



LOUISIANA PUBLIC DEFENDER BOARD

Board Meeting

Monday, April 4, 2011

LSU Ag Center

103 J. Norman Efferson Hall, Room 212

Baton Rouge, LA 70803

2:00 PM

AGENDA

1. Call to Order and Comments of the Chairman
 - a. Resignation of Deputy Defender, Director of Juvenile Services, Clay Walker - **Tab 1**, pg. 45
 - b. Personal Financial Disclosure Report – May 15, 2011 Deadline
2. Review and Adoption of the Agenda, pgs. 43-44
3. Review and Adoption of the Minutes of the February 22, 2011 Minutes* - **Tab 2**, pgs. 46-50
4. Budget Committee Reports and Recommendations – **Tab 3**
 - a. LPDB Financial Report* pgs. 51-54
 - b. District Emergency Funding* pgs. 55-56
 - c. Database Fund Balance*
 - i. Proposed Resolution*, pg. 57
 - d. Field Financial Reporting
 - i. Proposed Resolution*, pg. 58
 - e. House Appropriations and FY 11-12 Update
 - f. Legislator Meetings and Scheduling
5. Policy Committee Reports and Recommendations – **Tab 4**
 - a. Restricting Service Delivery
 - i. Caseload Assessment Procedure and Assessment Documents, pgs. 59-62
 - b. Partial Indigency
 - i. Example of Proposed Rule, pgs. 63-67
 - c. Court Reporting Form
 - i. City of Walker Mayor's Court Request, pgs. 68-70

* Requires Board action.

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- ii. LPDB Proposed Version, pg. 71
 - iii. Uniformity and Timeliness
 - d. District Offices as Victims – Calcasieu Discussion
 - i. Proposed Resolution*, pg 72
 - e. Unassessed, Unremitted Indigent Defender Funds
 - f. Quarterly Reporting on Local Funding
 - i. Proposed Resolution*, pgs. 73-73
 - g. Expert Funding in Non-Capital Cases – E. Feliciana Update
 - h. Reclassification of Misdemeanors
 6. New Case Management System – June 1 – **Tab 5**
 - a. Statewide Prescreenings, pg. 75
 7. Litigation Update¹ - Executive Session
 - a. Mandamus Order
 - b. Orleans Municipal Court
 - c. Court Reporters – Jefferson Parish
 8. State Public Defender Report – **Tab 6**, pgs. 76-81
 - a. Statewide Trainings Calendar, pg. 82
 9. Other Business
 10. Next Meeting(s)
 11. Adjournment*

* Requires Board action.

¹ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), 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 strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following *Louisiana Public Defender Board versus Julian Parker, et al*, 19th Judicial District Court Docket: 597627; *Bice v. LPDB*, Eastern District of Louisiana, Docket: 2:11-CV-11-00477-JCZ-DEK and *Vincent Borrello v. Parish of Jefferson*, 19th Judicial District Court, Docket: C597203



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MINUTES

A meeting of the Louisiana Public Defender Board, pursuant lawful notice, was duly convened and called to order by its Chairman at 2:05 p.m. on Monday, April 4, 2011, at the LSU AgCenter, 103 J. Norman Efferson Hall, Room 212, in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Judge Robert Burns
Add Goff
Leo Hamilton
Rev. Dan Krutz
Luceia LeDoux
Christine Lipsey
Tom Lorenzi
Lucy McGough
Pam Metzger
Majeeda Snead
Gina Womack

The following Board Members were absent:

Cleveland Coon
Sam Dalton
Frank Holthaus

The following *ex officio* Board Members were absent:

Rebecca Hudsmith
Judge Robert Brinkman

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

Jean M. Faria, State Public Defender
Julie Kilborn, Deputy Public Defender – Director of Training
Kristy Boxberger, Juvenile Justice Compliance Officer
John Craft, Capital Case Coordinator
John Di Giulio, Trial-Level Compliance Officer
Laurie Durnin, Budget Officer
Anne Gwin, Paralegal, Executive Assistant to the State Public Defender
Roger Harris, General Counsel
Dr. Erik Stilling, Information Technology and Management Officer
Lynette Roberson, JIDAN Coordinator

1. Comments of the Chairman

a. Resignation of Deputy Defender, Director of Juvenile Services, Clay Walker. Ms. Faria informed the Board that Deputy Defender – Director of Juvenile Services Clay Walker resigned effective April 4, 2011, and has accepted a position as the Director of Juvenile Services for Caddo Parish. Professor McGough moved that staff draft a resolution for Board adoption commending Mr. Walker for his service. The motion was seconded by Mr. Hamilton and was approved without opposition.

b. Personal Financial Disclosure Report – May 15, 2011 Deadline. Mr. Neuner reminded Board members that they must submit their personal financial disclosure reports by May 15, 2011. Blank forms were distributed to the Board.

2. Review and Adoption of the Agenda. Ms. Womack requested that the Board discuss the State Public Defender's appointment to the Juvenile Justice Reform Act Implementation Commission, in light of Mr. Walker's resignation. Mr. Hamilton moved to amend the agenda and adopt it as amended. The motion was seconded by Gina Womack and was approved without opposition. The discussion was deferred until the completion of all pending action items by the Board.

3. Review and Approval of Minutes of February 22, 2011 Meeting. The Board reviewed the minutes of its meeting on February 22, 2011. Ms. Womack moved to adopt the minutes. The motion was seconded by Mr. Hamilton and was approved without opposition.

4. Budget Committee Reports and Recommendations

a. LPDB Financial Report. Ms. LeDoux, on behalf of the Budget Committee, presented the Financial Report included in the Board books.

b. District Emergency Funding. The Budget Committee moved for Board approval of emergency funding requests for the following districts for the following amounts: 41st District for \$505,000; 1st District for \$209,200; 10th District for

\$55,000; 35th District for \$4,300; 13th District for \$6,000; and 19th District for \$237,600. The committee reported \$219,904 remaining for distribution. The motion was seconded by Mr. Hamilton and approved without opposition.

c. Database Fund Balance

i. Proposed Resolution

The Budget Committee moved to amend the agenda to discuss a resolution regarding services for the case management system. Judge Burns seconded the motion which was approved without opposition.

The Budget Committee moved to adopt a resolution¹ authorizing the State Public Defender to enter into a contract for FY 2011-12 with David J. Newhouse in an amount not to exceed \$10,000 for a variety of services including consulting with Board staff to ensure proper implementation of the case management system and related matters. The motion was seconded by Judge Burns and was approved without opposition.

Dr. Stilling informed the Board that some funds remain after the purchase of the case management software and recommended that these funds be carried forward to the next fiscal year for related expenses, including training and maintenance costs. The Budget Committee moved to adopt the staff recommendation to carry forward any fund balance from the case management system purchase. The motion was seconded by Judge Burns and was approved without opposition.

d. Field Financial Reporting

i. Proposed Resolution. The Budget Committee moved to adopt a resolution that effective immediately all districts' annual budgets and monthly financial reports are to be prepared on a cash-basis. The motion was seconded by Prof. McGough and was approved without opposition.

e. House Appropriations and FY 11-12 Update. Mr. Harris informed the Board that staff requested legislative appropriations for Fiscal Year 2011-12 in the amount of \$40 million. At this time, \$32.8 million is being recommended to be appropriated to LPDB for Fiscal Year 2011-12, reflecting a \$178,000 reduction in general fund appropriations and a \$140,000 reduction in federal funds.

f. Legislator Meetings and Scheduling. Mr. Harris informed the Board that he and Ms. Faria would be scheduling meetings with legislators to provide information on the impact of appropriations. District Defenders are participating in these meetings with their districts' legislators. Board members recommended that the Board's Legislative Committee convene to discuss these meetings. Ms. Womack requested that she be added to the Legislative Committee.

¹ The Board approved an amended agenda to include this discussion item.

5. Policy Committee Reports and Recommendations

a. Restricting Service Delivery

- i. Caseload Assessment Procedure and Assessment Documents.** Staff presented the Board with a draft caseload assessment procedure to be conducted when a District Defender Office or program office is in danger of exceeding ethical caseload limits. The Board was informed that, in its meeting, the Policy Committee requested that staff also draft a policy, which can be applied to each district according to its circumstances, to assist districts in restricting services prospectively where funding becomes inadequate to continue providing services at current levels.

b. Partial Indigence

- i. Example of Proposed Rule.** Ms. Faria informed the Board of a proposed local rule on assessing partial indigence fees in the 15th Judicial District.

c. Court Reporting Form

- i. City of Walker Mayor's Court Request.** Dr. Stilling informed the Board of a request by the City of Walker Mayor's Court for assistance in establishing a procedure for remitting fees and providing collection information to the local Public Defenders' Office. The Walker's Mayor's Court provided LPDB with a form currently being used.
- ii. LPDB Proposed Version.** Dr. Stilling presented a proposed uniform reporting form drafted by staff –based on the form provided by Walker's Mayor's Court – which will assist courts in remitting fees and provide collection information to local Public Defenders' Offices.

d. District Offices as Victims – Calcasieu Discussion

- i. Proposed Resolution.** Staff proposed a resolution which relieves a District Public Defender Office from representing an indigent person accused of a crime when that same District Office is the victim. The accused would be represented by conflict counsel but the defense costs would be paid from the local indigent defender fund, with the Board's staff overseeing all aspects of the case. The Policy Committee moved to adopt the resolution. The motion was seconded by Mr. Hamilton and was approved without opposition.

- e. Unassessed, Unremitted Indigent Defender Funds.** Ms. Faria informed the Board of the underassessment of fees remitted to the 4th Judicial District Public Defenders' Office, which underassessment has since been resolved. The Board was informed that, in its meeting, the Policy Committee had taken actions directing staff to research and recommend a policy to assist Districts in pursuing unassessed or unremitted funds.

Staff also brought to the Board's attention that in at least one district partially remitted fines and fees are not being distributed until full payment of all fines and fees is made resulting in a large amount of money accruing interest in the Sheriff's accounts. Staff informed the Board that in its meeting, the Policy Committee had requested that staff review the legality of the issue and bring a recommendation in the form of a resolution to the next meeting. The Board agreed.

f. Quarterly Reporting on Local Funding

i. Proposed Resolution. Staff proposed a resolution that any contract entered into between the Board and any District Defender for FY 2011-12 and subsequent years shall contain a provision requiring District Defenders to submit to the Trial Level Compliance Officer a quarterly report on local funding, which must include the names of each representative of a local funding source with whom the District Defender communicated and the substance of such communication. The Board moved to adopt the resolution. The motion was seconded by Mr. Hamilton and was approved without opposition. A brief discussion followed and Prof. McGough moved that the Board agree to amend the resolution and contract to require Districts to report remittance of fees or, where remittance was not made, to report contacts and communications with local funding sources. The motion was seconded by Mr. Lorenzi and was approved without opposition.

g. Expert Funding in Non-Capital Cases – E. Feliciano Update. Mr. Di Giulio informed the Board of a recent issue in 20th District Office which resulted in the development of a procedure whereby the Board's staff reviews requests from districts for expert funding in non-capital cases involving co-defendants. Staff accepts requests for funding from conflict counsel and, if approved, the payment is remitted from district funds. The procedure prevents District Defenders from having to review requests in conflict cases.

h. Reclassification of Misdemeanors. Ms. Faria informed the Board of staff efforts with other stakeholders to reclassify misdemeanors in an attempt to alleviate caseload levels.

5-1². SPD Juvenile Justice Reform Act Implementation Commission Appointment. Ms. Faria informed the Board that, as of the 2010 Regular Legislative Session, the State Public Defender was authorized to appoint a representative to the Juvenile Justice Implementation Commission. Ms. Faria informed the Board that, in light of Mr. Walker's resignation, she had appointed Mr. Neuner to serve on the Commission. Board Member Gina Womack requested that the Board's Juvenile Justice Committee meet to discuss the appointment. After comments and a brief discussion, Ms. LeDoux moved that the Board refer the issue to the Juvenile Justice Committee to make a recommendation for the

² The Board approved an amended agenda to include this discussion item.

appointment. The motion was seconded by Prof. Snead and was approved without opposition.

6. New Case Management System – June 1

a. **Statewide Prescreenings.** Dr. Stilling informed the Board that the new case management system is currently in a data migration phase. The staff will be conducting statewide prescreenings, webinars, and trainings for districts to become familiar with the new system. The new system is scheduled to launch on June 1, 2011.

Ms. LeDoux moved that the Board enter executive session. The motion was seconded by Prof. Snead and was approved without opposition.

7. Litigation Update – Executive Session

- a. **Mandamus Order**
- b. **Orleans Municipal Court**
- c. **Court Reporters – Jefferson Parish**

Ms. LeDoux moved that the Board exit executive session. The motion was seconded by Prof. Snead and was approved without opposition.

8. State Public Defender Report. Ms. Faria informed the Board that other activities and issues on which staff has participated can be reviewed in the State Public Defender Report included in the Board books.

9. Other Business. Ms. Womack informed the Board that conflict counsel in the 41st Judicial District's juvenile cases are provided through court appointment, not through the local Public Defenders' Office. Staff recommended that the issue be referred to the Board's Juvenile Justice Committee.

10. Next Meeting(s). The Board set dates for its next two Board meetings. The next meeting will be held on Thursday, May 12, 2011, at the LSU Law Center's Tucker Room at 2 p.m., with a Policy Committee meeting beginning at 12:00 pm. The subsequent meeting will be held on Tuesday, June 21, 2011, in Lafayette (location to be determined) with a Policy Committee meeting beginning at 12:00 pm.

11. Adjournment. Rev. Krutz moved for adjournment. The motion was seconded by Prof. Snead and was approved without opposition.

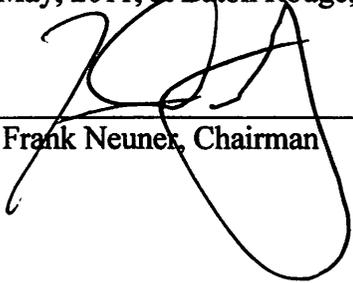
Guests Present:

Mike Courteau
J. Clay Carroll
Brett Brunson
Ashana Bigard
Herman Castete

Michael A. Mitchell
Tony Champagne
Paul C. Fleming, Jr.
Ernest Johnson
Charmaine Washington

Alan J. Robert
Reggie McIntyre
Richard Tompson
Derwyn Bunton
Sarah Dunnagan

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 April, 2011, as approved by the Committee on the 31st day of May, 2011, at Baton Rouge, Louisiana.



Frank Neuner, Chairman