



LOUISIANA PUBLIC DEFENDER BOARD
BOARD MEETING
April 10, 2012
LSU Law Center, Baton Rouge, Louisiana
2:00 PM

MINUTES

1. Call to Order and Remarks by the Chairman.

A meeting of the Louisiana Public Defender Board pursuant to lawful notice was duly convened and called to order by its Chairman at 2:15 p.m. on Tuesday, April 10, 2012, at the LSU Law Center, in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Sam Dalton
Leo Hamilton
Dan Krutz
Luceia LeDoux
Tom Lorenzi
Pam Metzger
Herschel Richard
Majeeda Snead
Gina Womack

The following Board Members were absent:

Frank Holthaus
Lucy McGough
Jacqueline Nash

The following *ex officio* Board Members were absent:

Judge Robert Brinkman
Rebecca Hudsmith

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

Julie Kilborn, Deputy Public Defender–Director of Training
John Di Giulio, Compliance Officer
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Jack Harrison, Juvenile Justice Compliance Officer
Erik Stilling, ITM Officer
Angel Williams, Budget Officer

2. Guests. Mr. Neuner introduced Ms. Emily Maw, Executive Director of Innocence Project New Orleans. Ms. Maw introduced exoneree Mr. Michael Williams who spoke briefly to the Board about his case, recent exoneration and release from prison. Mr. Williams served 17 years at Angola for second degree murder that he did not commit until 2009 when the eye-witness in his case recanted. Mr. Williams, IPNO's 21st exoneree, received a standing ovation from the Board and guests.

3. Review and Approval of the Agenda. Mr. Neuner requested an amendment to the agenda to include as an action item an issue in the 30th Judicial District (Vernon Parish). Mr. Lorenzi moved to amend the agenda as requested. Mr. Hamilton seconded the motion which passed unopposed.

Thirtieth Judicial District Defender Tony Tillman is requesting that the Board consider an exception for his district to the Board's policy that no public defender may act as a prosecutor in any district in which they provide defense services.¹ Considering the unique location and circumstances of the office in Vernon Parish, the Policy Committee moved to recommended to the Board a limited exception to the current policy which will allow the 30th PDO's felony defender, who will soon become the new City Prosecutor, to continue his felony caseload provided those cases are District Court cases investigated only by the Sheriff's Office and that the District Defender continue to try to find a qualified felony defender replacement. Further, staff is to develop a procedure to monitor the situation and provide that procedure to Mr. Tillman. Reverend Krutz seconded the motion which passed unopposed.

4. Review and Approval of the Minutes of the Meeting. Mr. Lorenzi moved to accept the Minutes of the March 6, 2012 meeting. Mr. Hamilton seconded the motion which passed unopposed.

5. Financial Report, March 2, 2012. Budget Officer Angel Williams gave a brief summary of the financial report as presented. Ms. Williams reported \$225,000 available for reallocation to the districts. There were no significant general budgetary items brought for discussion.

6. Budget Committee Updates and Recommendations.

a. Emergency Funding Requests.* Considering updated information received by staff, the Budget Committee recommended by motion that the encumbered, emergency funds to District 9

¹ Board Resolution adopted December 14, 2010.

(Rapides Parish) be withheld pending receipt of the district's monthly financial report for March and an updated assessment by staff. Reverend Krutz seconded the motion which passed unopposed.

By separate motion, the Committee recommended the full emergency request amount of \$40,000 to District 37 (Caldwell Parish) of which only one-half is to be disbursed pending additional information from the district and final assessment of need by staff. Professor Metzger seconded the motion which passed unopposed.

b. FY 13 501(c)3 Contracts Amounts*

i. Resolution. Mr. Harris presented the FY '13 contract amounts for the 501(c)3 programs in the form of a Resolution. The amounts are recommended by the Budget Committee and coincide with the contractual six-month period, beginning July 1, 2012 and ending December 31, 2012, with the exception of the Expert Witness Fund programs whose contractual period is for one year, beginning July 1, 2012 and ending June 30, 2013. Mr. Harris added that the 501(c)3 programs' contracts are under negotiation for the period beginning January 1, 2013. Mr. Lorenzi moved to accept the contract amounts as recommended by the Budget Committee. Upon a second by Mr. Hamilton, with no opposition, the motion passed.

c. Resolution – Meeting Attendance Requirements*. In the form of a Resolution the Budget Committee recommended to require that commencing in FY 13, the District Defender of any district that requests supplemental or emergency Board funding, or any District Defender who requests a salary increase, be required to attend the Budget Committee meeting at which his or her request is being considered. In the event the District Defender, through no fault of his or her making, is unable to attend the meeting, the District Defender may obtain the State or Deputy Public Defender's consent to send a knowledgeable person to act as his or her representative to the meeting. Mr. Lorenzi moved to accept the Resolution as presented. Mr. Hamilton seconded the motion which passed unopposed.

7. Policy Committee Updates and Recommendations.

a. Update on House Bill 325. Mr. Neuner reported on House Bill 325, his and staffs' recent meeting with the Louisiana District Attorneys Association and the projected additional revenues which could potentially be recognized by each district with the passage of HB 325.

iv. DAF – Special Costs Increase Policy Resolution. Mr. Neuner presented the Resolution discussed at the March 6, 2012 meeting concerning their intention to continue the distribution of the DAF to districts experiencing the greatest needs and not reducing that amount if and when the special costs are increased.

After discussion, both the Budget and Policy Committees recommended that a letter providing information on the effect of the failure of HB 325 to the districts and the public defense system statewide be sent to the Governor, the Chief Justice of the Louisiana Supreme Court, the President of the Senate, the Speaker of the House, the Chairman of Senate Judiciary B and the Chairman of the Administration of House Criminal Justice Committee with all elected District Attorneys, the

Executive Director of the District Attorneys Association and the President of the Louisiana Judges Association being copied. A map of the districts and a copy of the Board Resolution on the DAF-Special Costs Increase are to be enclosed with the letter. Staff was instructed to draft the letter and provide it to the Board for input prior to mailing. Upon a second by Dan Krutz, the recommendation passed unopposed.

b. IRS Issues. Roger Harris presented on an issue in District 3 (Lincoln/Union Parishes). The District Public Defender's office was recently audited and received notice from the IRS of a tax liability in the amount of approximately \$48,000 for 2010, which is the result of allegedly improperly reporting contract employment (1099s vs. W2s). District Defender Lewis Jones has been given 30 days to respond. Staff has met with Baton Rouge CPA Ralph Stephens who is currently providing pro bono assistance to Mr. Lewis.

Mr. Di Giulio reported that staff has received the districts' responses to a recent survey on contract employment which will help locate other problematic districts.

Mr. Hamilton informed the Board that a recent 5th Circuit case, *Cave v. Commissioner*, is on point with this issue and strongly urged everyone to read it. Staff was instructed to forward the *Cave* case to all districts for information and review.

c. 9th (Rapides) Service Restriction. Mr. Di Giulio reported that staff is visiting the District 9 PDO (Rapides Parish) on April 17, 2012, for a review and to determine if the service restriction protocol should be implemented and when.

d. OPD Update.

i. Mr. Neuner reported that the LaPorte CPA firm's New Orleans Traffic Court report is scheduled to be finalized this week. Once released, Chief Administrative Judge for Traffic Court Robert Jones will be sent a copy to which to respond. Mr. Neuner also directed staff to send an embargoed copy to all Board members.

ii. Supplemental Funding. Supplemental emergency funding in the amount of \$200,000 has been distributed. The balance of the encumbered funds for OPD are being held pending receipt of additional information from that office.

e. Consultants. Consultants Ernie Lewis and Dan Goyette are scheduled to be in New Orleans all week and are meeting with OPD staff. They will return in May and hope to meet with the District Attorney and Orleans judges. Additionally, they will meet with newly appointed District Defender John Lindner in District 22 (St. Tammany/Washington/Tangipahoa Parishes).

8. 501(c)3 Contracts – FY 13*. Mr. Harris informed the Board that the contracts and contract amounts for the 501(c)3 programs would be renewed on July 1, 2012 for a six month period. Negotiations are on-going with respect to substantive changes in the contracts that will take effect on January 1, 2013. Mr. Lorenzi moved to accept the contacts and amounts as recommended by the Budget Committee. Mr. Hamilton seconded the motion which passed unopposed.

9. Capital Case Coordinator Position* Julie Kilborn reported that Board Members Majeeda Snead and Frank Neuner, and several LPDB staff had interviewed remotely (via Skype) Ms. Juliet Yackel for the Capital Case Coordinator position currently being filled contractually by Mr. John Holdridge. Professor Snead indicated Ms. Yackel's resume was impressive and the interview went very well. Ms. Kilborn indicated that they would like for Ms. Yackel to start employment on July 1, 2012, and requested Board ratification of the job offer. Reverend Krutz so moved and Professor Metzger seconded the motion which passed unopposed.

10. Indigency Determination – Update. Professor Metzger and Dr. Stilling gave a brief update on the progress of the Indigency Determination Form and process.

11. Board Reporting (Annual).

a. Personal Financial Disclosure – May 15, 2012. Mr. Harris informed the Board that all active Board members are required to submit their Personal Financial Disclosure Statement to the Board of Ethics, annually, no later than the 15th of May. There is a \$2500 fine for not filing.

b. Mandatory Ethics Training – Dec. 31, 2012. Mr. Harris reported that effective January 1, 2012, all active members of the Board and the Board's staff are required to complete the Ethics Training, which is available on-line.

12. File Retention Policy. Mr. Neuner received a call from Mr. Charles Plattsmier with the Office of Disciplinary Counsel on the issue of districts' retention policies. Staff is directed to begin drafting a retention policy for the LPDB office, and for the districts and 501(c)3 programs to be incorporated into their contracts.

13. Legislative Update.

a. 2012 Bills. Mr. Harris provided a brief summary of the bills this Legislative session which specifically involve LPDB and which he is monitoring: HB 325, HB 718, HB 724, HB 816, HB 1070, HB 1124, and Senate Bills 434, 695, and 570.

14. Staff Updates and Recommendations. Ms. Kilborn brought the LPDB Timeline to the attention of the Board. The Timeline was compiled by LPDB Special Projects Coordinator Heather Hall and bullet-points by Year and Month the accomplishments of the Board and staff.

15. Other Business. There was no additional business brought before the Board for discussion.

16. Next meeting(s). The next meeting will be Tuesday, April 10, 2012, in Baton Rouge. The location will be announced.

17. Adjournment. Upon motion by Ms. LeDoux, seconded by Add Goff, the meeting adjourned at 4:35 p.m.

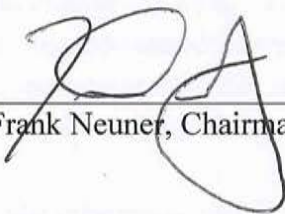
Guests Present:

John Lindner
Jim Looney
Sheeley Goff
James R. Murray

Michael A. Mitchell
Vic Bradley
J. Clay Carroll
Alan J. Robert

Reggie McIntyre
Derwyn Bunton
Richard Tompson
Graham daPonte

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 10th day of April, 2012, as approved by the Board on the 29th day of May, 2012, in Gonzales, Louisiana.



Frank Neuner, Chairman