

15. Adjournment. Professor North moved to adjourn. Mr. Lawrence seconded the motion which passed unopposed.

GUESTS (see Zoom guest list, attached)

**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 26th day of June 2020, as approved by the Board on the 24th day of July, 2020<sup>6</sup>.



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C. Frank Holthaus, Chairman

<sup>5</sup>Board members Daniels and Williams had left the meeting. Quorum was not affected for voting purposes.

<sup>6</sup> The meeting at which these minutes were approved was held by Zoom video-conference pursuant to Executive Proclamation 84JBE 2020 Section 2(C).

Board - Jun 26 2020

Paul C Fleming Jr  
Joshua Newville  
Jee Park  
Robert Noel  
LJames  
Richie Tompson  
G Paul Marx  
Sarah  
Aaron  
Aliseia  
Anthony Champagne  
deirdrefuller  
David McClatchey  
Michelle M. AndrePont  
Derwyn Bunton  
Richard Bourke  
Emily Zolynsky  
Alan Robert  
Harry Fontenot  
Aaron Clark-Rizzio  
Michael Miller  
Trisha Ward  
Angela Claxton  
12032317285  
Andrea Stentz  
Renee Bourg  
Donald Kneipp  
J.Albert Ellis  
Kerry Cuccia  
Richard Bourke  
Herman Castete  
emily ratner  
lisa leblanc  
Chanel Long  
Richard Stricks  
Jill Pasquarella  
Harry Landry III  
Kenn Barnes  
Bettye  
John Lindner  
Michael A. Mitchell  
Kristin Wenstrom  
Brett Brunson  
Gary Clements

Mike Courteau  
Cecelia Kappel  
Maggie Broussard  
Noor Mozaffar  
Matilde Carbia  
Hannah Van De Car  
Kyla Romanach  
Jacqueline DeRobertis  
Lindsay Blouin  
Chris Dommermuth  
K Walker  
S. Renee Bourg  
Elizabeth  
CKolinchak  
Christopher Aberle  
Katie Lerer  
Maggie LeBlanc  
Reginald McIntyre  
Bruce Unangst# II  
Steve  
Brian McRae  
tgernhausner  
SRobinson  
Kristen Rome  
Brad Dauzat  
AT&T  
iPhone  
Rachel  
mike courteau  
Hannah Van De Car  
rlcan  
Dannielle Berger  
John Landis  
Carl Schwab  
13185730452  
Bruce Unangst  
jlandis  
Steven Thomas

Board

Frank Holthaus  
W Ross Foote  
Chris Bowman  
Mike Ginart  
Zita Andrus  
Donald North  
flozellDaniels  
Chaz Roberts  
Moses Williams  
Pat Fanning  
Lyn Lawrence

Staff

Jean Faria  
Richard Pittman  
NCarter  
Tiffany Simpson  
BBaier  
Rémy Starns  
AGwin  
Erik Stilling