

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, January 22, 2009
11:00 AM

Louisiana State University
Agricultural Center
Efferson Hall, Room 214
Baton Rouge, LA 70804

Agenda

1. Call to Order and Opening Remarks by Chairman
2. Roll Call
3. Review and Approval of Previous Minutes of November 25, 2008 Board Meeting
4. Public Comments
5. Report of the Chair
6. Budget Cuts
7. Budget Officer
8. Civil Service Hearing February 4, 2009
9. Web Site Contract
10. Requests for Offers for the 15th JDC Site Visit
11. Executive Session Pursuant to La. R.S. 42:6.1 A(1) to Discuss Personnel Issues – Professional Competence of Applicants for District Public Defender for the 25th Judicial District
12. Status of District Defender Selection Committees
 - 14th Calcasieu
 - 20th East and West Felicianas
 - 28th LaSalle
 - 30th Vernon
 - 38th Cameron
13. Caseload Limits
 - Subcommittee to create limits and procedure to utilize when limits are reached
 - New Orleans Municipal Court caseload discussion
 - Formal Response to New Orleans City Council Resolution
 - Jurisdictions which may stop taking cases

14. Caddo Parish

- Executive Session Pursuant to La. R.S. 42:6.1 A(1) to Discuss Personnel Issues – in the Caddo Parish Public Defender Office

15. Survey and Annual Report

16. Report of the State Public Defender

17. Adjournment

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of the Board Meeting

January 22, 2009

Louisiana State University Agricultural Center

Efferson Hall, Room 214

Baton Rouge, Louisiana

Members Present: Jim Boren, Judge Robert Burns, Cleveland Coon, Sam Dalton, Leo Hamilton, Janet C. Hoeffel, Rev. Dan Krutz, Luceia LeDoux, Lucy McGough, Frank Neuner, D. Majeeda Snead, and Rémy Starns.

Ex Officio Members Present: Rebecca Hudsmith

Staff Present: Lesia Batiste, Lynda Colomb, John Di Giulio, Jean Faria, Heather Hall, Erik Stilling, and Clay Walker.

Guests Present: Vic Bradley, Tony Champagne, Bradley Dauzat, Jim Looney, Reggie McIntyre, Gary Clements, David Price, Bob Noel, Mike Mitchell, Richard Tompson, Bret Brunson and Mitch Bergeron.

Call to Order and Opening Remarks. The meeting was called to order at 11:05 a.m. Mr. Walker called the roll; a quorum was present. Mr. Neuner, Chair, called the meeting to order. Rebecca Hudsmith was introduced as a new, *Ex Officio*, member of the Board. Heather Hall and Lynda Colomb were introduced as new members of the state staff.

Approval of Minutes from the November 25, 2008 Meeting. Mr. Dalton moved that the minutes from meeting held on November 25, 2008 be adopted. Mr. Starns seconded the motion which passed without opposition.

Public Comments: There was no public comment at this time.

Budget Cuts: As an informational item, Ms. Faria reported that due to the shortfall in the State's budget, the LPDB budget for 2008-09 was being cut by approximately \$1.4 million. The proposed cuts for 2010-11 are \$4-10 million. Ms. Faria has been in contact with several members of the Governor's staff as well as the Division of Administration to work on having the budget restored. Liz Merrill, the Deputy Executive Counsel for the Governor, has been assisting staff to request the LPDB budget be restored, based in large part on the litigation in the 14th JDC and the potential litigation in the 15th JDC.

Mr. Neuner pointed out that other agencies were facing even more drastic cuts, citing a 30% reduction for higher education. Mr. Neuner reported that he and Ms. Faria had met with the members of the Supreme Court regarding LPDB funding. Chief Justice Kimball had written a letter in support of the LPDB. Mr. Neuner also reported that the Board of Governors for the LSBA are considering a resolution in support of LPDB funding and that LSBA President Beth

Foote also had written a letter in support. Mr. Neuner reported that Pete Adams, the President of the District Attorney's Association, will ask his Board to support LPDB funding.

Staffing Update

Mr. Hamilton inquired about the status of the remaining (LPDB) state positions in relation to the Administration's hiring freeze.

Ms. Faria reported that the three statutory positions (Budget Director, Director of Training, and Juvenile Compliance Officer) which remain vacant have been "unfrozen." However, the Civil Service Administration is seeking to classify all of the state positions except the State Defender, the State Juvenile Defender, and the Director of Training. Ms. Faria reported that there is a meeting with Civil Service Commission on February 4, 2009 at which she will request a three year waiver period – that the executive positions remain unclassified for a period of three years after which the issue will be reexamined.

Mr. Boren inquired as to the consequences of the positions being classified. Ms. Faria reported that as a result of a position being classified, each position will have a strict job description. A classified employee cannot be directed to work outside the parameters of his or her job description. In contrast, the work of the state staff and the small number of staff requires that each member be able to work on projects outside of his or her discipline. Classification would therefore restrict the staff's agility, reducing its effectiveness. Ms. Faria also reported that due to the small staff size, each staff member was responsible for developing policy for the LPDB and making policy decisions. Classified employees cannot make such policy determinations. This too would restrict the staff's effectiveness. Ms. Faria reported that classification would also limit the rates of pay, thereby limiting the Board's ability to find the most qualified personnel. Ms. Faria also reported that the discipline process for classified employees is slow, thereby limiting the Board's agility and effectiveness. Ms. Faria explained that the positions that are already filled (except the State Defender and State Juvenile Defender) would have to be re-advertised and the staff now in place would have to reapply. Mr. Boren inquired about the distinction for Juvenile Defender. Ms. Faria explained that the State Defender and the Juvenile Defender and Director of Training, as Deputy Public Defenders, were exempt. These positions have authority over people and/or programs, thus making them exempt.

Mr. Hamilton pointed out that the Civil Service Administration considers all non-constitutional positions to be subject to civil service. He explained therefore that the dispute is not a legislative one, but rather a constitutional one – which would require a constitutional amendment to overturn. Mr. Hamilton stated that because the state staff will be working with local governmental entities, as sub-agencies, that an exception might be granted. Ms. LeDoux questioned whether each position had some programmatic authority. Ms. Faria responded in the affirmative and reported that the three year waiver would allow the staff to evidence the need for agility and policy work and the level of programmatic authority, at which time the Board/staff would make its case to the Civil Service Administration. Mr. Dalton inquired whether the positions could be contracted. Ms. Faria stated that contracting for the positions was not a viable long-term solution. Mr. Hamilton agreed to work with the staff on the presentation to the Civil

Service Commission on February 4th. Mr. DiGiulio stated that the subject staff agreed the positions should not be classified.

Mr. Boren moved that Ms. Faria be granted the authority to ask that all executive positions remain unclassified, with the discretion to reduce the number of unclassified staff as necessary in the negotiation. Ms. Hoeffel seconded. The motion passed without opposition.

Web Site: Ms. Faria reported that the staff had finished the process of seeking bids for the web site contract and that an offer to contract for the creation of a web site for \$21,000 had been received. Mr. Boren asked whether the funds had been budgeted. Ms. Faria explained that the funds were from the executive funds rather than general budget. Mr. Stilling explained that the current web site is running on a 12 year old program and that it does not meet the needs of the staff. Ms. Hall explained that the newly designed web site will increase the Board and Staff's ability to communicate with the districts as well as the public. Mr. Starns explained that a new web site had been part of the original plan for the new Board. Mr. Starns asked whether the new site would have the ability to store a motion bank, a list serve and the data base. Ms. Hall explained that the new site was designed for a motion bank and list serve, but not the database, for confidentiality reasons. Mr. Starns inquired as to the timeline. Ms. Hall explained that after the contract had been approved, the site would take 8 to 10 weeks to create. Ms. LeDoux asked about the bidding process. Mr. Hamilton explained that the amount was less than \$50,000 and therefore not subject to the bidding process. Ms. Faria acknowledged that it was less than \$50,000 but that the staff had followed the bidding process properly nonetheless. Mr. Hamilton moved that the \$21,000 contract be approved. Mr. Coon seconded. Motion passed without opposition.

Budget Committee: Ms. LeDoux reported that the Budget Committee had interviewed three people for the Budget Director position and were recommending Ms. Buchanan. Ms. Buchanan has 26 years of experience and would be a good fit for the staff. Ms. Faria reported that pending the Civil Service determination, that the Division of Administration had granted the LPDB to hire a budget analyst on an hourly basis. Ms. Faria reported interviewing a Ms. Collins who agreed to work for \$25/hr.

Mr. Boren moved that Ms. Faria be able to hire Ms. Collins at a rate of \$25 per hour. Mr. Coon seconded. Motion passed without opposition.

Mr. Neuner inquired as to when Ms. Faria could hire Ms. Buchanan as the Budget Director. Mr. Hamilton moved that Ms. Faria be given authority to hire Ms. Buchanan immediately upon learning the outcome of the Civil Service determination. Ms. Snead seconded. Motion passed without opposition.

The 15th JDC: Ms. Faria reported that she had spoken with several stakeholders regarding the potential litigation in the 15th JDC and had been advised that rather than have the staff investigate the district, that a neutral party should conduct the investigation. The staff sought proposals for such an investigation and received two – one from the Spangenberg Group and a second from NLADA. Ms. Faria explained that pursuant to the ACLU complaint, the request

included an examination of the organizational structure of the office in the 15th JDC, the process and use of investigators in the 15th and the workload of the attorneys in the 15th. Ms. Faria recommended the NLADA proposal. Ms. LeDoux asked which proposal addressed the ACLU complaint better. Ms. Faria explained that the Spangenberg proposal offered more information, and that the NLADA proposal was more tailored to the ACLU complaint. Ms. LeDoux stated that she felt an examination of the 15th and its appropriate use of funds would involve an examination of the distribution of state funds and therefore would require more data than simply the workload in the 15th JDC. Ms. Hudsmith concurred with Ms. Faria's assessment of the NLADA's work product and agreed with Ms. LeDoux that the Board would need more than simply the 15th JDC data to assess state distribution of funds. Mr. Dalton explained that in his experience while the Spangenberg Group has done good work, it will likely produce a report explaining how an ideal system would work, but not pinpoint how the LPDB system can be corrected. Ms. Batiste stated that because the report might be discovered in any potential litigation, the Board should consider limiting the investigation to the 15th JDC only. Ms. Snead stated that if we are going to spend \$50,000 it should not be limited to one district. Judge Burns accepted Ms. Faria's recommendation and expressed that any report should be considered work product and not discoverable. Mr. Boren inquired as to the 30% discount in the NLADA proposal. Ms. Faria explained that the discount is pursuant to our membership in NLADA. Mr. Boren stated that the Report should be considered work product and should be protected unless and until the Board decided to use it for systemic changes. Mr. Boren also pointed out that NLADA and David Carroll, having recently worked on Act 307, has credibility and contacts in Louisiana. Mr. Champagne agreed that David Carroll has credibility with District Defenders.

Mr. Boren moved that the NLADA proposal be approved and that in the Contract it should state clearly that the LPDB is engaging NLADA pursuant to the ACLU complaint and therefore in anticipation of litigation and that the investigation and report should be kept confidential unless and until the Board determines if it should be released. Ms. Snead made a friendly amendment that if Ms. Faria determined that portions of the proposed Spangenberg report were desirable, that NLADA be asked if they could add such portions to its report. Friendly amendment was accepted by Mr. Boren. Mr. Dalton seconded. Motion passed without objection.

Ms. LeDoux inquired whether the Board should request a workload/allocation of state funds study that is broader than an examination of the 15th JDC. Mr. Boren agreed that an examination of the allocation of state funds and workloads would clarify future Board determinations. Ms. LeDoux explained that her Foundation might fund a part of such a study. Ms. Faria explained that a case-weighting study is something that only the Spangenberg Group can do. Mr. Starns suggested a subcommittee form to examine workload and the allocation of state funds.

Executive Session

Mr. Starns moved that the Board go into Executive Session to discuss personnel issues in Plaquemines and Caddo Parishes. Ms. Snead seconded. Approved.

District Defender Selection Committees: Mr. Di Giulio explained that in the 20th JDC there had been one recommendation. In the 28th, requests for names from the contiguous districts had produced two additional names. He also indicated that the committees in the other jurisdictions

with open positions had made their recommendations and that interviews would be scheduled. Ms. Faria asked for all those interested in interviewing for these positions to contact her. Mr. Starns stated he would be interested.

Caseload Limits

Mr. Starns and Mr. Dalton expressed their view that the Board should examine and discuss caseload standards and PD reaction to excessive caseloads. Mr. Bergeron inquired as to whether District Defenders could be involved in such an examination. Mr. Champagne agreed and will seek District Defender involvement. Mr. Boren stated that accurate data will be necessary to study caseloads. Mr. Noel explained that before we can get accurate data we need agreement on case definitions. Ms. Hudsmith stated that accurate data and uniform definitions are essential. Without accurate data the caseload studies needed to inform funding decisions will be inaccurate. Mr. Starns moves for a subcommittee to study caseload standards and reactions to excessive caseloads. Mr. Boren seconded. Motion passes without objection. Subcommittee assigned: Ms. McGough, Mr. Dalton, Mr. Starns, Mr. Boren, Ms. Hudsmith, and Mr. Champagne who will recruit other district defenders.

New Orleans Municipal Caseloads and Funding

Ms. LeDoux stated that whereas the New Orleans City Council will not assist in funding for municipal court, the staff should prepare a policy for rationing services and correspondence to the City Council explaining the funding situation. Mr. McIntyre explained that in the 21st, he does not send attorneys to all municipal cases. Ms. LeDoux explained that the difference in Orleans is the way in which the City Jail is utilized. Ms. LeDoux requested that the staff prepare a policy to support OPD. Mr. Simmons explained though that in any case where there is even the threat of incarceration an attorney must be appointed. Mr. Hamilton moved that the staff prepare a response to the City Council. Ms. McGough seconded. Motion passed without objection.

Jurisdictions Declining to Take New Cases:

Ms. Faria reported that we have a high number of capital cases. Ms. Faria will examine costs on capital cases to support the action of jurisdictions which may need to refuse new cases due to excessive caseload. Mr. Boren asked whether there is a plan in place when districts reach capacity and cannot take additional cases. Ms. Faria replied that no such plan exists.

Caddo Parish:

Mr. Hamilton moved that a subcommittee be formed to examine the personnel situation in the 1st JDC. Ms. LeDoux seconded. Motion passed without objection. Subcommittee assigned: Ms. LeDoux, Mr. Boren, and Ms. Hudsmith.

Board Member Books:

As an informational item, Ms. Faria reports that the staff is creating a new board member book to assist new Board members. Ms. Faria also reports that the board meeting books will be posted on the web site as well as emailed to each member. Hard Copy books will continue to be provided.

Next Meeting Date:

The Chair discussed the current year's meeting dates and time. By consensus the Board agreed that Board meetings will be held on the 4th Thursday of each month at 2:00 p.m. The next meeting is February 26, 2009 at 2:00 p.m.

Adjournment. There being no additional business brought to the attention of the board, Mr. Starns moved that the meeting be adjourned. Ms. LeDoux seconded the motion which passed without objection.

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, February 26, 2009
2:00 PM

Louisiana State University
Agricultural Center
Efferson Hall, Room 214
Baton Rouge, LA 70804

Agenda

1. Call to Order and Opening Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of January 22, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. Budget Update
 - a. Division of Administration Strategic Performance Plan (FY 2009-2010 budget cuts); attendance at the Joint Legislative Committee on the Budget
 - b. January 09 distribution
 - c. April 09 distribution
 - d. Financial Report due in the Legislature March 1, 2009*
7. Ethics Reporting Requirements*
8. Annual Report
9. Juvenile Compliance Officer*
10. District Defender Selection (Executive Session)
 - a. 14th JDC Calcasieu*
 - b. 20th JDC East and West Feliciana*
 - c. 25th JDC Plaquemines*
 - d. 28th JDC LaSalle*
 - e. 30th JDC Vernon*
 - f. 38th JDC Cameron*
11. Caddo Parish Report (Executive Session)

*Requires Board Approval

12. Ascension, Assumption, St. James Parishes (Executive Session)
13. Response to New Orleans City Council*
14. Report of the Public Defender
 - a. Civil Service Commission Action
 - Special Projects Advisor
 - Information & Technology Management Officer
 - Budget Officer
 - b. Division of Administration
 - c. Baton Rouge Area Foundation*
 - d. Creation of District Defender Logos* and Email Addresses
 - e. Editorial Board Meetings
 - f. Model Contract
 - g. Update on Litigation
 - i. Contract regarding the 15th JDC
 - ii. Status of Litigation in Calcasieu
 - h. Location of Next Board Meeting

*Requires Board Approval

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of the Board Meeting

February 26, 2009

Louisiana State University Agricultural Center

Efferson Hall, Room 214

Baton Rouge, Louisiana

Members Present: Cleveland Coon, Sam Dalton, Leo Hamilton, Janet C. Hoeffel, Lucy McGough, Frank Neuner, Judge William Norris, Walt Sanchez, Rémy Starns, and Gina Womack.

Ex Officio Members Present: Alfred Boustany, Rebecca Hudsmith

Staff Present: Lesia Batiste, Marianne Buchanan, Dottie Collins, Lynda Colomb, John Di Giulio, Jean Faria, Heather Hall, Erik Stilling, and Clay Walker.

Guests Present: Vic Bradley, Tony Champagne, Bradley Dauzat, Jim Looney, Reggie McIntyre, Joe Kutch, Mike Courteau, Clay Carroll, John Simmons, Alex Chapman, Ken Rodenbeck, Derrick Carson, Judy Pugh, Peggy Sullivan, Lewis Jones, Herman Castete, David Price, Bob Noel, Mike Mitchell, Richard Tompson, and Mitch Bergeron.

Call to Order and Opening Remarks. The meeting was called to order at 2:05 p.m. Mr. Walker called the roll; a quorum was present. Mr. Neuner, Chair, called the meeting to order. Marianne Buchanan and Dottie Collins were introduced as new members of the state staff.

Approval of Minutes from the November 25, 2008 Meeting. Mr. Sanchez moved that the minutes from meeting held January 22, 2009 be adopted. Ms. McGough seconded the motion which passed without opposition.

Public Comments: There was no public comment at this time.

Ms. Faria asked that the agenda be amended to add two contracts which require Board approval. Mr. Hamilton moved that the agenda be amended; Ms. Womack seconded. The motion was approved without opposition.

Division of Administration -- Update

Ms. Faria explained that the Division of Administration relinquished control of the LPDB's Human Resources division. The state staff will now do its own HR work.

Budget Cuts -- Update

Mr. Neuner explained that in response to the proposed budget cuts, the staff and some Board members were meeting with editorial boards across the state to explain the impact of the proposed cuts. Mr. Neuner reported that the District Attorneys association supported the appropriate funding of indigent defense.

Ms. Faria reported that the decision regarding the proposed cuts should be made within the next two weeks.

April Allocations

Ms. Faria reported that the Board will soon need to decide on amounts to be distributed to the districts for the April allocation. The state staff has compiled a table showing the reserve each district has which will be reported to the Board for consideration in the allocation of funds in April. Ms. Hoeffel inquired as to staff suggestions for allocations. Ms. Faria reported that suggestions had been made in September of 2008, which will be emailed again to the Board. The 9/08 suggestions, however, do not take into consideration the reserves held by each district.

Financial Update

Ms. Collins reported on the financial status of the Board and the Districts (from Tab 6). Mr. McIntyre inquired whether the financial report included information regarding available funds for experts. Ms. Faria explained that funds remain available for experts. Mr. Neuner stated that the available funds will be posted on the website for district defenders to see. Ms. Faria explained that the expert funds will be distributed through a contract with Mr. Looney. Mr. Looney suggested amending the existing contract for expert funds. The original contract was for \$500,000 and needed to be amended to the current lower amount of approximately \$300,000. Mr. Sanchez moved that the contract amount be amended. Mr. Hamilton seconded. Motion was approved without opposition.

Parent Representation in CINC Cases

Ms. Faria explained that the funds for the second year of the Parent Representation in CINC Cases program need to be allocated. Ms. Faria also explained that the funds designated for the 39th JDC will be given to the 1st JDC which is doing all juvenile work for the 39th. Likewise, all funds allocated for the 5th and 37th JDCs will be given to the 4th JDC as the 4th is doing all juvenile work for the 5th and 37th. Ms. McGough moved that the amounts designated for the second year be allocated and that the funds for the 5th, 37th and 39th be allocated to the districts doing the juvenile work (the 1st and 4th). Mr. Hamilton seconded the motion which was approved without opposition. Mr. McIntyre inquired as to when the checks would be sent. Ms. Faria explained they would be processed next week.

Legislative Report

Ms. Faria explained that the LPDB would be submitting its Annual Legislative Report on March 1st. Ms. Faria explained the material included in the Report, including caseload and budget figures.

Contracts

Ms. Faria requested that the LPDB approve a three year contract with Mark Falcon to work on an as-needed basis representing the Board on issues of employment law. The rates are those used by the Attorney General's office. Mr. Sanchez moved that the contract be approved. Ms. Womack seconded the motion which was approved without opposition.

Ms. Faria presented an updated version of the contract with NLADA regarding the 15th JDC. This new version includes additional findings which will be included in the report. Ms. Hoeffel expressed concern that the report could not include all of the stated information at the staed

price. Ms. Faria explained that the LPDB was getting a large discount pursuant to our state membership. Mr. Neuner pointed out that NLADA and David Carroll have an interest in Louisiana's success. Mr. Hamilton moved that the Board approve this contract with NLADA. Mr. Sanchez seconded the motion which was approved without opposition.

Ethics Requirements for Board Members

Ms. Batiste reviewed the ethics form to be filled out by all Board members. The form is still in draft form, but will be completed soon. Ms. Batiste will send the completed form to all Board members. The form must be completed by May 15, 2009. Ms. Batiste explained that there are penalties for failure to complete the ethics form. Ms. Batiste will also notify all former Board members who could be required to complete the form.

Juvenile Compliance Officer

Mr. Walker explained that after interviewing several persons for the position of Juvenile Compliance Officer, Tammy Matske was recommended for the position. Ms. Matske has experience in state agencies as well as juvenile law. Ms. McGough moved that Tammy Matske be hired as the Juvenile Compliance Officer. Mr. Dalton seconded the motion which was approved without opposition.

Executive Session

Mr. Starns moved that the Board go into Executive Session. Mr. Sanchez seconded. Approved.

District Defender Selections

Mr. Sanchez moved that Mitch Bergeron be hired as the District Defender for the 14th JDC and that Ms. Faria negotiate a contract with Mr. Bergeron for the position. Mr. Starns seconded the motion which was approved without opposition.

Mr. Sanchez moved that Richard Howell be hired as the District Defender for the 20th JDC and that Ms. Faria negotiate a contract with Mr. Howell for the position. Ms. Womack seconded the motion which was approved without opposition.

Ms. Hoeffel moved that Peter Barbie be hired as the District Defender for the 25th JDC and that Ms. Faria negotiate a contract with Mr. Barbie for the position. Mr. Hamilton seconded the motion which was approved without opposition.

Mr. Coon moved that Derrick Carson be hired as the District Defender for the 28th JDC and that Ms. Faria negotiate a contract with Mr. Carson for the position. Mr. Sanchez seconded the motion which was approved without opposition.

Mr. Sanchez moved that Tommy Tillman be hired as the District Defender for the 30th JDC and that Ms. Faria negotiate a contract with Mr. Tillman for the position. Mr. Hamilton seconded the motion which was approved without opposition.

Ms. Womack moved that Ginger B be hired as the District Defender for the 38th JDC and that Ms. Faria negotiate a contract with Ms. Be for the position. Ms. Hoeffel seconded the motion which was approved without opposition.

New Orleans City Council

Ms. Faria explained that before that LPDB responds to the New Orleans City Council regarding the funding of municipal court, that Derwyn Bunton, the District Defender in Orleans, be

consulted. Ms. Hoeffel stated that the defender program in Orleans municipal court should receive that same funding that the prosecutors receive.

Civil Service

Ms. Faria reported that Dr. Stilling and Heather Hall are going to be classified in the civil service department. The civil service determination regarding the Budget Officer position, filled by Marianne Buchanan, is not yet finalized.

Baton Rouge Area Foundation

Ms. Faria explained that the Baton Rouge Area Foundation is willing to contract with us to accept and disperse grant funds. Ms. McGough moved that the Board approve a contract with the Baton Rouge Area Foundation to accept and disperse grant funds. Ms. Hoeffel seconded the motion which was approved without opposition.

Grant Writing

Ms. Hall asked for a subcommittee of Board Members and District Defenders to develop ideas for potential grants. Ms. McGough volunteered. Ms. Hoeffel asked that Ms. Hall email a preliminary list before enlisting a subcommittee. Ms. Hall agreed.

State Logos

Ms. Faria explained that the state staff has developed a state Board Logo as well as a logo for each district. Ms. Faria explained the budget for such a project. Mr. Sanchez moved that the staff purchase the material to supply the state staff and districts with the logos. Ms. Womack seconded the motion which was approved without opposition.

Email Addresses

As an informational item, Ms. Faria explained that Dr. Stilling developed an email system with uniform addresses for each district that can be linked to the existing addresses for defenders.

Editorial Boards

Ms. Faria explained that members of the staff, along with Mr. Neuner, were meeting with Editorial Boards statewide to discuss indigent defense and the proposed budget cuts. Meetings will be in Shreveport, Alexandria, Lafayette, Baton Rouge and New Orleans.

Model Contracts

Ms. Faria reported that work is still being done on the model contracts. When the contracts are completed, they will be sent to the district defenders for approval and then brought back to the board for final approval.

The 15th JDC

Ms. Faria reported that the contract with NLADA, which was approved in this meeting, will be finalized as the next step.

Next Meeting Date:

Board meetings will be held on the 4th Thursday of each month at 2pm. Next meeting is March 26, 2009 at 2 pm in New Orleans. The location will be circulated.

Adjournment. There being no additional business brought to the attention of the board, Mr. Sanchez moved that the meeting be adjourned. Ms. Hoeffel seconded the motion which passed without objection.

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, March 26, 2009
2:00 PM

Baptist Community Ministries
400 Poydras Street
29th Floor
New Orleans, LA 70130

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of February 26, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
 - A. Meeting Agenda
 - B. Board Reappointments
 - C. Legislative Update
6. Budget Update
 - A. Report on Joint Legislative Committee on the Budget FY 2010
 - B. Financial Forms
 1. Reporting
 2. Budget
 - C. LPDB Budget Update
 - D. Reserve Policy*
 - E. Per Diem and Mileage for Board Members
7. Deputy Public Defender – Training*
8. Executive Sessions
 - A. 23rd Judicial District
 - B. 7th Judicial District

- C. 14th Judicial District
- 9. Trial-Level Compliance Report
 - A. Report on Caddo
 - B. Site Visit to 5th JDC
 - C. Site visit to 6th JDC
- 10. Contracts
 - A. Baton Rouge Capital Conflict Office (BRCCO)*
 - B. Capital Post-Conviction Project of Louisiana (2) (CPCPL)*
 - C. Capital Assistance Project of Louisiana, Inc. (CAPOLA)*
 - D. Capital Defense Project of Southeast Louisiana (CAPSELA)*
 - E. Louisiana Appellate Project (2) (LAP)*
 - F. Capital Assistance Center (LCAC)*
 - G. Capital Appeals Project (CAP)*
 - H. Innocence Project New Orleans (IPNO)*
- 11. Juvenile
 - A. Bill of Rights for Louisiana Children
 - B. LSBA Children's Law Committee
- 12. Information Technology and Management
 - A. Training in 23rd Judicial District
 - B. Outreach to 7th Judicial District
 - C. Telecommunications Update
- 13. Client Complaint Policy*
- 14. Caseload Overload Protocol
- 15. Report of the State Public Defender
 - A. District Defender Advisory Council Meeting Minutes – Draft

- B. Contract Issues
- C. Capital Surveys
- D. New District Defender Orientation Book Meeting Scheduled for April 1, 2009
- E. Editorial Board Meetings
 - 1. Shreveport Times
 - 2. Calcasieu Opinion
 - 3. Alexandria
 - 4. Lafayette
- F. Site Visits
 - 1. LaSalle 28th
 - 2. Concordia/Catahoula 7th
 - 3. Calcasieu 14th
- G. Model Contract Discussion
- H. Update on Contract Regarding the 15th JDC
- I. Location of Next Board Meeting
- J. Report on Issues in 6th JDC
- 16. Other Business
 - A. District Attorneys' Salary Guidelines
- 17. Adjournment

* Requires Board approval

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of the Board Meeting
March 26, 2009
Baptist Community Ministeries
New Orleans, Louisiana

Members Present: James Boren, Judge Robert Burns, Sam Dalton, Leo Hamilton, Janet C. Hoeffel, Rev. Dan Krutz, Luceia LeDoux, Frank Neuner, Majeada Snead, and Rémy Starns.

Members Absent: Judge William Norris, Alfred Boustany, Rebecca Hudsmith, Gina Womack.

Staff Present: Lesia Batiste, Marianne Buchanan, John Di Giulio, Jean Faria, Heather Hall, Tammy Matzke, Erik Stilling, and Clay Walker.

Guests Present: Julie Kilborn, Vic Bradley, Tony Champagne, Reggie McIntyre, John Simmons, Ken Rodenbeck, Lewis Jones, David Price, Mike Mitchell, Richard Tompson, Jelpi Picou, Derwyn Bunton, Kerry Cuccia, Greg Duhy, Peter Barbee, Emily Maw, and Mitch Bergeron.

Call to Order and Opening Remarks: The meeting was called to order at 2:20 p.m. Mr. Walker called the roll; a quorum was present. Mr. Neuner, Chair, called the meeting to order. Tammy Matzke was introduced as a new member of the state staff. Mr. Neuner announced that Board members Ms. Snead and Mr. Coon had been reappointed to the Board.

Approval of Minutes from the February 26, 2009 Meeting: Mr. Hamilton moved that the minutes from meeting held February 26, 2009 be adopted. Mr. Starns seconded the motion which passed without opposition.

Public Comments: Mr. Dalton and Mr. Starns commented that a Judge from the First Parish Court of Jefferson had held that the collection of certain fees by the judicial system constituted unconstitutional taxation.

Legislative Update:

Mr. Neuner pointed out that the Legislative Session was approaching. He asked if there were any Bills that anyone was aware of that would be of concern to public defenders. There were none reported.

Budget Update:

Ms. Faria reported that on March 13, 2009 the state staff was informed that the budget for 2009-10 would be \$27,900,000, down 1.6 Million. The state staff will be present for the Budget Hearing for the House Appropriations Committee on April 1, 2009 to address the Committee. Ms. Faria also reported that the state staff met with the District Defenders Advisory Council (DDAC) and developed financial forms which can be used to communicate financial information between the state staff and districts. The districts which are using QuickBooks will be able to

submit financial information through that program. Those not using QuickBooks will use the forms developed with the DDAC. Ms. LeDoux moved that the Board adopt the use of the financial forms developed with the DDAC. Mr. Hamilton seconded the motion which passed without opposition.

Ms. Buchanan explained that the Board reports to the legislature using a fiscal year, but that the districts report to the Board using a calendar year. She reported that a change on the part of the districts to the use of a fiscal year would simplify the budget process. Mr. Boren queried whether the Board was required by statute to report on a fiscal year. Ms. Faria explained that the LPDB is required to submit budget information based on a fiscal year. Mr. McIntyre explained that this question had been raised previously. He explained that the districts would require transition support. Mr. Tompson inquired as to when the districts would be required to submit budget requests on a fiscal year. Mr. Neuner explained that as the Board must submit its budget in November, the districts would have to submit their budgets to the Board in October. Mr. Picou explained that the calendar year was based on the request of the Legislative Auditor. Mr. Hamilton explained that the Legislative Auditor no longer requires the calendar year. Mr. Boren queried whether the districts had any objections to the change. Mr. Champagne explained that the DDAC had met and had no objection to the change to a fiscal year and asked that the Board assist the districts with the transition.

Mr. Hamilton moved that the state staff request budget information from the districts using a fiscal year and that the state staff assist the districts in the transition from calendar year to fiscal year. Ms. LeDoux seconded the motion which passed without opposition.

Ms. Buchanan explained that due to the Budget cuts, \$700,000 was moved in February from the state staff's budget (money that was not used for state staff due to the delay in hiring) to meet expenditures for this year.

Reserve Policy:

Ms. Buchanan reviewed the reserve policy and informed the Board that two additional policies were being recommended by the state staff.

Policy Statement #6: No Policy statement adopted by the board shall preclude it from requiring that a district use its balance of funds for operations in situations of final exigency.

Policy Statement #7 : The cash and investment balance threshold amount shall be reduced from 70% to 50% effective December 31, 2009.

Mr. Starns asked whether the 11th JDC included the 42nd with regard to the policy. Ms. Buchanan explained that the 42nd JDC was included in the 11th for purposes of the policy. Ms. LeDoux moved that Policies 6 and 7 be added to the Board's reserve policy. Mr. Hamilton seconded the motion which passed without objection. Mr. Jones asked whether the change from calendar year to fiscal year will impact the reserve and/or reserve policy. Ms. LeDoux explained

that the final distribution after the change may be reduced because of reserve. A copy of the District Cash and Investment Balance Policy as approved is attached to these minutes.

Calcasieu:

Mr. Neuner explained that due to Hurricane Ike, the local revenues in Calcasieu were below budgeted amounts in 2008. Mr. Neuner explained that Calcasieu would again need additional state funding due to low local revenues. The Budget Committee recommended that Calcasieu did not have sufficient local revenues and needed to receive an additional \$320,000 to stay on budget. Ms. LeDoux explained that the shortfall was due in part to poor data collection and poor communication and that the Budget Committee will establish a protocol to see that no such problems will occur in the future. Mr. Boren asked that the state staff draft a policy regarding the distribution of state funding which will require two staff members to sign-off on any distribution and that all distributions receive either Board approval where possible or Board ratification (at the following Board meeting) if necessary.

April Allocations:

Ms. Buchanan presented the spread sheet showing the recommended distributions for district assistance. Mr. Neuner explained that the recommendations reflected the inclusion of the additional money for Calcasieu. Ms. LeDoux reported that the Budget Committee recommended these distribution amounts, but noted that all following distributions will follow a new formula for distribution which the Budget Committee will be establishing soon. Ms. LeDoux explained that she had already met with state staff and would distribute information about the new formula as soon as feasible. Mr. Bunton offered to assist the Board and state staff in developing the new distribution formula. Mr. Starns moved that the April distributions be made according to the recommendations of the Budget Committee. Ms. Snead seconded the motion which passed without objection.

Per Diem & Mileage for Board Members:

Ms. Batiste explained that with the exception of *ex officio* members, all Board members should according to the statute receive both mileage reimbursement and per diem reimbursement for expenses related to Board meetings.

State Staff:

Ms. Faria introduced Ms. Julie Kilborn. Ms. Faria explained that after several interviews for the position of Deputy Public Defender, Director of Training, the staff was recommending Ms. Kilborn for the position. Mr. Starns moved that the Board hire Julie Kilborn as the Deputy Public Defender, Director of Training. Mr. Dalton seconded the motion which passed without objection.

Executive Session:

Mr. Starns moved that the Board go into executive session. Mr. Hamilton seconded the motion which passed without objection.

Following Executive Session -

Indigency Determination:

Judge Burns moved that the Board establish a policy for District offices. To wit:

After the court makes the preliminary determination of indigency, no intake or detailed indigency determination interviews as provided for in La.R.S. 15:175 A.(1)(d) or (e) shall be conducted by entities other than the District Defender, his/her employees or subcontractors, including but not limited to, any employee of the Court or Clerk of Court, nor shall any indigent defender funds be paid to any such outside entity.

23rd JDC:

Mr. Boren moved that the state staff, in particular the trial compliance and juvenile compliance officers, make inquiries in the 23rd JDC as to whether the defender office there is providing constitutionally competent representation for its indigent clients. Ms. LeDoux seconded the motion which passed without objection.

Contracts:

Ms. Faria presented proposed contracts for nine (9) contract programs. Ms. Faria explained that the contracts include reference to performance standards, but do not include cost of living increases due to budget cuts. She explained that all contracts had been reviewed with the Directors of the programs. Mr. Boren asked whether caseload standards were addressed in the contracts. Ms. Faria explained that the contracts addressed caseload limits. In particular, capital cases were limited to five per year with an allowance for some variance depending on complexity. Any variance on caseload limits has to be mutually agreed upon. Mr. Starns moved that all nine contracts be accepted. Mr. Hamilton seconded the motion which passed without objection.

Ms. Hoeffel moved that the agenda for the meeting be altered. Mr. Boren seconded the motion which passed without objection.

Client Complaint Policy:

Ms. Hall reported that the latest draft of the client complaint policy is in the Board Book. The last draft was presented to the defenders association in February. Mr. Picou stated that there are still some problems in the policy which need to be worked out. He reported that the draft is a good start, but must work out tensions between reporting and confidentiality as well as personnel issues. Mr. Picou stated the subcommittee will present substantive suggestions as soon as they can work out the problems. Mr. Starns moved that the client complaint policy be tabled. Mr. Dalton seconded the motion. Mr. Boren presented a friendly amendment that the issue be tabled until the next meeting so that it can be resolved in a timely manner. Mr. Starns accepted the amendment and the motion approved without objection.

Caseload Overload Policy:

Ms. Faria reported that a case from the San Francisco defenders office held that the public defender was subject to discipline for failing to reduce caseloads for line defenders. Ms. Faria reported that the Board and staff will be drafting a protocol for defenders to respond to excessive

caseloads. Mr. Starns reported that the subcommittee on caseloads would work with the state staff on the protocol. Ms. Faria stated that she would staff the subcommittee and draft the protocol.

Juvenile Update:

Mr. Walker reported that the Office of Juvenile Justice is drafting a Bill of Rights for youth in its custody. The Juvenile Justice Project of Louisiana and OJJ had contacted Mr. Walker to draft the Bill of Rights. The latest draft is included in the Board Book. Follow up phone conferences to continue to draft the Bill of Rights are already set. The goal is to present legislation at the upcoming session. Mr. Walker reported that the current legislation included the establishment of an Ombudsman within the LPDB. Though a quorum was no longer present, the remaining Board members supported the idea of an Ombudsman within the state staff.

Mr. Walker reported that the Louisiana State Bar Association convened a committee on Children's Law and the he is representing the LPDB on that committee.

Information and Technology Update:

Dr. Stilling reported that he conducted a training session in the 23rd JDC using the new mobile training lab. The training was a success. Dr. Stilling reported that an analysis of jury pools and racial disparities will be conducted in the 7th JDC. Dr. Stilling reported that he is testing desktop collaboration software for future conference calls for state staff, the Board and District offices. Dr. Stilling also reported that he had completed successfully all tests on the new district email addresses.

State Public Defender Updates:

New District Defender Orientation

As an informational item, Ms. Faria reported that there will be an orientation meeting at the state office for all newly hired District Defenders on Wednesday, April 1st.

Editorial Boards

As an informational item, Ms. Faria explained that members of the staff, along with Mr. Neuner, were continuing to meet with editorial boards statewide to discuss indigent defense and the proposed budget cuts. Meetings have been held in Shreveport, Alexandria, Lafayette, and Lake Charles. Meetings are to be scheduled for Baton Rouge and New Orleans.

Model Contracts

As an informational item, Ms. Faria reported that the model contracts for district offices are being developed and will be shared with district defenders. Mr. Boren asked that the state staff make certain that the process was inclusive of all district defenders who seek to have input. Mr. Champagne reported that the defenders intend to have a small group examine the drafts before presenting them to all defenders. Mr. Champagne reported that the defenders are committed to establishing model contracts.

15th JDC

As an informational item, Ms. Faria explained that due to the correspondence from the ACLU, and therefore in anticipation of litigation, a contract for a site study had been signed with NLADA. The contract is currently in the Office of Contract Review.

District Attorney Salary Guidelines

Ms. Faria presented guidelines regarding salaries for District Attorneys. She explained that the state staff was examining the possibility of a concurrent resolution in the Legislature to study the budgets and salaries of all staff in the judicial system to consider parity for public defenders. Mr. Boren reported that there was a similar resolution in the 2007 session. Ms. Faria stated that the staff would research that resolution. Ms. LeDoux explained that an analysis of caseload and budget for the public defenders would be necessary for any such study. Mr. Dalton suggested that time and effort sheets would also be an important factor in such a study.

Next Meeting Date:

The next Board meeting is Thursday, April 23, 2009 at 11:00 a.m. The location will be circulated.

Adjournment: There being no additional business brought to the attention of the board, Ms. LeDoux moved that the meeting be adjourned. Mr. Starns seconded the motion which passed without objection.

District Cash and Investment Balance Policy

Policy Statement #1: If a district's cash reserve and investment balances exceed 70% of the total annual expenditures of the prior calendar or fiscal year at the start of a new calendar or fiscal year, the district may be required to use its balances in excess of 70% to fund its general operating budget. Application of this policy statement shall not include the value of buildings or other real property owned by a district.

Policy Statement #2: If a district incurs expenditure needs that exceed its local revenues and state board funds during a calendar or fiscal year, it may request assistance from the board even if it has cash reserve and investments balances. The board will address these issues on a case-by-case basis by comparing the resources of the board and those of the district.

Policy Statement #3: Failure of a district to report any funds received or to not disclose cash reserves or investments is a violation of the Public Defender Act (Act) which requires financial reporting. Per the Act, financial information is sent to the Legislature and Legislative Auditor. If it is determined that false information has been provided or that information has been intentionally omitted, that information shall be reported to the board and to appropriate agencies and shall be addressed in accordance with the provisions of the Act.

Policy Statement #4: After the date of board approval of a cash reserve and investment policy, a district without a cash or investment balance or with balances less than 70% of total annual expenditures may still carry forward funds. Any cash and investment balances carried forward by these districts must be due to increased efficiencies of the district or local revenues that exceed the expenditure needs of the district.

Policy Statement #5: A district that carries forward cash reserve and investment balances and foresees revenue shortfalls or expenditure overruns must plan for liquidation of investments as needed regardless of penalties. If the board provides assistance to a district because funds could not be liquidated from investments in a timely manner, any future board assistance to the district may be reduced accordingly.

Policy Statement #6: No policy statement adopted by the board shall preclude it from requiring that a district use its balance of funds for operations in situations of financial exigency.

Policy Statement #7: The cash and investment balance threshold amount shall be reduced from 70% to 50% effective December 31, 2009.

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, April 23, 2009
11:00 AM

State Capital
Governor's Press Conference Room
4th Floor
Baton Rouge, LA 70804

Amended Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of March 26, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. Budget Update
 - a. Report of Budget Committee
 - i. Policy Recommendations*
 - b. April Disbursement
 - c. Update
7. Contract
 - a. LCAC*
8. Training
 - a. CLE for Juvenile Trainings
 - b. Training Director and Dayton National Defender Training Project
9. Information Technology and Management
 - a. Support Position Advertisement
10. Special Projects Juvenile List Serve

*Requires Board Approval

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11. Client Complaint Policy
12. Caseload Study Committee
 - a. Report of Case Weighting Committee
13. Report on the Contract with the District Defenders
14. Written Report of the State Public Defender
15. Trial Level Compliance Report
 - a. 6th Judicial District
 - b. 23rd Judicial District
 - c. 27th Judicial District
 - d. 28th Judicial District
 - e. 14th Judicial District Litigation*
16. Scheduling Next Two Board Meetings
17. New Business
18. Adjournment

*Requires Board Approval

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of the Board Meeting

April 23, 2009

Louisiana State Capitol

Baton Rouge, Louisiana

Members Present: James Boren, Judge Robert Burns, Cleveland Coon, Sam Dalton, Rev. Dan Krutz, Luceia LeDoux, Lucy McGough, Frank Neuner, Judge William Norris, Majeeda Snead, and Rémy Starns.

Ex Officio Members Present: Rebecca Hudsmith.

Members Absent: Leo Hamilton, Janet C. Hoeffel, Gina Womack, and Walter M. Sanchez.

Ex Officio Members Absent: Alfred Boustany.

Staff Present: Lesia Batiste, Marianne Buchanan, Lynda Colomb, John Di Giulio, Jean Faria, Heather Hall, Julie Kilborn, Tammy Matzke, Erik Stilling, and Clay Walker.

Guests Present: Vic Bradley, Tony Champagne, Reggie McIntyre, John Simmons, Ken Rodenbeck, David Price, Richard Tompson, George Steimel, Paul Marx, Mike Courteau, Clay Carroll, Jim Looney, Gary Clements, Bradley Dausat, Bruce Unangst, Chris Aberle, and Charise Patterson.

Call to Order and Opening Remarks. The meeting was called to order at 11:15am. Mr. Walker called the roll; a quorum was present. Mr. Neuner, Chair, called the meeting to order.

Approval of Minutes from the March 26, 2009 Meeting. Mr. Coon moved that the minutes from meeting held March 26, 2009 be adopted. Ms. LeDoux seconded the motion which passed without opposition.

Public Comments: Mr. Champagne asked the Board for clarification regarding when budget reports would be due from the districts to the Board in the fiscal calendar system. Mr. Champagne further asked that all districts be officially notified of the change to the fiscal calendar. Ms. LeDoux explained that the budget report would address Mr. Champagne's concerns. Mr. Looney announced that the expert fund was functioning to pay experts.

Budget Update

Ms. LeDoux reported that the budget committee had met on April 14th and developed a district bulletin regarding the steps the districts need to take in converting to a state fiscal year budget process, which would be distributed to all districts. A draft of the bulletin is in the Board book. Ms. LeDoux, on behalf of the budget committee, proposed a motion regarding two policies. The first policy addresses the state staff check authorization process. The second addresses the

monthly budget reports from the districts. Judge Norris seconded the motion which was approved without objection.

As an informational item, Ms. LeDoux presented the Budget Status Report. Ms. LeDoux also announced that quarterly budget statements will be reviewed by the committee which will report its findings to the Board. Mr. Dalton queried whether the status report includes information regarding the defender ticket fund revenue. Ms. LeDoux explained that the budget committee may report on ticket revenue once, maybe twice per year, but not quarterly as the process is overly burdensome.

Ms. LeDoux pointed out that the Budget Status Report shows that \$868,917 remains in the state district assistance fund and that all districts with remaining budgetary needs should submit requests for disbursements before the end of the fiscal year. Ms. LeDoux also announced that the budget committee will develop a new policy regarding the emergency disbursement of funds. As an informational item, Ms. LeDoux announced that the budget committee was continuing its work on a district assistance distribution formula. Specifically, she pointed out that the system would also include performance objectives which will include more detailed reporting requirements and enhance uniformity of services.

Program Contracts

Ms. Faria presented to the Board the final program contract. She pointed out that the contract for LCAC is for the same amount as last year. Mr. Dalton queried whether the contract with LCAC required timekeeping. Ms. Faria responded in the affirmative. Mr. Tompson queried who will pay for the experts in LCAC's cases. Ms. Faria explained that experts will be paid by the LPDB. Mr. Tompson asked how transcripts in LCAC's cases will be paid. Ms. Faria explained that the LCAC contract does not address transcript costs. Mr. Starns moved that the Board approve the contract with LCAC. Ms. LeDoux seconded the motion which passed without opposition.

Training

Ms. Kilborn announced that the CLE credits for the four juvenile trainings have been approved and staff is in the process of scheduling those trainings. She also reported that she will be attending a national training seminar with the National Defender Training Project for seven days in May/June 2009. Ms. Faria explained that that fee for the training graciously had been waived.

Information and Technology

Ms. Faria reported that the position for the ITM assistant has been posted and a hire will be made as soon as is feasible.

Ms. Hall reported that two grants had been submitted by the state staff. The first, for \$50,000 for one year to the Louisiana Commission on Law Enforcement, is to hire a state staff member to assess the need for a data and timekeeping system. Ms. Hall reported that the grant had been recommended for approval by the LCLE board. The second grant, for \$150,000, was to establish a social worker program in the Calcasieu PDO. The second grant was denied at the state level. Ms. Hall reported that the second grant will be resubmitted at the federal level for stimulus money as it would create jobs. Mr. Boren complimented the state staff for receiving the first

ever LCLE grant for the Public Defender System. Ms. Faria reported that she will continue to sit on the LCLE committee.

Special Projects - Juvenile List Serve

Ms. Hall reported that the Juvenile List Serve had been established through the help of the Nation Juvenile Defender Center. Approximately 40 juvenile defenders are participating thus far. Mr. Walker reported on the use of the list serve.

Client Complaint Policy

Mr. Boren reported that after reviewing that latest draft of the client complaint policy, he had three recommendations. Mr. Boren sent his recommendations to Mr. Champagne and Mr. Marx. The recommendations are as follows:

1) Proposed policy – if there is a complaint against a staff defender or contract defender, it is handled by the District Defender. If there is a complaint against a conflict defender it is handled by the District Defender unless the District Defender represents a co-defendant with no notice to the Board. If the complaint is against the District Defender it is to be handled by the Board. Mr. Boren recommended that complaints against a conflict defender and responses thereto and District Defenders be forwarded to the Board.

2) Proposed policy – only written complaints will be addressed by district defenders. Mr. Boren recommends that if an oral complaint is made, the complainant should be told that oral complaints are not addressed and that the complaint should be put in writing.

3) Proposed policy – only complaints made by clients will be addressed. Mr. Boren recommends accepting complaints of behalf of clients, if the complaint is in writing.

Mr. Dalton and Mr. Starns reported that they had contacted Charles Plattsmier. Mr. Dalton played a recording of a telephone conversation he had with Mr. Plattsmier. Mr. Dalton proposed that the client complaint policy state that the Louisiana Public Defender Board takes seriously its obligation to serve its clients' needs; that any complaint made against a public defender which implicates a violation of the Code of Professional Conduct will be forwarded to the office of disciplinary counsel.

Mr. Neuner agreed that any such violation should be reported to the office of disciplinary counsel. Mr. Neuner added that the LPDB complaint policy must also address the personnel issues raised by such a complaint. Mr. Dalton expressed concern for confidentiality in the process. Mr. Neuner agreed, particularly in light of *In Re: Ivan David Warner and Steven Joseph Rando*, which rules in favor of the First Amendment over confidentiality.

Ms. LeDoux moved that the client complaint policy be deferred until the next Board meeting so that all persons interested in the policy could have time to consider the three recommendations of Mr. Boren. The motion was seconded by Judge Norris and passed without objection.

Caseload Committee

Ms. Faria reported that some initial calls have been made regarding a case-weighting study and that before undergoing a complete study, districts will have to implement timekeeping.

District Defender Contracts

Ms. Faria reported that the twelve new district defenders accepted the notion that they will be required to contract with the LPDB. The remaining district defenders are continuing to make progress on the language in the contract and together with Ms. Faria are narrowing the problem areas. Mr. Boren asked that the Board be educated at the next Board meeting as to the remaining problem areas. Ms. LeDoux stated that the contract should be completed before the July disbursements are made. She explained that Act 307 gives the Board the authority to set certain policies and requirements for the distribution of state funds. Ms. Faria reported that the staff intended for a completed process for the May 2009 Board meeting. Mr. Marx explained that the district defenders were nearing an agreement on the term of the contract. His overarching concern is in maintaining the objective measures required by Act 307 in the district defender contracts. Ms. LeDoux agreed that the performance indicators required by the contract would be objective. Ms. Snead queried whether the contract could include a presumption of renewal at the end of the term – that a district defender would not have his or her contract renewed for cause only. Ms. Hudsmith explained that the contract under which she provides defense services in the federal system has a four year term at the end of which she has to meet with a committee appointed by the 5th Circuit. She explained that in her case, there is a presumption of renewal and the standards she must meet are objective. Mr. Marx agreed that something along those lines would likely be acceptable. Mr. Neuner stated that a contract with a term along these lines should be completed before the July disbursements.

State Public Defender Update

Ms. Faria reported that she testified, along with Marianne Buchanan, before the House Appropriations Committee regarding the budget. There were only two questions. Ms. Faria reported that the capital survey is on-going and that the results would be reported to the Board. Ms. Faria notified the Board that the state staff has an opportunity for staff development training. There is also a separate opportunity for the Board to train with the state staff. Ms. LeDoux stated that the training for the Board and staff would be beneficial to the work of the Board. Ms. LeDoux moved that the agenda be amended and that the funds necessary for the staff and Board training be allocated. Judge Norris seconded the motion to amend and the motion to allocate the funds. Both motions passed without opposition. The dates for the trainings will be emailed to the Board.

Caseload Standards

Mr. Boren queried whether the caseload standards established by the previous Board remained in effect. Ms. Faria reported that all policies of the previous Board remained in effect unless and until they are amended or repealed. Ms. Hall reported that all previous policies are being researched and will be delivered to the Board as soon as the collection is complete.

Juvenile Update

Regarding an internship with the LSU School of Law, Judge Burns moved to amend the agenda. Mr. Boren seconded the motion which passed without opposition. Mr. Walker reported that contact had been made with the LSU School of Law on April 22nd and an agreement was tentatively reached regarding the development of a juvenile defender internship program. With the help of Professor Bob Lancaster at the LSU School of Law, up to ten interns will be placed in offices throughout the state to work with juvenile defenders. Professor Lancaster queried whether a stipend of \$2,000 per intern could be funded by the LPDB. Mr. Dalton moved that \$20,000 be allocated to fund the juvenile defender internship program with LSU School of Law. Ms. Snead seconded the motion which passed without opposition. Mr. Walker reported that invitations will be sent to all law schools in the state to develop intern programs in each.

Regarding the Children's Bill of Rights, Rev. Krutz moved to amend the agenda. Ms. LeDoux seconded the motion which passed without opposition. Mr. Walker reported that Senator Gray filed a bill to enact a Children's Bill of Rights including an Ombudsman position within the State Public Defender Office. Ms. McGough stated that the underlying rights established were positive for children. She expressed support for the Bill which she felt was a good start and could be amended later. Ms. LeDoux stated that she would like to see an Ombudsmen program for juvenile defense, but only if it were funded. Mr. Walker reported that he would apprise the Board of all updates regarding the Children's Bill of Rights. The Board deferred any action on the matter.

Performance Standards

Ms. Faria reported to the Board that the Public Defender Performance Standards have been successfully promulgated and were finalized on April 20, 2009.

Site Visits

Mr. Di Giulio reported that additional litigation may arise from the 6th JDC as one of the assistant defenders had been terminated. Mr. Di Giulio will monitor and report to the Board any updates. Regarding the 23rd JDC, Mr. Lieux submitted a letter announcing his retirement as the District Defender. A selection committee has been formed. Regarding the 27th JDC, a preliminary site visit is scheduled to examine data regarding caseload. Much of the state staff will be visiting the site on April 30, 2009. Regarding the 28th JDC, the state staff met with Judge Peters to resolve some scheduling problems. Judge Peters requested that the State Board reconsider its decision to cease funding the judicial administrator's determination of indigence. Mr. Dalton made a motion that the issue not be reconsidered. Mr. Boren seconded the motion which passed without objection. Ms. Faria reported that she would communicate the decision to Judge Peters.

Calcasieu Litigation

Mr. Boren reported that the litigation regarding caseloads in the 14th JDC was being re-instituted.

Capital Task Force

Mr. Neuner reported that the Supreme Court had taken an interest in appointing a task force to examine case processing in capital cases. Mr. Clements stated that any examination into capital

case processing was welcome, but that the Board should be careful not to look to other southern states as models.

Next Meeting Dates:

The next Board meeting is May 28, 2009 at 11 am in Baton Rouge. The location will be circulated. The meeting after that will be June 25, 2009 at 11 am in Baton Rouge. The location will be circulated.

Adjournment. There being no additional business brought to the attention of the board, Judge Norris moved that the meeting be adjourned. Mr. Starns seconded the motion which passed without objection.

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, May 28, 2009
11:00 AM

One American Place
301 Main Street, 24th Floor
Baton Rouge, LA 70802

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of April 23, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. Equal Justice Works Pilot – Cait Clarke
7. Capital Representation – Richard Bourke/Kerry Cuccia
8. Budget
 - A. Budget Update*
 - B. Budget Committee Report
 - i. Emergency Requests
 - ii. Formula
 - iii. Non-Compliant Districts
 - C. Grant Summary*
 - D. Southern Public Defender Training Center Scholarship Requests
 - E. 34th and 14th Judicial Districts (executive session)*
9. Litigation Update (executive session)*
 - A. 14th Judicial District
 - B. 15th Judicial District
 - C. 11th Judicial District
10. Site Visits/Field Meetings
 - A. 4th Judicial District
 - B. 14th Judicial District

- C. 16th Judicial District
- D. 25th Judicial District
- E. 26th Judicial District
- F. 27th Judicial District
- G. 30th Judicial District
- H. 41st Judicial District

11. Legislative Update

- A. House Bills 1, 254 & 626

12. Client Complaint Policy

13. Juvenile

- A. Listserve
- B. LSU Internship Update
- C. CINC Handbook Printing Costs
- D. State in the interest of JET – 09-0067 Third Circuit

14. Report of the State Public Defender

- A. Web Site
- B. District Defender Advisory Council
- C. District Defender Contract
- D. Staff
- E. Capital Survey
- F. Media
- G. Training
- H. Accomplishments
- I. 7th Judicial District Letter
- J. ABA Resolution

15. Other Business

16. Adjournment

* Requires Board approval

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of the Board Meeting
May 28, 2009
Baton Rouge, Louisiana

Members Present: Frank Neuner, James E. Boren, Judge Robert Burns, Cleveland Coon, Samuel S. Dalton, Leo Hamilton, Rev. Dan Krutz, Luceia LeDoux, Lucy McGough, D. Majeeda Sneed, Remy Voisin Starns, and Gina Womack.

Ex Officio Members Present: Alfred Boustany.

Members Absent: Walt Sanchez, Janet C. Hoeffel, Judge William Norris.

Ex Officio Members Absent: Rebecca Hudsmith.

Staff Present: Marianne Buchanan, Lynda Colomb, John Di Giulio, Jean Faria, Heather Hall, Tammy Matzke, Erik Stilling, and Clay Walker.

Guests Present: Ms. Walton, Cait Clarke, Lacy Shuffield, Colin Clark, Ken Rodenbeck, Brett Brunson, Richard Tompson, John Simmons, Mike Mitchell, Natasha George, Kerry Cuccia, David Price, Tony Champagne, Bruce Unangst, Richard Goorley, Richard Bourke, and Peter Barbee.

Call to Order and Opening Remarks: The meeting was called to order at 11:15 a.m. Mr. Walker called the roll; a quorum was present. Mr. Neuner, Chair, called the meeting to order.

Approval of Minutes from the April 23, 2009 Meeting: A motion was made by Ms. LeDoux to amend the minutes from April 23, 2009 to designate board members Hamilton and Hoeffel as absent rather than present and to adopt the minutes as amended. Ms. Sneed seconded the motion which passed without opposition.

Public Comments: There were no public comments at this time.

Agenda: Mr. Boren moved that the agenda for the meeting be amended to address agenda items 7 (Capital Conflict Budget) and 12 first. Mr. Hamilton seconded the motion which passed without opposition.

Capital Conflict Contracts: Mr. Richard Bourke presented a short history of the conflict contracts for capital cases. He explained the development of new projects, such as the Motion for New Trial Project as well as the new Capital Survey. He explained the caseload standards for

capital cases and explained the current crisis regarding several districts (Orleans, Caddo, and St. Tammany in particular). He submitted to the Board that the current rate of capital indictments sought by District Attorneys in certain districts would soon exceed the capacity of many of the conflict programs. Judge Burns clarified that Grand Juries return indictments sought by DA's. Kerry Cuccia agreed as to the role of the Grand Jury, but asserted that DA's should use a higher level of discretion in bringing indictments to the Grand Jury. Mr. Cuccia asserted that the federal mechanism for screening capital indictments is a model which should be considered on the state level. Judge Burns agreed that an earlier, more critical examination of capital cases would save money on those cases which should not be capital cases. Mr. Dalton clarified that such cases are filed as capital cases as a tactic for getting a life plea. Mr. Bourke explained that there exist capital conflict programs which are currently taking aggressive positions at the preliminary hearing stage, thereby reducing many cases early, as suggested by Judge Burns.

Ms. Faria explained that due to the increase in capital indictments and the capacity problems being faced by the capital conflict programs, the staff was recommending that the contracts for the four capital conflict programs be amended, adding \$175,000 to each contract.

Ms. LeDoux thanked Mr. Bourke for his presentation. She commented that while this solution was necessary for this short term problem of capital cases, a long term solution should be developed by the staff and Board to address this problem in the future.

Mr. Dalton asked whether action was necessary today considering the approach of the end of the fiscal year. Mr. Neuner stated that these amendments and the funds should be completed and transferred before the end of the fiscal year. Mr. Hamilton asked whether this would cause trouble with carry-over funds. Ms. Faria explained that as the funds would be encumbered before the end of the fiscal year, the funds would not be considered carry-over funds.

Mr. Boren moved that the Board adopt the recommendations of Ms. Faria and amend the capital conflict contracts to add \$175,000 each. Ms. LeDoux asked for a friendly amendment. To wit: that the contracts include language which will require the capital conflict programs to respond in a timely manner to all requests of the Board. Ms. LeDoux explained that the Board's requests for information are often prompted by actions of others, like the Legislature, and often needed prompt action. Mr. Boren accepted the amendment. Mr. Hamilton seconded the motion with amendment which passed without opposition.

Mr. Neuner, as an informational item, explained that the Supreme Court will soon be examining the issue of capital post-conviction case processing which will also warrant a re-examination of these issues by the LPDB.

Client Complaint Policy: Ms. Faria introduced the proposed Client Complaint Policy which is the product of collaboration between several groups, including the state staff and members of the LPDA. Mr. Dalton queried whether the policy interferes with the authority of the Disciplinary

Counsel and the Rules of Professional Conduct. Mr. Neuner explained that it did not – that it addressed those issues only from an employer/employee standpoint. Mr. Starns expressed concern that the policy would gather complaints regarding defenders which would be subject to public records requests thereby causing harm to defenders. Mr. Hamilton stated that the policy was necessary as a matter of supervision. Ms. Snead agreed that it was necessary to promote accountability. Ms. Womack expressed her support for the policy, noting the importance of increased communication and, in particular, giving a voice to clients. Mr. Dalton stated that he supported the policy as long as District Defenders and/or the Board were not now responsible for adjudicating violations of the Rules of Professional Conduct. Mr. DiGiulio explained that the policy only required that the Board be notified of complaints, but that neither the Board nor District Defenders would adjudicate violations of the Rules of Professional Conduct.

Ms. Womack introduced her guest, Ms. Walton, who told her story of dealing with a public defender regarding her child's case. Ms. Walton explained her frustration at the lack of communication with her and her child regarding the case. She explained that the policy was necessary to address the needs of clients.

Ms. Snead moved that the Client Complaint Policy be adopted. Mr. Hamilton seconded the motion which passed with one vote in opposition by Mr. Starns.

Fellowship Presentation: Cait Clarke of Equal Justice Works presented a short program regarding a national fellowship program. She explained briefly the history of the program and its recent move toward providing fellows for public defense programs. The program brings federal money to support the fellows but requires matching funds from the state programs. She proposed that the LPDB become a host site. The LPDB would need to become or have the ability to access a 501(c)(3) and provide health care and other benefits to any proposed fellows. Ms. Clarke explained that under the new federal program, a fellow's school debt could be paid off in exchange for 10 years of public service. Both Ms. Faria and Mr. Neuner explained that the LPDB was interested in becoming a host site. Ms. Faria thanked Ms. Clarke for her presentation and interest in Louisiana public defense.

Budget Update: Ms. Buchanan presented the current budget, explaining the funds remaining in this fiscal year and how those funds were available for the conflict capital programs. Ms. Buchanan explained that the legislative auditor has certain requirements with which the LPDB must comply and that she was working on those. Ms. Buchanan reported that only one district was late in this month's report and that district has been notified of the consequences. Ms. Buchanan reported that two districts had made emergency requests for funding, but that the budget committee met and determined that not enough explanation was given. Ms. LeDoux reported that the budget distribution formula was still being developed and would be finalized by June 10th. The Budget Committee will bring its recommendation to the Board thereafter. Ms. Buchanan reported that three districts were currently out of compliance and have been notified. Ms. Faria explained that in one district, due to consistent non-compliance, the state funds for that

district have been embargoed. She has directed that district to comply with all budget requirements.

LCLE Grant: Ms. Faria also reported that the LPDB received the LCLE grant of \$50,000. Mr. Hamilton moved that the LPDB accept the \$50,000 LCLE grant. Ms. McGough seconded the motion which passed without opposition.

Training Scholarship: Ms. Faria proposed that the LPDB set aside \$15,000 for scholarships to the Southern Public Defender's Training Program. Ms. Faria explained that for \$5,000 a defender would receive two weeks of training, and several follow-up trainings for the next three years. Ms. Faria proposed that in exchange for the scholarship, each participating district would be responsible for the travel and that each participating defender would have to commit to three years of defender service in Louisiana. Ms. Snead moved that the Board set aside \$15,000 to fund this training scholarship. Ms. McGough seconded the motion which passed without opposition.

Ms. McGough offered to participate in the committee to review applications for the scholarship.

Capital Conflict Contracts: Mr. Starns made a motion, regarding the remaining funds for this fiscal year, that the 19th JDC Public Defender Office be granted an additional \$100,000 to fund its pilot serious felony unit which includes capital cases. Ms. Womack seconded the motion which passed without opposition.

Board Meeting Sites: Mr. Dalton moved that a Board meeting be held at each of the state law schools once each year. Mr. Starns seconded the motion which passed without opposition.

Executive Session: Mr. Hamilton moved that the Board go into executive session. Ms. LeDoux seconded the motion which passed without opposition.

Budget Compliance: Ms. LeDoux moved that the administration of the 34th JDC PDO be notified that due to the non-compliance, the state funds, namely \$165,833, be returned within five days to the state office; and that the state staff address with the 34th JDC PDO all steps necessary to get the office back into compliance. Ms. Snead moved for a friendly amendment granting the state staff authority to take all reasonable action to retrieve the money from the 34th in the event of continued non-compliance. Ms. LeDoux accepted the amendment. Ms. Womack seconded the motion with amendment which passed without opposition.

Legislative Update: Ms. Faria reported that there are several bills which may impact district revenue from speeding tickets. Ms. Faria submitted that LPDB might benefit from legislation detailing how funds are distributed to stakeholders such as DA's, Courts, etc. Mr. Hamilton stated that the Legislative Auditor should have such information. The state staff will examine the issue.

Juvenile Update: Mr. Walker reported that the Juvenile Defender list serve has more than 85 members and sees regular postings. The Guidebook for parents in CINC cases is completed and DSS has agreed to transfer the \$5,000 needed for printing. Mr. Walker referred to the Board book containing two articles. The first relates to an appellate victory from the juvenile defenders in Calcasieu. The second relates to the proposed legislation regarding a Children's Bill of Rights. Mr. Walker also reported that 16 applications were received for the LSU Law School Internship program. Ten of the applicants were chosen and placed in five offices throughout the state.

State Public Defender Update: Ms. Faria reported that the state staff created site visit protocols and that the materials have been submitted to the District Defender Advisory Committee (DDAC) for review.

Mr. Dalton informed the Board and Staff that he would be examining the possible application to the Supreme Court for the LPDB to be certified to provide CLE units at trainings.

Next Meeting Dates: The next Board meeting is June 25, 2009 at 11:00 a.m. at Baton Rouge Area Foundation. The meeting after that will be July 23, 2009 at 11:00 a.m. The location is to be announced.

Adjournment: There being no additional business brought to the attention of the board, Ms. McGough moved that the meeting be adjourned. Ms. LeDoux seconded the motion which passed without objection.

S:/Board/Minutes 5.28.2009

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, June 25, 2009
11:00 AM

Baton Rouge Area Foundation
402 N. 4th Street
Baton Rouge, LA 70802

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of May 28, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. Report of the State Public Defender
 - a. Written Report
 - b. Staff Strategic Plan and Action Plan
 - c. Appointing Authority Resolution*
 - d. Supreme Court Post Conviction Committee
 - e. Update on Contract with District Defenders
7. Budget Update
 - a. Budget Status Report
 - b. Legislative Auditor Report and Follow Up
 - c. Inquiry from 11th/42nd Districts and Legislative Auditor Board Resolution to Seek Attorney General's Opinion*
 - d. Monthly Financial Reports Update
 - e. Training Grants for 09-10*
 - f. Budget Committee Report – Ms. LeDoux
 - i. Emergency Request Procedure*
 - ii. Emergency Request and End of Year Distribution Recommendation*
 - iii. Formula Presentation*
 - g. Report on Campaign to Reduce Budget Cuts
8. Training
 - a. Database Trainings
 - b. Employment & Labor Law Training for District Defenders
 - c. Budget Training
 - d. Juvenile Training
 - e. Voir Dire Training

9. Information Technology and Management
 - a. Support Position Hire – Chase May
 - b. BJA Grant update

10. Special Projects
 - a. Application for Capital Training
 - b. Plaquemines Community Defender Update
 - c. Orleans Public Defender Social Worker Division Update
 - d. Red S.T.I.C.C. Update
 - e. Media Reminder to Contact LPDB Staff
 - i. District Defenders
 - ii. Board Members
 - f. Community Oriented Defense Network meeting at New York University
 - i. Louisiana Members

11. Juvenile Defender Services
 - a. CINC Parent Representation Performance Standards
 - b. Year Two JIDAN Grant

12. Continuing Legal Education Discussion

13. Trial Level Compliance Report
 - a. 23rd Judicial District Defender Selection*
 - b. Ethics Board Hearing
 - c. 34th Judicial District (Executive Session)*
 - d. 14th Judicial District - Maureen Dimino (Executive Session)*
 - e. Site Visit Protocol and Documents List

14. Board Retreat Update

15. Scheduling Next Two Board Meetings

16. New Business

17. Adjournment*

*Requires Board Approval

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of the Board Meeting
June 25, 2009
Baton Rouge, Louisiana

Members Present: Frank Neuner, James E. Boren, Judge Robert Burns, Cleveland Coon, Samuel S. Dalton, Leo Hamilton, Janet C. Hoeffel, Rev. Dan Krutz, Luceia LeDoux, Lucy McGough, D. Judge William Norris, Majeeda Snead, Remy Voisin Starns, and Gina Womack.

Ex Officio Members Present: None.

Members Absent: Walt Sanchez (resigned).

Ex Officio Members Absent: Alfred Boustany and Rebecca Hudsmith.

Staff Present: Marianne Buchanan, Lynda Colomb, John Di Giulio, Jean Faria, Heather Hall, Julie Kilborn, Tammy Matzke, Chase May, Erik Stilling, and Clay Walker.

Guests Present: Peter Barbee, Victor Bradley, Brett Brunson, Clay Carroll, Tony Champagne, Bradley Dauzat, Maureen Dimino, Emma Frost, Lewis Jones, Jim Looney, Reggie McIntyre, Judy Pugh, Stacy Pugh, Chuck Reid, Alan Robert, Ken Rodenbeck, John Simmons, George Steimel, and Richard Tomson.

Call to Order and Opening Remarks: Mr. Neuner, the Chair, called the meeting to order at 11:05 a.m. Mr. Walker called the roll; a quorum was present.

Approval of Minutes from the May 28, 2009 Meeting: Mr. Dalton moved to adopt the minutes from the May 28, 2009 meeting. Mr. Starns seconded the motion which passed without opposition.

Public Comments: There were no public comments at this time.

Report of the Chairman: Mr. Neuner informed the Board that, with House Concurrent Resolution 115, the legislature has requested that the Louisiana Law Institute conduct a study of the discovery articles in the Code of Criminal Procedure and Code of Evidence. George Steimel shepherded the Resolution and Mr. Boren stated that the study could provide for more complete discovery articles. HCR 115 provides for a deadline that requires the LSLI to report its finding and recommendations to the House of Representatives prior to the 2010 Regular session.

New Board Appointee: Ms. Hoeffel has been appointed to the position of Vice Dean of Tulane Law School. The duties of her new job necessitate her resignation from the Board. Ms. Pamela Metzger has been appointed to fill the position.

Future Board Meetings: Mr. Neuner indicated that the Board will meet every month this year except July and December. The next Board meeting was scheduled for August 27, 2009 at 2:00 p.m. There was a discussion about scheduling future meetings for 2:00 p.m. rather than 11:00 a.m. since Board members are volunteers and this would allow a half a day in their office before the meetings. Ms. Faria reminded the Board that the staff and Board training has been scheduled for Friday, August 28th and half of a day Saturday, August 29th following the August 27th Board meeting at 2:00 p.m. at LSU Law School.

Report of the State Public Defender: Ms. Faria stated that there is a growing concern about the erosion of traffic ticket revenue affecting funding. There was a discussion about recent legislation and municipal contracts involving traffic cameras and speed vans which will decrease local funding derived from traffic tickets. The importance of Board members talking with legislators about public defender funding and the effects of traffic ticket funding were discussed.

The Children's Bill of Rights failed in committee in the House. House Bill 574 was amended to remove the mental health courts provision and to extend the "rocket docket" homicide court provisions to all districts statewide, however, making its adoption optional rather than mandatory. The staff provided a fiscal note to the legislature regarding the impact of this bill.

Chase May was introduced as the new Information Technology and Management employee. General Counsel, Roger Harris, is scheduled to start August 3, 2009. Half of the staff will be moving to the third floor at 500 Laurel Street.

Executive staff met with the District Defender Advisory Council on June 16, 2009. The Council is assisting in the development of the contract, vetting ethics issues and capital standards as well as expressing the needs of the field on various issues. Ms. Faria stated that she expected the contract to be completed by the August meeting.

Strategic Plan Outline: The staff has been working on strategic planning and developing action steps to reflect the different priority projects.

Appointing Authority Resolution: The Public Defender Act of 2007 states that the Board is the appointing authority for staffing decisions. Ms. LeDoux made the motion for a resolution giving Ms. Faria control of all administrative and staffing duties and Mr. Hamilton seconded the motion. Mr. Boren amended the motion to add that the Board ratify all prior staffing actions taken by Ms. Faria. The motion passed, as amended, without opposition.

Supreme Court Post Conviction Committee: The Supreme Court is appointing a task force to study capital and noncapital post conviction. The Board was asked to appoint two members to the Committee. Mr. Neuner indicated that the Court is looking for the LPDB to appoint people who have technical expertise in capital post conviction. Mr. Dalton made the motion for Mr. Boren and Ms. Hudsmith to be appointed to the Committee and Mr. Starns seconded the motion. The motion passed without opposition.

Additional State Staff: Ms. Faria expressed the need for five new positions: a Capital Case Coordinator, a receptionist, and three administrative assistants. Job descriptions will need to be created and Division of Administration approval obtained. Mr. Boren made a motion to create these five new positions and Judge Norris seconded. Mr. Hamilton verified that this would provide for 21 total positions in the staff office. Ms. LeDoux clarified that these positions would be created but not filled until there were sufficient funds budgeted for the positions. The motion passed without opposition.

Traffic Ticket Funding: Mr. Dalton requested that Ms. Faria obtain a breakdown of traffic ticket funding and general state funding. Judge Burns commented that Louisiana is the only state that funds the public defender system with traffic ticket fines. Ms. Hall added that seventy percent of the members of the legislature are new and therefore not familiar with Act 307 or with the funding mechanisms for public defense. Ms. LeDoux pointed out that the distribution to the districts is based has to be worked out and data is needed on all state funding before any Board action can be taken on this issue.

Budget Update: Ms. Buchanan provided a breakdown of expenditures from the FY 2009 budget of \$28 million. Five percent was expended for administrative costs; 58% went to assisting district defenders and CINC parent representation; 36% was expended for capital cases. The budget for FY 2010 is \$27.9 million. As of May 31, 2009 there was \$96,723 in unexpended funds to be reallocated for other uses.

Legislative Auditor Report – Compliance Audit: Ms. Buchanan stated that this report is due by June 30, 2009. The Legislative Auditor’s Office reported that eleven districts had engaged in deficit spending during the 2007 calendar year. The eleven districts were directed to detail their corrective plans to bring them into compliance. Mr. Boren questioned how deficit spending occurred. Ms. Faria explained that budget training will be furnished to teach all districts about the legislative auditor requirements, budget preparation, and financial reporting. Ms. LeDoux commented that the auditor was satisfied with all of the corrective steps taken relative to the non-compliance reporting and the actions taken by Ms. Faria and Mr. Di Giulio in retrieving the funds from with the 34th JDC. Mr. Neuner commented that compliance with reporting standards set by the legislative auditor must be followed for districts to receive state funds.

Inquiry of 11th/42nd Districts: Staff coordinated a teleconference between the Legislative Auditor’s Office, District Defender from the 11th and 42nd Judicial

Districts, Steve Thomas and his accountant. It was decided that staff would request an Attorney General's Opinion regarding the split of the former 11th Judicial District comprised of Sabine and DeSoto Parishes into the 11th and 42nd and the impact on the district defender's funding. Sabine Parish is a very poor parish whereas DeSoto Parish is comparatively wealthy. Mr. Hamilton stated that the concern is that there may be an impermissible donation between the two contiguous political subdivisions if the two districts now share funds. Judge Norris moved to authorize Ms. Faria to seek an Attorney General's Opinion in this matter. Judge Burns seconded the motion which passed without opposition.

The 34th JDC: Ms. Buchanan advised the Board that, for the second time, the 34th did not submit its financial report timely. Ms. LeDoux stated that since this was the second time that this district was late in a six month period, the 34th will not get a July distribution unless it provides a satisfactory explanation and shows plans to update procedures to ensure compliance in the future. Mr. Boren expressed concern that withholding funds may punish the clients.

Ms. Faria and Mr. Di Giulio had made a site visit to the 34th and talked with judges, advising them of LPDB's concerns and suggestions. There was discussion about regionalizing the 34th with other districts but the judges and the 34th Bar Association were opposed to regionalization.

Funding for Training: Ms. Buchanan stated that there are three approved training scholarship distributions of \$5,000 each for the Southern Public Defender Training Center Class of 2009. Public defenders from the 1st, 28th, and 40th districts are receiving the SPDTC scholarships. Ms. Kilborn advised that 10 additional scholarships of \$235 each will also be provided to indigent capital defenders for the 2009 LACDL death penalty certification seminar being held in July in Marksville.

Emergency Funding Policy: Ms. LeDoux discussed the emergency requests for funds policy approved by the Budget Committee. Mr. Hamilton made a motion for the adoption of the policy and Ms. McGough seconded. The motion passed without opposition.

Juvenile Regional Services: JRS has made a request for emergency funds which meets the criteria for emergency funding. Mr. Hamilton made the motion for approval of this funding and Ms. Womack seconded this motion. The motion passed without opposition.

Remaining Fiscal Year Funds: Ms. LeDoux suggested that the remaining funds be distributed for capital certification training; expenses for staff expansion to the third floor; and assistance to the 19th and 41st Districts given that a comparison of current district staffing shows the biggest gaps between need and available funds in the 19th and 41st districts. Mr. Hamilton made the motion for authorizing the remaining budget distribution to be made in accordance with Ms. LeDoux's plan. Mr. Coon seconded the motion. It passed without opposition.

DAF Formula Budget Presentation: Dr. Stilling presented the District Assistance Fund formula as approved by the Budget Committee. Mr. Boren asked about creating a category of “serious felonies” to further refine the formula. Ms. LeDoux advised that the data is not broken out in this fashion in the formula. Mr. Looney noted that the funds for capital cases in the formula presentation should double based on the requirement of two attorneys for each capital case. Ms. McGough commented that the formula was not accounting for any emergency funds. Ms. LeDoux agreed that this was not in the formula. Mr. Boren asked if the Board would set a percentage for district assistance. Ms. LeDoux stated that the next fiscal year may not be same with additional administrative staff and the operation of the office for a complete year. Ms. LeDoux stated that the formula is the best currently available information but should not be reduced to a set certain percentage. Judge Norris made a motion to adopt the distribution formula and Mr. Hamilton seconded the motion. It passed with one vote, made by Mr. Starns, in opposition.

Mr. Tompson questioned the role of reserve funds in the new formula. Ms. LeDoux stated that the reserve policy will be applied to the July distribution. Ms. Womack asked about timekeeping and Ms. Faria advised that the staff is in the process of developing a time-keeping system. Ms. Faria noted that the financial reports and the annual survey will require timekeeping reported in hours rather than as a percentage of work completed by each attorney.

Training: Ms. Kilborn advised that several trainings have been scheduled for the upcoming months, including database training, budget training, employment and labor law training for District Defenders, juvenile training and voir dire training.

Special Projects: Dr. Stilling reported receipt of the \$50,000 Louisiana Commission on Law Enforcement grant funds for a case management system study. The grant provides for research regarding various case management systems. In conjunction with the grant he and Ms. Kilborn have begun data base training throughout the state which includes seeking district input regarding software needs and suggested additions or changes to the current software system. The grant funds also provide for hiring a temporary support staff person to assist with the grant requirements.

Ms. Hall reported on the status of the Plaquemines Community Defender program.

Juvenile Update: Mr. Walker advised that the CINC draft of performance standards is complete and the plan is to now work with the state staff and the Child Protection task force for input. Additionally, before promulgation, juvenile judges will be asked to review. Mr. Walker also gave an update on JIDAN. JIDAN is in grant year two with a focus on four areas: a presumption of indigence for juveniles, the early appointment of an attorney for juveniles, appeal protocols and post-dispositional protocols. MacArthur Models for Change is an additional funding source with a potential \$250,000 grant over two years. This program is meant to mirror post-dispositional protocols focusing on two juvenile defense offices – Juvenile Regional Services of

Orleans Parish and Calcasieu Parish. Plans are for developing post-disposition and appellate protocols.

Ms. Faria advised that juvenile judge Nancy Konrad from Jefferson Parish has asked the staff to partner with the Louisiana District Attorneys' Association in a grant application to the MacArthur Foundation for the purpose of hiring a statewide coordinator to identify all local programs which provide for alternatives to state custody for juveniles.

Continuing Legal Education: Ms. Faria explained that the Louisiana Public Defender Association (LaPDA) has agreed not to oppose the LPDB's seeking approval for CLE credits from the Louisiana State Bar Association for skills based trainings. The Louisiana Association of Criminal Defense Lawyers (LACDL) also has no opposition. There was discussion about whether a statutory change is needed before the Board may seek CLE approval; it was reasoned that LPDB may host a CLE training and offer LSBA credit for CLE hours as long there is no charge for the training. Mr. Dalton made a motion that the staff apply for authority to offer CLE credits for LPDB-hosted trainings. Judge Norris seconded this motion and it passed without opposition.

Trial Level Compliance Report: Mr. Di Giulio reported that the selection process for the new District Defender for the 23rd JDC was completed and Mr. Alan Robert had been chosen by the selection committee. Mr. Boren made the motion to approve Mr. Robert as the new District Defender for the 23rd JDC. Ms. Hoeffel seconded the motion. The motion passed with no opposition.

Mr. Di Giulio advised that he is gathering information from all districts about local practices regarding preliminary hearings and the clients' ability to make bond. The project, named the Preliminary Hearing Project, is intended to study the practices statewide.

A Site Visit Protocol and Documents List have been created by staff for use in preparing for and conducting uniform site visits. An issue has surfaced following some recent site visits as to whether District Defenders who own the buildings being used as the district public defender office can be paid rent with public funds for the use of the office. Ms. Faria informed the Board that staff had been advised by its counsel, Mr. Mark Falcon, to seek an opinion from the Ethics Board as to the propriety of this practice. **Executive Session:** Ms. Hoeffel made a motion for the Board to go into Executive Session and Mr. Boren seconded the motion which passed without opposition.

34th Judicial District: Mr. Dalton moved to begin action to remove the District Defender of the 34th. Judge Burns seconded the motion. Mr. Starns moved that Mr. Dalton's motion be tabled until the August meeting and the motion to table passed. Ms. LeDoux made a motion that no funds be distributed to the 34th in July and that the 34th District Defender be given 60 days to come into full compliance, and further than the 34th remain in compliance for a full 6-month

period before receiving any additional funds. Ms. Snead seconded the motion and it passed without opposition.

Mr. Dalton presented a motion that no state funds be used for private membership dues including LaPDA and LSBA. The motion was seconded by Mr. Starns. Reverend Krutz made a motion to table Mr. Dalton's motion until the next meeting. Mr. Dalton agreed to Rev. Krutz's motion.

Mr. Dalton made a motion that no \$40 application fee be collected from any client without a full hearing to determine the client's indigence and ability to pay, at which hearing the client is provided due process of law and is represented by other counsel. Judge Norris requested that this motion be tabled until the next Board meeting. Mr. Dalton agreed to table this motion until the August meeting.

Judge Norris made a motion to adjourn the meeting and Mr. Starns seconded. The motion passed without opposition and the meeting was adjourned.

S:/Board/Minutes/6.25.09

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, August 27, 2009
2:00 PM

LSU Law Center
Tucker Room Third Floor
Baton Rouge, LA 70803

Amended Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of June 25, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
 - A. New Board Members
 - B. Board and Staff Training
 - C. Meeting with Tim Barfield
 - D. Meeting with Louisiana Supreme Court Justices
6. Budget Update
 - A. Budget Projection for current fiscal year (FY 10)
 - B. District Assistance Fund distributions were made on August 12, 2009.
 - C. How much did we leave "on table" in FY 09 – final results
 - D. The BA-7s for Joint Leg. Committee on the Budget (JLCB) decisions on 8-14-09
 - E. Office of Planning & Budget's presentation for the FY 11 Agency budget preparation – Budgeting for Outcomes
 - F. Traveling Expenses*
7. Juvenile Update
 - A. JIDAN Grant and Lynette Roberson
 - B. JIDAN Meeting on August 5th

- C. LSU Summer Internship (and planning meeting 8/24)
- D. Juvenile Trainings in 4th, 14th and 41st (next 9th and 32nd)
- E. Motion Bank
- F. Delinquency Standards
- G. CINC Standards
- H. CINC Parent Representation Budget Proposal*
- I. Grant submitted for MfC for 14th and 41st
- J. Children's Code Articles on Confessions and the Presumption of Indigency
- K. September Meeting of DA's Juvenile Justice Committee
- L. Wellspring Grant Opportunity

8. Trial Compliance Report

- A. St. Bernard Parish Selection Committee Update
- B. LaSalle Parish

The Board may vote to go into executive session pursuant to 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. 42:6.1, 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. 42:6.1(A)(1). No final or binding action will be taken during executive session.

9. Litigation and Prospective Litigation

The Board may vote to go into executive session pursuant to 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. 42:6.1, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:7(A)(b)(iii), the Board may discuss the following:

- A. Litigation: John Anderson, et al. v. State of Louisiana, et al., Number C545,852, Section "24", 19th Judicial District Court, Parish of East Baton Rouge
- B. Litigation: State of Louisiana v. Troy L. Harris, Number 480-306, Section "D", Parish of Orleans
- C. Prospective Litigation: American Civil Liberties Union v. 15th Judicial District Public Defender's Office, Parish of Vermilion, alleging that overwhelming workloads and absence of investigative staff constitute a violation of 42 U.S.C. §1983, etc.

No final or binding action will be taken during executive session.

10. Training Update

A. Training Schedules

- i. Database Training
- ii. Budget Training
- iii. Employment Law Training
- iv. Voir Dire Training (21st)
- v. Preliminary Hearing Project

11. Special Projects

- A. Website
- B. New Board Member Orientation Book
- C. Defender Services at OPD

12. ITM

- A. Changes to the Database

13. Report of the Public Defender

A. New Staff Members

- i. Roger Harris, General Counsel
- ii. Natasha Carter, Budget Analyst
- iii. Kim Gueho, Paralegal

B. Status of Request for New Employees

C. Staff Training

D. Capital Standards

- i. Right to Counsel Committee LSBA
- ii. District Judges Association
- iii. Louisiana District Attorneys Association

E. LDF Training at Airlie Louisiana Model (July 11, 2009)

F. ABA Eight Guidelines of Public Defense Related to Excessive Workloads

G. District Defender Contract

H. Move to the Third Floor

I. Mandatory Reporting Requirement Request for AG Opinion*

14. New Business

15. Date and Location of Next Board Meeting

16. Adjournment

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of Meeting

August 27, 2009

The Tucker Room
Paul M. Hebert Law Center
Baton Rouge, LA

A meeting of the Louisiana Public Defender Board, pursuant to call of the Chairman and lawful notice, was duly convened and called to order by its Chairman at 2:10 p.m. on Thursday, August 27, 2009, in the Tucker Room, located in the Louisiana State University Paul M. Hebert Law Center.

The following Board Members were present:

Frank Neuner, Chairman	Luceia LeDoux
James E. Boren	Lucy McGough
Judge Robert Burns	Pam Metzger
Samuel S. Dalton	D. Majeeda Snead
Leo C. Hamilton	Remy Voisin Starns
Rev. Dan Krutz	Gina B. Womack

The following *ex officio* Board Members were present:

Judge Robert Brinkman	Rebecca Hudsmith
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The following Board Members were absent:

Cleveland Coon	Judge William Norris
Christine Lipsey	

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

Jean M. Faria, State Public Defender
Marianne Buchanan, Budget Officer
Natashia Carter, Accountant
John Di Giulio, Trial-Level Compliance Officer
Kim Gueho, Paralegal and Training Coordinator
Heather H. Hall, Special Projects Advisor
Roger Harris, General Counsel
Julie Kilborn, Deputy Public Defender-Director of Training
Erik Stilling, Technology and Management Officer
Clay Walker, Deputy Public Defender-Director of Juvenile Defender Services
Sean Williams, Data Entry Operator

1. **Minutes of June 25, 2009.** The Board reviewed the minutes of its meeting of June 25, 2009. Motion was made by Ms. LeDoux, seconded by Judge Burns, and unanimously carried to approve the minutes of the meeting.
2. **Report of the Chairman.** Mr. Neuner informed the Board members that there were three new Board members (Christine Lipsey, Pam Metzger and Judge Robert Brinkman (*ex officio*)) and three new members of the Board's staff (Roger Harris, Natashia Carter, and Kim Gueho). Mr. Neuner also updated the Board on recent staff training and meetings with Tim Barfield, Governor Jindal's Executive Counsel, and several members of the Louisiana Supreme Court. No further action was required or taken on this matter.
3. **Budget Update.** The Board received a report from Marianne Buchanan, Budget Officer, concerning:
 - a. **Current Budget Surplus.** The Board has approximately \$17,000 in surplus funds for the FY 2009-2010 budget at this time.
 - b. **DAF Distributions.** District Assistance Fund (DAF) distributions were made to the districts in August and the next DAF distributions are scheduled to be made in January. Ms. Buchanan provided Board members with a spreadsheet showing the distributions to each district.
 - c. **FY 2008-2009 Surplus.** The Board previously set a target to leave \$10,000 of the \$27.4 million appropriation "on the table" at the close of FY 2008-2009. Ms. Buchanan reported that the Board left \$15,998 from the Board's legislative appropriation and \$17,709.48 was left in the DNA Testing Fund (from a separate legislative appropriation).
 - d. **Budget Adjustments.** Ms. Buchanan obtained approval from the Joint Legislative Committee on the Budget to make the following budget adjustments: \$121,582 (in carry-over funds) and \$159,772 (funds awarded from the MacArthur Foundation to support JIDAN work).
 - e. **Ethics Board Opinion.** The Louisiana Ethics Board opined that District Defenders may not use public funds to pay themselves rent for use of their own buildings. Follow-up questions are being submitted to the Ethics Board to determine whether a District Defender may rent office space from a related party and whether a District Defender may use public funds to pay himself overhead expenses associated with the rent-free use of office space in a building he owns.
 - f. **Outcomes Budgeting.** "Outcomes Budgeting" will begin with the submission of the FY 2010-2011 budget and represents a change in the budgeting process. Ms. Buchanan and other Board staff will be attending training in order to learn this new format. A first draft of the FY 2010-2011 budget request is due October 5, 2009.

There was discussion regarding “Outcomes Budgeting.” Upon motion made, seconded and unanimously carried, an ‘Outcomes Budgeting Subcommittee’ was created. Members include Mr. Hamilton, Ms. Buchanan, and Ms. Hudsmith. Ms. LeDoux suggested the possibility of hiring the state ‘Outcomes Budgeting’ training consultant to provide one-on-one training for staff through this process.

No further action was required or taken on the foregoing matters.

4. **Juvenile Update.** The Board received a report from Clay Walker, Deputy Public Defender-Director of Juvenile Defender Services, concerning:
 - a. **JIDAN Grant.** A recently awarded \$117,000 JIDAN grant, which supplements the remaining amount of \$42,772 from last year’s JIDAN grant award, will be used to hire or contract with a recent law school graduate to achieve the five JIDAN priority projects. Lynette Roberson has been selected for that position. JIDAN’s Louisiana Delegation met in Baton Rouge on August 5, 2009, and addressed their JIDAN projects.
 - b. **LSU Juvenile Summer Internship Program.** The LSU Juvenile Summer Internship Program ended this week: 10 interns were placed in several offices across the state. The program, in its first year, showed positive support from both defenders and interns. Evaluations from participants (both defenders and interns) will be collected and reviewed by Board staff on September 1, 2009.
 - c. **Juvenile Training.** A weeklong juvenile training for defenders from MacArthur sites was held July 6-10 in New Orleans, LA. Staff hosted Southwest and Northeast Regional Juvenile Trainings in Lake Charles and Monroe, LA on August 13th and 14th. More than 30 public defenders and nine District Defenders attended, representing 14 districts. Future trainings will be held in Alexandria on November 13, 2009 (Central Louisiana Regional Juvenile Training) and in Houma in January 2010 (Southeast Louisiana Regional Juvenile Training).
 - d. **Juvenile Motion Bank.** The Juvenile Motion Bank is set to launch with the website and with enthusiastic response from juvenile defenders.
 - e. **Delinquency and CINC Standards.** First drafts of delinquency and CINC standards are now complete and a team of 12 (including District Defenders, juvenile section chiefs, and line defenders) is being created to review these drafts. Upon review and revision, the Juvenile Judges’ Association will provide feedback.
 - f. **MacArthur Foundation Grant.** A grant for \$250,000 was submitted (by invitation) to the MacArthur Foundation on August 17, 2009. This grant will support the development of model appellate and post-disposition protocols in the Orleans and Calcasieu Juvenile Defender Offices. Professor McGough is working on two

substantial improvements to the Louisiana Children's Code: 1) Precautions for admissibility of juvenile confessions and 2) expediting juvenile cases (presumption of indigency). The Children's Code Committee (by a vote of 12-1) approved both proposed Children's Code instruments. Mr. Walker is working to mitigate opposition to these instruments with the Juvenile Justice Committee of the Louisiana District Attorneys Association. There was some discussion concerning the role of the Board, its members, and staff in the legislative process.

- g. Wellspring.** Wellspring, a national organization of anonymous donors, is bringing \$3 million to Louisiana to promote inclusion of child LGBT issues into a range of services and agencies. Ms. Faria, Mr. Walker and Professor McGough have talked to program officers about the potential grant opportunities presented by this development.
- h. CINC Representation.** Mr. Walker gave an overview of the CINC Representation statute (shifting public defender representation from children to parents). When passed by the Louisiana Legislature, the implementation schedule included a 5-year roll-out. The process is currently between years two and three. Last year, the Board was responsible for filling approximately a \$300,000 shortfall in funding. The Board has previously voted to supplement the CINC funds with money dedicated to DAF. The Department of Social Services (DSS) has proposed forgoing the 5-year roll out and bringing the remaining districts online all at once. Their proposal does not acknowledge the additional capacity needed in order to comply with caseload statistics and avoid conflicts. Mr. Walker is collecting the data needed to draft a counter-proposal for DSS that reflects these needs.

No further action was required or taken on the foregoing matters.

5. Trial Compliance Report. Mr. Di Giulio presented the Trial Compliance Report:

- a. The 34th JDC District Defender Selection Committee.** The chairman of the 34th JDC District Defender Selection Committee will be submitting the committee's recommendations by September 8, 2009. The Board is invited to participate in these interviews. The Board's staff intends to make its recommendation by the next Board Meeting.
- b. The 28th JDC District Defender.** Mr. Boren requested that Mr. Derrick Carson (District Defender, 7th and 28th JDC) address the Board and discuss the handling of public defender cases in the 28th Judicial District. A discussion involving members of the Board, its staff, and various District Defenders in attendance at the meeting followed.

No further action was required or taken on the foregoing matters.

6. **Executive Session:** On motion of Professor McGough, seconded by Mr. Boren, and passed without opposition, the Board convened in executive session to discuss the following:
- a. **Litigation:** John Anderson, et al. v. State of Louisiana, et al., Number C545,852, Section “24”, 19th Judicial District Court, Parish of East Baton Rouge;
 - b. **Litigation:** State of Louisiana v. Troy L. Harris, Number 480-306, Section “D”, Parish of Orleans; and
 - c. **Prospective Litigation:** American Civil Liberties Union v. 15th Judicial District Public Defender’s Office, Parish of Vermillion, alleging that overwhelming workloads and absence of investigative staff constitute a violation of 42 U.S.C. §1983, etc.

Following discussion, the Board resumed in open session. No further action was required or taken on the foregoing matters.

7. **Attorney General Opinion Request.** Roger Harris, General Counsel, presented the request for an Attorney General opinion addressing the mandatory reporting requirements for social workers working for public defender offices. Upon motion of Ms. LeDoux, seconded by Professor Metzger, and passed without opposition, the Board adopted the following resolution:

BE IT RESOLVED that Roger W. Harris, General Counsel for the Louisiana Public Defender Board, is hereby directed to seek an opinion from the Honorable James D. “Buddy” Caldwell, Louisiana Attorney General, regarding the application of Louisiana’s “mandatory reporter” laws to social workers employed by and/or working with public defenders in the defense of their clients. Specifically, the Board wants to know if a social worker that is employed by and/or working with public defenders in the defense of their clients (i.e., in a non-counseling role) is protected by the attorney-client privilege and thereby excluded from mandatory reporting under Article 609(A)(1) of the Children's Code.

No further action was required or taken on this matter.

8. **Tentative Meeting Dates.** The Chairman scheduled tentative meeting dates through the end of calendar year 2009, to be held on:
- Wednesday, September 30, 2009 at 2:00 p.m. in Gonzales, LA
 - Thursday, October 22, 2009 at 2:00 p.m. in New Orleans, LA
 - Thursday, December 3, 2009 at 2:00 p.m. Location TBA (Southern University preference)
9. **Training Update.** Julie Kilborn, Deputy Public Defender-Director of Training, presented the training update:

- a. **Database Trainings.** Trainings on the ‘districtPDO.org’ database began in June. Dr. Stilling, Ms. Kilborn and other staff have conducted these trainings in approximately half of all districts and have scheduled the remaining half to be complete by November 15, 2009. The purpose of these trainings is to increase the accuracy of data entry in the districts through technical, on-site training and to encourage recommendations from the field for the improvement of the data management system.
- b. **Budget Trainings.** Ms. Kilborn reported that the Board is providing three budget trainings, one of which has been conducted, with the remaining two trainings scheduled. These trainings are to assist the District Defenders in submitting their annual budget requests and monthly financial reports.
- c. **Employment and Labor Law Trainings.** Ms. Kilborn also reported that the Board is conducting two trainings on Employment Law at the request of several District Defenders. Those trainings have been scheduled for September 2009.
- d. **Other District Training.** *Voir dire* training was conducted in the 21st JDC on August 21, 2009. A training on Professionalism was held for Orleans Public Defenders on August 26, 2009. Ms. Kilborn introduced the Preliminary Hearing Project Trainings which are set to start in early Fall. There was a discussion of potential push back from more aggressive preliminary hearing advocacy and ways to counter it. The Board was presented with a training calendar in their materials.

No further action was required or taken on this matter.

10. Special Projects Update. Heather Hall, Special Projects Advisor, reported that the website is behind schedule due to some normal, albeit unfortunate, technical issues, but it is still making progress. Board members received their Board Orientation Books, which contain comprehensive background information about the Board. Ms. Hall asked for feedback or for recommendations about other materials that Board members might find helpful as part of their orientation package. No further action was required or taken on this matter.

11. Information Technology and Management (ITM) Report. Dr. Erik Stilling, Technology and Management Officer, reported that the dormancy feature of ‘districtPDO.org’ is now online, which should assist the Board in achieving accuracy in its data reporting. After 180 days of database inactivity in a case file, the case status is automatically changed to “auto-dormant” and the database sends each defender, the defender’s supervisor and the Board Compliance Officer an email listing the defender’s files which were converted to “auto-dormant” status. The defender is instructed to change the status from auto-dormant to whatever status is more germane to the true case status. The case will not be counted as an open case unless the defender chooses to change the status back to “open.” According to Mr. Jim Looney (Director, Louisiana Appellate Project), upon implementation of the dormancy feature, approximately 50,000 cases were converted to dormant status and 622 emails were sent to defenders regarding the newly converted case status. Also, Dr. Stilling mentioned

that the ITM team will soon be creating a juvenile-specific proceedings page which will more closely reflect procedures outlined in the Children’s Code. When this is implemented, the proceedings page on the database will be replaced by two new pages which will be clearly designated “adults-proceedings” and “juvenile proceedings.” No further action was required or taken on this matter.

- 12. State Public Defender Report.** Jean Faria, State Public Defender, presented the written State Public Defender Report to Board members. There was a discussion about the ongoing work developing Capital Standards.

Ms. Faria reported that she had been invited to train at the NAACP Legal Defense Fund’s 30th Annual Capital Punishment Symposium in Airlie, Virginia. The purpose was to discuss the Louisiana Model of using editorial boards to discuss funding shortfalls and personal conversations with selected district attorneys regarding the role of defenders in capital cases.

Ms. Faria introduced the recently approved ‘ABA Eight Guidelines of Public Defense Related to Excessive Workloads,’ which she has been working on for several years. Ms. Faria encouraged Board members to review these standards and consider their adoption as a practical means of controlling workload. Ms. Faria reported that the District Defender contracts are nearing completion. The procedure for addressing excessive caseloads remains an issue to be negotiated.

No further action was required or taken on the foregoing matters.

- 13. National Legal Aid and Defender Association (NLADA) 2009 Annual Conference.**

Mr. Neuner asked if any Board members were interested in attending the NLADA Annual Conference in Denver, CO November 18-21, 2009, and, if so, encouraged them to contact Ms. Faria.

- 14. Adjournment.** Upon motion made by Ms. LeDoux, seconded by Rev Krutz, and approved without opposition, the meeting adjourned at 5:20 p.m.

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the Louisiana Public Defender Board, save for the executive session of the Board conducted herein, held on August 27, 2009, as approved by the Board on the 30th day of September 2009.



FRANK X. NEUNER, JR.
CHAIRMAN

LOUISIANA PUBLIC DEFENDER BOARD

Wednesday, September 30, 2009
2:00 PM

Geismer Community Center
12060 Hwy. 73
Geismar, LA 70734

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of August 27, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. Budget Update
 - A. New Budget Process
 - B. Funding Request for FY 2011*
 - C. Salary Survey
 - D. Monthly DAF Distributions*
 - E. Defenders' Reporting Funding Shortage Before End of FY 2010
 - F. CINC Disbursement*
 - G. CINC Parent Representation Plan*
 - H. Modification to CPCPL Contract*
7. Report of the State Public Defender (written)
 - A. Capital Guidelines and Staffing*
 - B. St. Bernard District Defender Selection*
 - C. Children's Code Resolution*
 - D. Contract Approval for JIDAN Coordinator*
 - E. Status of Case Management Grant
 - F. Post-Conviction Task Force Meeting
 - G. Training-Award of CCLI Grant
 - H. Site Visit to Calcasieu
 - I. Victim's Rights Resolution*
 - J. Meeting with Pete Adams
8. Orleans Public Defender
 - A. Presentation by Defender Services Program

9. Date and Location of Next Board Meeting

10. Adjournment

s:\Board\Agenda\September 30, 2009

* Requires Board Vote

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of Meeting

September 30, 2009

Geismar Community Center
Geismar, LA

A meeting of the Louisiana Public Defender Board, pursuant to call of the Chairman and lawful notice, was duly convened and called to order by its Chairman at 2:15 p.m. on Wednesday, September 30, 2009, at the Geismar Community Center in Geismar, LA.

The following Board Members were present:

Frank Neuner, Chairman	Luceia LeDoux
James E. Boren	Christine Lipsey
Judge Robert Burns	Pam Metzger
Cleveland Coon	D. Majeeda Snead
Samuel S. Dalton	Remy Voisin Starns
Rev. Dan Krutz	Gina B. Womack

The following *ex officio* Board Member was present:

Rebecca Hudsmith

The following Board Members were absent:

Leo C. Hamilton	Judge William Norris
Lucy McGough	

The following *ex officio* Board Member was absent:

Judge Robert Brinkman

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

Jean M. Faria, State Public Defender
Marianne Buchanan, Budget Officer
John Di Giulio, Trial-Level Compliance Officer
Kim Gueho, Paralegal and Training Coordinator
Heather H. Hall, Special Projects Advisor
Roger Harris, General Counsel
Julie Kilborn, Deputy Public Defender – Director of Training
Erik Stilling, Technology and Management Officer
Clay Walker, Deputy Public Defender – Director of Juvenile Defender Services
Sean Williams, Data Entry Operator

1. **Minutes of August 27, 2009.** The Board reviewed the minutes of its meeting of August 27, 2009. Motion was made by Ms. LeDoux, seconded by Ms. Womack, and unanimously carried to approve the minutes of the meeting.
2. **Report of the Chairman.** Chairman Neuner deferred his comments.
3. **Budget Update.** The Board received information from Ms. Jean M. Faria, State Public Defender, concerning:
 - a. **New Budget Process.** The Division of Administration is employing a new budgeting process that will affect the Board in budgeting for FY 2010-2011. In addition to the regular budget, the Board now must produce an “outcomes-based budget.” Ms. Faria thanked Baptist Community Ministries for a grant that allowed the Board’s staff to work directly with the new “outcomes-based budget” training consultants. The first draft of the “outcomes-based budget” is due October 5, 2009; the final draft of the “outcomes-based budget” and the draft of the regular budget are due November 5, 2009.
 - b. **Funding Request for FY 2010-2011.** There was discussion of the budget process, the approaching deadlines, and the fact that the Board’s tentative meeting schedule does not coincide with those deadlines. Professor Metzger moved, seconded by Mr. Boren, to delegate authority to determine the amount to be set forth in the budget request to the Budget Committee. After a brief discussion, Professor Metzger amended her motion to add the task of articulating a policy for the Board’s annual budget request; Mr. Boren accepted the amendment. There was further discussion about the budget request. Ms. LeDoux suggested an amendment that the Budget Committee develop a defensible budget request, and that the request be capped at a maximum of \$40.5 million. Rev. Krutz seconded, and Professor Metzger and Mr. Boren accepted the amendment. Chairman Neuner called the question, and the motion carried without opposition.
 - c. **Monthly DAF Distributions.** After a brief discussion concerning the Board’s difficulty in receiving timely information from some District Defenders, Professor Metzger moved that the Board adopt a policy requiring District Defenders to provide all information requested by the State Public Defender by the 15th of the month and directed the staff to withhold District Assistance Funds and/or place District Defenders on a monthly disbursement schedule when they fail to comply. Ms. Womack seconded. Professor Metzger and Ms. Womack accepted amendments to emphasize that this policy addresses all data and information, including the annual survey, financial data and caseload information, requested by the Board’s staff, and to make exceptions for extreme circumstances. Ms. LeDoux called the question on the motion, which carried without opposition as the Board adopted the following resolution:

BE IT RESOLVED that, except in extreme circumstances, District Defenders are required to furnish the State Public Defender with all data and other information, including, but not limited to, the annual survey, financial data and caseload information, as may be requested by the State Public Defender and/or the Board's staff no later than the fifteenth (15th) day of the following month. If a District Defender fails to report timely and accurately in the format to be prescribed by the State Public Defender, the State Public Defender is directed to withhold any further District Assistance Funds payable to that District Defender until the District Defender furnishes the State Public Defender with the requested information. Thereafter, the Board further directs the State Public Defender to make future distributions to that District Defender on a monthly basis only (with payments being prorated over the number of months remaining in the six-month distribution period.)

- d. **CINC Issues.** Mr. Walker reported on the status of the CINC Parent Representation 5-year Implementation Plan, which lacks the funds to adequately implement the program. Currently, the fund contains \$441,000. Mr. Boren made the motion to authorize staff to negotiate the best terms for CINC funding. Ms. LeDoux seconded the motion. The motion was called to question by Ms. LeDoux, and carried without opposition.
- e. **Modification to CPCPL Contract.** There was discussion concerning the need to modify the contract between the Board and the Capital Post-Conviction Project of Louisiana (the "CPCPL"). Upon motion of Ms. LeDoux, seconded by Professor Metzger, and passed without opposition, the Board adopted the following resolution:

BE IT RESOLVED that the Louisiana Public Defender Board, exercising its authority pursuant to Paragraph 7 of the "Grant Agreement for Post-Conviction Services on Behalf of Indigents Convicted of Capital Crimes in the State of Louisiana," executed by and between the Board and The Capital Post-Conviction Project of Louisiana (the "CPCPL") on March 26, 2009, hereby directs the State Public Defender to reduce the amount to be distributed to CPCPL under this grant from \$50,000 per month to \$10,000 per month, beginning October 1, 2009. Provided, however, if the balance in the CPCPL's "Pro Bono Expert Fund" drops below \$75,000, the State Public Defender is directed to increase the amount to be distributed to CPCPL under the grant back to \$50,000 per month.

No further actions were required or taken on the foregoing matters.

4. Report of the State Public Defender. In response to the written report of the State Public Defender, the Board took the following actions:

- a. Capital Guidelines and Staffing.** Professor Metzger moved to pass the vote on the guidelines and include the District Attorneys Association in the discussion of these guidelines. The motion was seconded by Ms. LeDoux. Mr. Boren asked to amend the motion to include the participation of the District Judges' Association in the review of capital guidelines. Professor Metzger and Ms. LeDoux accepted the amendment. The motion carried without opposition.
- b. St. Bernard District Defender Selection.** Mr. John Di Giulio, Trial-Level Compliance Officer, reported that staff interviewed applicants recommended by the district defender selection committee for the 34th JDC. After interviews, the staff recommended that Mr. Thomas Gernhauser be appointed District Defender for the 34th JDC. Rev. Krutz moved to appoint Mr. Gernhauser as District Defender. The motion was seconded by Judge Burns, and carried without opposition. Mr. Gernhauser was recognized and welcomed by the Board members.
- c. Resolutions.** The Board discussed four resolutions that were contained within the written materials distributed to Board members and made available to the public at the meeting. Upon motion by Ms. LeDoux, seconded by Mr. Boren, and carried without opposition, the Board adopted the following resolutions:

- i. The first resolution, which relates to a revision the Louisiana Children's Code to expedite juvenile cases to improve the quality of defense for juveniles, provides:

BE IT RESOLVED that the Louisiana Public Defender Board hereby recommends the proposed amendments to Louisiana's Children's Code Articles 320, 321 and 809 regarding the legal presumption of indigence of all children in Louisiana. These amendments coincide with the Board's policies regarding appropriate investigation, in this case prior to the continued custody hearing, as well as the reduction of inappropriate detention of youths pending adjudication.

BE IT FURTHER RESOLVED that the Louisiana Public Defender Board include such recommendation in its annual report to the Louisiana Legislature in accordance with La. R.S. 15:147(B)(4)(a).

- ii. The second and third resolutions, which authorize the State Public Defender to 1) enter into a consulting services contract with Lynette Roberson to help fulfill the terms of a JIDAN grant; and 2) enter into a

contract with NJDC in order to receive JIDAN grant proceeds of \$117,5000, provide:

BE IT RESOLVED that Jean M. Faria, State Public Defender, is authorized to execute, on the Board's behalf, a Contract for Consulting Services by and between the Board and Lynette Roberson, for the sum of \$49,500.00. Said Contract is to assist the Board in fulfilling its obligations under a \$167,500 grant the Board received from the John D. and Catherine T. MacArthur Foundation's Juvenile Indigent Defense Action Network ("JIDAN").

BE IT RESOLVED that Jean M. Faria, State Public Defender, is authorized to execute, on the Board's behalf, a Contract between the National Juvenile Defender Center and the Board, through which the Board will receive the sum of \$117,500 in exchange for serving as the John D. and Catherine T. MacArthur Foundation's Juvenile Indigent Defense Action Network ("JIDAN") team in Louisiana and focusing on improving legal outcomes for juvenile defendants throughout the State of Louisiana.

- iii. The fourth resolution, which reaffirms the Board's commitment to the rights of victims of crimes, provides:

BE IT RESOLVED that the Louisiana Public Defender Board hereby reaffirms its commitment to promote and defend, through policy and education affecting all local public defender agencies, the rights of victims of crime as set forth in the Louisiana Constitution Article 1 Section 25, as well as the codification of those rights at La. Rev. Statutes 46:1841, et seq. This resolution does not intend to limit or curtail ethical and professional representation by public defenders of citizens accused of crime.

- d. **Salary Survey.** Mr. Di Giulio reported on the practice of public defenders reimbursing themselves for overhead and other expenses in their private offices (where they provide public defender services). Mr. Di Giulio asked for guidance from the Board to address this practice. Ms. LeDoux made the motion for staff to study the issue and report back to the Board at a future meeting. The motion was seconded by Professor Metzger, and carried without opposition. Mr. Di Giulio also noted that he felt that several jurisdictions were out of compliance with the statutory obligation to create a district public defender office.

No further actions were required or taken on the foregoing matters.

- 5. **Motion to Amend the Agenda.** Ms. LeDoux made the motion to amend the agenda and accept the recommendation to hire Ms. Kristy Boxberger in the position of Juvenile Justice Compliance Officer. The motion was seconded by Ms. Womack, and carried

without opposition. Ms. Boxberger has been a juvenile defender in the 23rd JDC for the past five years, has great familiarity with the MacArthur and Anne E. Casey Foundation projects, and was the unanimous decision of the staff hiring committee.

- 6. Orleans Public Defenders – Defender Services Program.** Johnetta Pressley and Sophia Sarantakos, LCSW, made a brief presentation on the Defender Services Program (social worker division) within the Orleans Public Defenders. The presentation included an overview of their program, a video segment, examples of their sentencing advocacy, information about their outreach programs, and relevant statistics of success. They then took questions and comments from the Board, staff and guests.
- 7. Tentative Meeting Dates.** The Chairman scheduled tentative meeting dates through the end of the year, to be held on:
 - a. Wednesday, October 28, 2009, at 2:00 p.m. in New Orleans. Location TBA.
 - b. Thursday, December 3, 2009, at 2:00 p.m. in Baton Rouge. Location TBA.
- 8. Adjournment.** Upon motion by Ms. LeDoux, seconded by Professor Metzger, and approved without opposition, the meeting adjourned at 4:20.

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the Louisiana Public Defender Board held on September 30, 2009, as approved by the Board on the 28th day of October 2009.

FRANK X. NEUNER, JR.
CHAIRMAN

LOUISIANA PUBLIC DEFENDER BOARD

Wednesday, October 28, 2009
2:00 PM

1010 Common Street, 2nd Floor
New Orleans, LA 70112

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of September 30, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. Budget Update
 - A. Budget Status Report
 - B. Report of the Budget Committee
 - i. Outcome Based Budget Reviewed
 - ii. Traditional Budget
 - iii. Salary Survey Included in Annual Survey
 - iv. Overtime Resolution*

7. Juvenile CINC Report*

The Board may vote to go into executive session pursuant to 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. 42:6.1, including investigative proceedings regarding allegations of misconduct. No final or binding action will be taken during executive session.

8. Report of the State Public Defender (written)
 - A. Capital Guidelines*
 - B. Calcasieu Case Counting
 - C. Annual Survey
 - D. COOP Meeting with Criminal Justice Agencies
 - E. ABA/BIP Technical Support Grant
 - F. Site Visits
 - G. Accolades

9. Defender Story

10. Date and Location of Next Board Meeting December 3, 2009, Southern University

11. Adjournment*

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of Meeting October 28, 2009

2nd Floor Conference Room, 1010 Common Street, New Orleans, LA

1. Call to Order and Welcoming Comments. A meeting of the Louisiana Public Defender Board, pursuant to call of the Chairman and lawful notice, was duly convened and called to order by its Chairman at 2:10 p.m. on Wednesday, October 28, 2009, in the 2nd Floor Conference Room at 1010 Common Street in New Orleans, LA.

2. Roll Call.

The following Board Members were present:

Frank Neuner, Chairman	Luceia LeDoux
James E. Boren	Pam Metzger
Judge William Burns	D. Majeeda Snead
Samuel S. Dalton	Remy Voisin Starns
Leo C. Hamilton	Gina B. Womack
Rev. Dan Krutz	

The following Board Members were absent:

Cleveland Coon	Lucy McGough
Christine Lipsey	Judge William Norris

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
Kristy Z. Boxberger, Juvenile Justice Compliance Officer
Marianne Buchanan, Budget Officer
John Di Giulio, Trial-Level Compliance Officer
Heather H. Hall, Special Projects Advisor
Roger Harris, General Counsel
Chase May, Technical Support Analyst
Erik Stilling, Technology and Management Officer
Clay Walker, Deputy Public Defender – Director of Juvenile Defender Services

3. Review and Approval of Minutes of September 30, 2009 Board Meeting. The Board reviewed the minutes of its meeting of September 30, 2009. Mr. Starns made the motion to accept the minutes without any amendments. The motion was seconded by Mr. Hamilton, and unanimously carried without opposition.

4. Public Comments. Rev. Krutz made a motion to amend the agenda to allow the Louisiana District Attorneys' Association (LDAA) to comment on the 'Capital Defense Guidelines for Louisiana'. The motion was seconded by Ms. Snead, and unanimously carried without opposition. Three representations from LDAA presented their comments/concerns on the most recent draft of the Louisiana Capital Guidelines. These included: 1) appointment of counsel at arrest; 2) case supervision by non-capital certified supervising attorneys; 3) continuity of representation; 3) supervision of excessive expenditures/expenditure limits in capital cases; 4) appointment of counsel in cases when a defendant/third party has procured private counsel but resources are depleted before the disposition of the case; 5) supervision on the use/expenses of mitigation experts; 6) the risk of excessive post-conviction petitions once the guidelines are passed; 7) expenses related to post-conviction/federal habeas (significantly more complicated and more expensive than capital representation at the trial level); and 8) addressing the "next step" remedy if a prosecution is halted by a trial judge under *State v. Citizen*. The guests concluded their comments by thanking LPDB for the opportunity to present and collaborate on these issues. Mr. Champagne expressed his concerns about the 'Capital Defense Guidelines for Louisiana'. These included: 1) consistency in the obligation of District Defenders to monitor/track capital cases in their jurisdiction (resolved by a reporter note clarifying language) and 2) financial liability of districts for expenses that should be are/could be paid by contract programs funded by LPDB. There followed a discussion about flat-fee rates for representation and the fundamental purpose of the 'Capital Defense Guidelines in Louisiana'.

Rev. Krutz moved to consider the Guidelines out of order. The motion was seconded by Mr. Boren, and carried without opposition. Rev. Krutz made the motion to accept the 'Capital Defense Guidelines for Louisiana'. The motion was seconded by Mr. Hamilton, and carried without opposition.

5. Motion to Amend the Agenda. Mr. Hamilton made a motion to amend the agenda to consider two items that were not on the agenda. The motion was seconded by Professor Snead, and carried without opposition.

a. District Defender Selection As a consequence of the death of the Mr. James Phillips, District Defender in the 26th JDC, Mr. Di Giulio reported that the selection committee in the 26th JDC has been formed and will have a recommendation for the Board at its January meeting. The statute authorizes LPDB to appoint an Interim District Defender during this period. Mr. Di Giulio recommended that Pam Smart be appointed to this position, as she has been handling many of the District Defender duties currently and during Mr. Phillips's sickness. Mr. Hamilton made the motion to appoint Pam Smart the Interim District Defender in the 26th JDC. The motion was seconded by Judge Burns, and carried without opposition.

b. Mayor's Courts Ms. Metzger gave a brief summary of Mayor's Courts in Louisiana. As many defendants in Mayor's Court face the possibility of incarceration, they are entitled to an attorney. Act 307, however, does not provide that public defenders represent defendants in Mayor's Court. Ms. Metzger reported that this oversight is being considered by the

Louisiana State Bar Association and that resolution will likely come in one of two forms: a law suit on behalf of an unrepresented person incarcerated in a Mayor's Court proceeding or the reclassification of certain laws to remove the authority to incarcerate citizens from Mayor's Courts.

6. Report of the Chairman. Chairman Neuner deferred his comments.

7. Budget Update.

a. Budget Status Report Ms. Buchanan presented the expenditures through the end of the year and reported \$356, 217 remaining for redistribution.

b. Report of the Budget Committee

i. Outcomes Based Budget Reviewed The outcomes-based budget draft was submitted on October 5, 2009 in the amount of \$40,500,000.00.

ii. Traditional Budget Ms. Buchanan reported that our traditional budget will be submitted on November 5, 2009 and available for public review upon request after that date.

iii. Salary Survey Unlike last year, when the salary survey was circulated independently to the field, this year it will be included in our annual survey.

iv. Overtime Resolution Mr. Hamilton moved that the resolution to award compensatory time to Jean M. Faria, who has previously not been awarded compensatory time, be approved. The motion was seconded by Professor Snead, and carried without opposition.

7. Juvenile CINC Report. Mr. Hamilton moved that LPDB go into executive session. The motion was seconded by Mr. Boren, and carried without opposition.

Professor Metzger moved that LPDB resume the regular session. The motion was seconded by Mr. Hamilton, and carried without opposition.

Mr. Hamilton made a motion to adopt a resolution that staff investigate, recommend appropriate sanctions and notify appropriate agencies about this issue. The motion was seconded by Mr. Dalton, and carried without opposition.

8. Report of the State Public Defender Mr. Hamilton moved to adopt the Report of the State Public Defender. The motion was seconded by Ms. LeDoux, and carried without opposition.

Mr. Di Giulio reported that State Public Defender Faria is receiving the Albert Tate Award, which is the highest recognition awarded by the Louisiana Association of Criminal Defense Lawyers. LPDB Member Sam Dalton is receiving the Lifetime Achievement Award from LACDL. Both will be honored at the annual Tate Dinner on December 4, 2009, in New Orleans.

10. Next Meeting. Thursday, December 3rd at 2:00 p.m. at Southern University School of Law in Baton Rouge.

11. Adjournment. Mr. Hamilton made the motion to adjourn the meeting at 4:30. The motion was seconded by Ms. LeDoux, and carried without opposition.

Guests Attending:

Richard Bourke,
Vic Bradley, Jr.,
Tony Champagne,
Gary Clements, Director,
Thomas Gernhauser, D
Hugo Holland,
Dale Lee

James Looney
Reggie McIntyre
Michael Mitchell
John Simmons
Cliff Strider
Richard Tompson

LOUISIANA PUBLIC DEFENDER BOARD

Thursday, December 3, 2009
2:00 PM

J.S. Clark Administration Building
2nd Floor Board Room, Southern University
Baton Rouge, LA

Agenda

1. Call to Order and Welcoming Remarks by Chairman
2. Roll Call
3. Review and Approval of Minutes of October 28, 2009 Board Meeting*
4. Public Comments
5. Report of the Chairman
6. CAP*
 - A. The Board may vote to go into executive session pursuant to 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. 42:6.1, including investigative proceedings regarding allegations of misconduct. No final or binding action will be taken during executive session.
7. Budget Update
 - A. Budget Status Report
 - B. Report of the Budget Committee*
 - C. Overhead Resolution*
 - D. LCAC Contract Amendment*
8. Letter to Board from District Attorney in 21st Judicial District
9. Report of the State Public Defender (written)
 - A. CINC Update
 - B. Calcasieu Criminal Justice Meeting
 - C. LSBA Board of Governor's Presentation with Chair of the RTC Committee, Judge Milton Moore
 - D. OPD case overload
 - E. Capital Coordinator, Update
10. Defender Story
11. Date and Location of Next Board Meeting
12. Adjournment*

LOUISIANA PUBLIC DEFENDER BOARD

**Minutes of Meeting
December 3, 2009**

Southern University School of Law – Baton Rouge, LA

1. Call to Order and Welcoming Comments. A meeting of the Louisiana Public Defender Board, pursuant to call of the Chairman and lawful notice, was duly convened and called to order by its Chairman at 2:10 p.m. on Thursday, December 3, 2009, in the 2nd Floor Conference Room at Southern University School of Law in Baton Rouge, Louisiana. Mr. Neuner recognized Board Member Coon for arranging this venue for the December 3rd Board Meeting.

2. Roll Call.

The following Board Members were present:

Frank Neuner, Chairman
James E. Boren
Judge Robert Burns
Cleveland Coon
Rev. Dan Krutz

Luceia LeDoux
Lucy McGough
D. Majeeda Snead
Gina B. Womack

The following Board Members were absent:

Sam Dalton
Leo Hamilton
Christine Lipsey
Pam Metzger
Judge William Norris
Remy Voisin Starns

The following *ex officio* Board Members were absent:

Rebecca Hudsmith
Judge Robert Brinkman

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

Kristy Z. Boxberger, Juvenile Justice Compliance Officer
Marianne Buchanan, Budget Officer
John Di Giulio, Trial-Level Compliance Officer
Jean M. Faria, State Public Defender
Kim Gueho, Training Coordinator
Heather H. Hall, Special Projects Advisor
Roger Harris, General Counsel
Julie Kilborn, Deputy Public Defender – Director of Training
Lynette Roberson, JIDAN Coordinator
Erik Stilling, Technology and Management Officer
Clay Walker, Deputy Public Defender – Director of Juvenile Defender Services
Sean Williams, Data Entry Technician

3. Review and Approval of Minutes of October 28, 2009 Board Meeting. The Board reviewed the minutes of its meeting of October 28, 2009. Judge Burns noted that he was misidentified, and requested his name be corrected. Mr. Boren made the motion to accept the minutes with this amendment. The motion was seconded by Ms. Womack, and unanimously carried without opposition.

Mr. Neuner welcomed former Louisiana Supreme Court Chief Justice Calogero to the meeting, and recognized his contributions to public defense in Louisiana.

4. Public Comments. There were no public comments.

5. Report of the Chairman. Chairman Neuner briefly discussed two meetings that he attended in Lake Charles and New Orleans to encourage cross-agency efforts to remedy enduring issues affecting the delivery of public defense services in the state.

6. CAP. Mr. Neuner briefly updated the Board on the current situation at CAP, which remains under investigation. Justice Calogero and Ms. Armstrong, new Board Members at the Capital Appeals Project, made a brief presentation. They reported that Sarah Ottinger has been hired as the Executive Director of CAP and request that LPDB continue to fund the Project because of the importance of its work as well as their confidence in the transition of leadership. Ms. Ottinger thanked the board and staff for maintaining focus on continuing to provide high quality legal representation to clients. Justice Calogero requested that the Board be made aware of the new Board Members at CAP. State Public Defender Faria reported that they are: Andrea Armstrong, Pascal F. Calogero, Jr., John Holdridge, Calvin Johnson, Michele Fournet, Julian Murray, Sarah Ottinger, Steven Scheckman, and Martin Stern.

State Public Defender Faria reported that since CAP has become compliant with its financial reporting requirements, payments will resume on the CAP contract with the next monthly distribution.

7. Budget Update. Budget Officer Buchanan reported that the Louisiana Public Defender Board anticipates finishing the fiscal year with a surplus in the amount of \$27,434.00. LPDB submitted a \$40.5 million budget request for the next Fiscal Year and are scheduled to appear December 14, 2009 to appeal its budget with the Commissioner of the Division of Administration.

District 34, St. Bernard Parish, has made an emergency request for funds because they did not receive their DAF distribution in either January or August 2008 due to non-compliance with reporting requirements. The Budget Committee has recommended that \$32,500.00 be immediately paid to the 34th JDC to support the office until the regularly scheduled distribution for all districts on January 15, 2010. Upon the recommendation of the Budget Subcommittee, the motion passed without opposition.

Budget Officer Buchanan reported that the District Defender in Allen Parish, Mr. David Deshotels, gave himself a salary raise and increased his allotment for the overhead expenses that he incurs. Ms. Buchanan reported that the Budget Subcommittee finds these actions to be in violation both of Act 307 and the recent Ethics Opinion relating to overhead expenses. State Public Defender Faria reported that, as a result of the circulation of the recent Ethics Opinion, a number of defenders have called seeking permission to increase overhead disbursements or make salary increases. Mr. Neuner asked if we had an obligation to self-report this violation to the Ethics Board. General Counsel Harris gave his opinion that we were obliged to report this to the Legislative Auditor, who will conduct an investigation and decide whether or not the decision warrants reporting to the Ethics Board. Judge Burns suggested that in addition to a letter formalizing the opinion to Mr. Deshotels, Mr. Deshotels should be offered the opportunity to explain his actions before the Board. Professor McGough asked that the Board seek reimbursement as a separate issue from the issue of reporting/sanctions for the District Defender. Rev. Krutz indicated that he also would like Mr. Deshotels to have the opportunity to appear before the Board. Judge Burns made a motion to send notice and seek reimbursement for both the salary increase and the increase in overhead expenditure and defer any disciplinary action until after he has the opportunity to appear before the Louisiana Public Defender Board at its January meeting. The motion was seconded by Prof. McGough, and passed without opposition.

Upon the recommendation of Professor Snead, and with the support of staff, Mr. Neuner asked for volunteers to serve on a new committee to address ethical issues as they arrive in the field. Professors Coon and Metzger will comprise this committee, which will be staffed by State Public Defender Faria.

Dr. Stilling made a report on the adjusted District Assistance Fund (DAF) formula to ensure that the DAF is fairly distributed among districts given that the State has a fixed amount of funds to distribute, and not all districts have equal ability to generate local funds.

Ms. LeDoux, on behalf of the Budget Committee, made the motion that the DAF distribution not occur until all 42 districts have submitted their obligatory reporting (both financial information and the annual survey) due January 15, 2010, since this information is necessary to ensure a fair distribution of state funds. Further, delinquent districts will be posted on the website. The motion was seconded by Ms. Womack. The motion was opened for discussion.

Mr. Tompson, District Defender in the 24th JDC, expressed frustration with a policy that the DAF distribution be delayed for districts that comply, because of the districts who fail to comply with the reporting requirements. Mr. Golden, District Defender in the 1st JDC, reported that his financial reporting requires timely cooperation from other local agencies, often putting report deadlines beyond his control.

Mr. Boren suggested that in the case of districts who fail to report by January 15th, a portion of the DAF be distributed as scheduled on January 15th, withholding enough to make necessary adjustments upon the submission of reporting requirements from all districts, at a later date. Ms. LeDoux rejected this amendment, emphasizing that funds unexpended due to reporting delays are at risk of being recouped by Division of Administration.

Mr. McIntyre, District Defender in the 21st JDC, asked how long it will take for disbursement of funds to the districts assuming all districts submit the appropriate information. Budget Officer Buchanan said that would take 2-3 days for those offices who receive funds through Electronic Funds Transfer, and a week for those accepting written checks.

Mr. Champagne, District Defender in the 32nd JDC, asked for the Budget Committee to recommend how long to withhold funds if any district remains non-compliant.

Mr. Neuner suggested that Ms. LeDoux's motion be amended to indicate that the distribution go out on January 25th, excluding any districts that have failed to comply, as an effort to build consensus. Ms. LeDoux and Ms. Womack accepted the amendment.

Professor McGough questioned the 10-day "extension." Mr. Neuner explained that districts would be penalized for every day that their reporting is delinquent by the mandates of Act 307, and that the will of the Board and defender community supports a brief cushion.

The motion to accept the new DAF formula and to distribute the funds on January 25th, excluding any districts that failed to comply was passed without opposition.

Mr. Boren moved that the failure to comply with reporting requirements by the January 15th deadline be grounds to commence immediate proceedings to terminate a District Defender, pursuant to the disciplinary procedure laid out in Act 307. Ms. Snead seconded the motion, which passed without opposition.

Ms. LeDoux, on behalf of the Budget Committee, made a motion to adopt more stringent reporting requirements for the 501(c)3 organizations who have contractual relationships with LPDB. The motion passed without opposition.

Ms. LeDoux, on behalf of the Budget Committee, moved adoption of a resolution that codifies guidelines relating to overhead expenses and staff's obligation to communicate those guidelines to the Board. The motion passed without opposition.

Ms. LeDoux, on behalf of the Budget Committee moved adoption of an amendment to the contract of the Louisiana Capital Assistance Center, expanding the scope of services which LCAC provides to the LPDB, without seeking any additional expenditure. The motion passed without opposition.

8. Letter to the Board from the District Attorney at the 21st JDC. Mr. Neuner suggested that he respond to District Attorney Perriloux. Mr. Boren suggested that the tone of the letter indicate that the advocacy LCAC is providing to Mr. Bordelon is consistent with the highest standards and obligation of defense counsel. Mr. Neuner sought informal Board approval to work with Mr. Boren on drafting a responsive letter to Mr. Perrilloux.

9. State Public Defender Report. Mr. Neuner emphasized the positive steps taken by the meeting he and State Public Defender Faria initiated in Lake Charles on December 2nd, earning compromises in funding streams, case allotment procedures, and a discussion about health and retirement benefits, among others. State Public Defender Faria asked for any questions about the report. She reported that because the City Council in Orleans has provided no funds for the Orleans Public Defenders (OPD), OPD will likely stop taking new appointments for clients facing rape and murder charges. Ms. LeDoux asked if OPD was going to continue to staff municipal court. Ms. Faria said that she had received no indication that they were going to cease this representation. Mr. Neuner reported that the Parish Attorney in Calcasieu reported the decriminalization of many parish offenses to relieve pressure on the court system and the district defenders. State Public Defender Faria noted that decriminalization has a significant impact on locally generated funds that support the district public defender offices and must be implemented in such a fashion as to retain the \$35.00 assessment to the local judicial district indigent defender fund.

State Public Defender Faria requested that the Board approve the transition of the position of the Special Projects Advisor to part-time, and approve the vacated TO position for the Capital Case Coordinator. Rev. Krutz made the motion to approve this transition, which was seconded by Ms. LeDoux, and passed without opposition.

10. Defender Story. J. Antonio Florence, staff attorney at the Caddo Parish Office of the Public Defender (1st JDC), presented the experiences that led him to become a public defender, and discussed his experiences in the Caddo Parish criminal justice system.

Mr. Neuner recognized Jean Faria, Sam Dalton, Ken Rodenbeck and others who will be receiving awards at the Justice Albert Tate Awards Dinner in New Orleans on December 4, 2009.

11. Date and Location of Next Board Meeting. The next LPDB meeting will be held on Thursday, February 11, 2010 at 2:00 PM, at LSU School of Law.

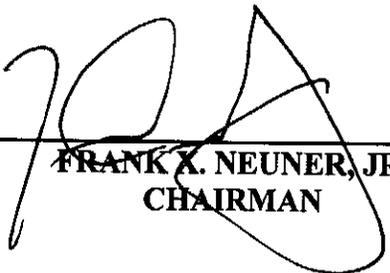
12. Adjournment. The meeting adjourned at 4:10 PM, on the motion of Professor McGough and seconded by Ms. LeDoux. The motion passed without opposition.

Guests Present:

Chris Aberle
Andrea Armstrong
Pascal F. Calogero, Jr.
Michael Courteau
Herman Castete
Tony Champagne
Bradley Dautat

J. Antonio Florence
Richard Goorley
Reggie McIntyre
Sarah Ottinger
John Simmons
Richard Tompson

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the Louisiana Public Defender Board held on December 3, 2009, as approved by the Board on the 11th day of February, 2010.



FRANK X. NEUNER, JR.
CHAIRMAN