



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, January 31, 2019
Bluebonnet Regional Library, Baton Rouge, LA
12:00 p.m.

AGENDA

1. Call to Order and Comments by Chairman, Frank Holthaus
 - a. Commendation – Mark Plaisance, District 17
2. Adoption of the Agenda* pgs. 1-3
3. Call for Public Comment¹
4. Adoption the Minutes, November 9, 2019* Tab 1, pgs. 4-9
5. Executive Session²
6. District Issues Tab 2
 - a. Resignation of District Defender pg.10
 - b. Authority to Appoint Interim*
7. Policy Tab 3
 - a. Sexual Harassment Policy* pgs. 11-28

Under the direction of the Policy Committee, the Prevention of Sexual Harassment Policy which has been submitted to the Division of Administrations was sent out by staff to the full Board for review prior to the 1/31/19 meeting. The Policy Committee is recommending adoption of the policy. The Policy Committee is also recommending an amendment to the 501c3 contracts requiring adherence to a sexual harassment policy. Data collection will be required of all state agencies beginning January 2019 and mandatory yearly reporting will be required beginning February, 2020.

 - i. Compliance and Supervision.*

The Policy Committee is recommending a Policy requiring the Districts to: semi-annual reporting of all reportable sexual harassment complaints and/ or investigations required by law; immediate reporting of any complaints/investigations which result in a finding of sexual harassment; reporting of any other such incident(s) which a District Defender feels the Board should be made aware; and, direct reporting to the State Public Defender in the event of a sexual harassment claim against a District Defender.

¹ R.S.42:14 allows for a public comment prior to action on an agenda item upon which a vote is to be taken.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards, et al*, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge.

- b. **Public Defenders Servings as City Prosecutors*** pgs. 29-32
The Policy Committee is recommending adoption of an Affidavit of Hardship to be used as an application to the Board for approval, on a case by case base and to be used only in conjunction with written notice of potential conflict to the client. Additionally, the state public defender has authority to provisionally approve hardship subject to Board ratification. It was suggested that a working group or sub-committee be formed to research/address other options or models to address and discontinue the practice in the future.
 - c. **Strategic Plan** pgs. 33-53
The Policy Committee deferred recommendation on the plan as presented and directed staff to present a red-lined version to the full board for review and discussion.
 - d. **Open Meeting Law, Rules of Order, LPDB Meeting Protocol**
The Policy Committee expressed concern that direct correspondence presented by email to the full board could potentially result, unintentionally, in violation of the open meetings laws and suggested for discussion by the full board that District Defenders be asked to bring their issues first to the attention of the State Public Defender. The Committee also passed the issue to the DDAC for input.
 - e. **Salary Adjustments**
The Committee has no recommendations or changes to current protocols being followed by staff.
8. **Budgetary and Fiscal** **Tab 4**
- a. **Financial Report through Dec 31 2018*** pgs. 54-58
The Budget Committee adopted the Financial Report as presented for consideration by the full Board.
 - b. **Protocols and Salary Ranges/Caps***. *The Budget Committee discussed the attached protocols and after some discussion are favorably recommending salary adjustments to the full Board, retroactive from the September 27, 2018 board meeting, as follows. All adjustments are within ranges for comparable districts/district defenders, none of the districts are in ROS and each of the districts are fiscally sound and can support the adjustment.* pgs. 59-75
 - i. **District 2 – Donald Kneipp.** *An adjustment from \$75,000 to \$87,000.*
 - ii. **District 3 – Rick Candler.** *An adjustment from \$80,000 to \$90,000*
 - iii. **District 30 – Tony Tillman.** *An adjustment from \$93,622 to \$105,622*
 - c. **FY19**
 - i. **Solvency Projections - informational** pg. 76
Projections made with data provided through November, 2018.
 - ii. **Exigency**
 - a. **Districts 11*** pgs. 77-81
The Budget Committee is recommending to the full Board immediate distribution of \$43,864 to District 11, the minimum amount needed for the district to maintain operations through Apr/May of 2019.
 - d. **DAF FY20**
 - i. **P & N Plan - Informational** pg. 82
Staff met with the DDAC and provided this information. This is not a staff recommendation rather a glimpse of what the DAF would look like using the P&N plan using 2018 funding numbers.

- ii. Hybrid Plan- Informational pg. 83
This is not a staff recommendation, but the 2018 hybrid plan using 2018 funding numbers.
 - iii. DDAC
 - iv. Accumulating v. Depleting Districts pg. 84
 - e. ROS – informational pg. 85
Staff has performed site visits in 14 districts over the last 8 months. Five districts have exited ROS, three are poised to exit pending new hirings and six will remain in ROS. Of those six, four districts will have to implement additional restrictions to remain operational.
 - f. Changes in CINC Funding - informational
The Children’s Bureau has announced rule changes that will allow states to be partially reimbursed by the federal government for parent and child representation in child welfare cases. This has the potential to add new funding but comes with many questions and challenges. The Supreme Court is very interested in the success of this and staff has Been instructed to keep the policy and budget committees apprised of all activity.
 - g. FY 2020 Contracts - informational
 - i. FY 19 existing contracts pg. 86
The FY19 contract amounts are presented for informational purposes. These amounts are comparable to what will most likely be requested for FY20.
- 9. LPDB Fiscal Landscape - informational **Tab 5** pgs. 87-110
An illustrated Primer on the Revenue Streams, Expenditures & Caseload Standards for Public Defender Offices and the LPDB system. Intended to summarize the very complex nature and history of the changes and concerns with the revenue streams and caseload maximums which heavily impact the expenditures of the districts and offers comparisons of LPDB spending with comparable-sized state agencies as well as with other stakeholders in the criminal justice system.
- 10. Division Reports **Tab 6**
 - a. Capital pgs. 111-116
 - b. Juvenile Strategic Plan pgs. 117-118
- 11. Announcements
- 12. Next Meeting
- 13. Adjournment*



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, January 31, 2019
Bluebonnet Regional Library, Baton Rouge, LA
12:00 p.m.

Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, January 31, 2019, at the Bluebonnet Regional Library, in Baton Rouge at approximately 12:27 p.m.

The following Board members were present:

Patrick Fanning
Frank Holthaus
Moses Williams

W. Ross Foote
Donald North

Michael Ginart
Chaz Roberts

The following Board members were absent:

Zita Andrus
Katherine Gilmer

Chris Bowman

Flozell Daniels

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

Jay Dixon, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Tiffany Simpson, Juvenile Compliance Officer/Legislative Director
Erik Stilling, Information and Technology Director

Chairman Holthaus announced the resignation of District 17 (Lafouche Parish) District Defender Mark Plaisance and thanked him for his service.

Mr. Holthaus reported that he has appointed retired Southern University Chancellor Freddie Pitcher as the LPDB representative on the Louisiana Judicial Council which meets twice a year and discusses court cost legislation among other things.

2. Adoption of the Agenda. Mr. Mike Ginart moved to adopt the agenda as presented. Professor Donald North seconded the motion which passed unopposed.

3. Call for Public Comment. No one presented for public comment.

4. Adoption the Minutes, November 9, 2018. Professor North moved to adopt the minutes of the November 9, 2018 meeting as presented. Judge Ross Foote seconded the motion which passed unopposed.

5. Executive Session. Chairman Holthaus announced that Executive Session would be held after budget discussions.

6. District Issues. SPD Dixon announced again the resignation of District Defender Mark Plaisance in District 17. He reported that Mr. Plaisance has indicated a February 28 effective date but that he has agreed to remain in the office as interim pending the hiring of his replacement. Mr. Dixon then asked the Board for the authority to appoint an interim district defender in the event Mr. Plaisance has to leave before February 28 or a replacement is found, whichever should happen first. Mr. Moses Williams inquired as to the adjoining parishes and Professor North stressed the importance of looking for a strong candidate for the position. Discussion continued on the need for an interim and clarification was made that Mr. Plaisance has agreed to stay until a replacement is hired but in the event he has to leave prior to that time staff would need authority to hire an interim. Judge Foote moved that if Mr. Plaisance has to leave the position prior to the hiring of his replacement, then the State Public Defender has the authority to fill the position, as needed. The motion was amended to include that whomever may be placed in the position as interim would not be paid a rate exceeding Mr. Plaisance's current salary. Mr. Ginart seconded the motion as amended. Mr. Plaisance then briefly addressed the Board. Professor North called the question and upon a vote, Judge Foote's motion, as amended, passed unopposed.

7. Policy Committee

a. Sexual Harassment Policy. Judge Foote reported that the Policy Committee is recommending the adoption of the sexual harassment policy as presented with the addition that the districts be required to comply with all reporting requirements on a semi-annual basis. SPD Dixon clarified that the issue being presented for Board approval has two parts: 1) approval of the Board's policy on sexual harassment; and, 2) adoption of compliance and supervision protocols of the districts regarding the statutorily mandated reporting requirements. He further clarified that the information to be reported by the districts to staff would include the semi-annual compilation of the statutorily required information and the immediate reporting of a complaint that has risen to the level of sexual harassment. General Counsel Barbara Baier added that the Policy Committee's recommendation also included compliance by the 501(c)3 programs. Judge Foote stated that the Policy Committee's recommendation is that the Board adopt the policy as presented here to include the 501(c)3 programs. Upon a second, the Policy Committee's recommendation passed unopposed.

i. Compliance and Supervision. Considering the prior discussion, Judge Foote recommended that the Board adopt the Policy Committee's recommendation as to compliance from the district defenders. Upon a second, the recommendation passed unopposed.

b. Public Defenders Servings as City Prosecutors. Judge Foote reported that the Policy Committee is recommending a policy that city prosecutors not serve as public defenders unless there are safeguards put in place, hardship is applied for and the board grants that specific exception. After discussion, Judge Foote clarified that the Committee is recommending the adoption of the Affidavit of Hardship as the mechanism for district defenders and the Board to address this issue.

Mr. Moses Williams expressed his strong opposition to the adoption of a policy which he believes is contrary to the statute and the constitution and urged the Board to work toward a solution to the problem. Mr. Holthaus agreed that a working group comprised of a board member or members and staff to research how other states are handling this issue is a viable option. Mr. Williams agreed to move forward as discussed pending future work on a solution to this problem. Mr. Ginart then seconded the recommendation of the Policy Committee. Upon vote, with one opposition and one abstention, the recommendation carried with five in favor.

c. Strategic Plan. Mr. Dixon reported that a strategic plan was presented to the Board some time ago and tabled but is now necessary. He reported having received input from the districts on the proposed language on page 44 and as a result has re-drafted it as presented in the handout. Mr. Dixon indicated that staff would be addressing the whole plan and would bring a final draft to the board for discussion and adoption prior to the end of fiscal year 2019. There was no further discussion.

d. Open Meeting Law, Rules of Order, LPDB Meeting Protocol. Mr. Holthaus reported the field and board need a way to get information to everyone without a potential violation to open meeting laws. He was specifically concerned about an email that went directly from a district defender to all board members and the subsequent potential for inadvertent action or “roaming” quorum as a result of that email. Judge Foote clarified that it is not the Board’s intention to muzzle anyone, rather to change the procedure and recommended that anyone with an issue should provide it to directly the State Public Defender to disseminate. After discussion, there was disagreement among board members as to whether a violation did, would or could occur under such practice(s). As a result, general counsel was directed to obtain an opinion on proper procedure for further discussion.

e. Salary Adjustments. The Policy Committee has no recommendations or changes to current protocols being followed by staff and the Budget Committee will address the adjustments later in the agenda.

5. Executive Session. Professor North moved to go into Executive Session. Mr. Ginart seconded the motion and the Board went into executive session. Mr. Pat Fanning moved to leave executive session and Mr. Ginart seconded the motion and the meeting returned to regular session.

8. Budgetary and Fiscal

a. Financial Report through December 31, 2018. Budget Chairman North reported a favorable recommendation of the financial report by the Committee as presented. Mr. Fanning seconded the recommendation which passed unopposed.

b. Protocols and Salary Ranges/Caps. State Public Defender Dixon reported that after full site visits of three districts which included court observation, file review and staff interviews, he is recommending the following salary adjustments for district defenders: District 2 - Mr. Donald Kneipp, from \$75,000 to \$87,000; District 3 - Mr. Rick Candler, from \$80,000 to \$90,000; and District 30 - Mr. Tony Tillman, from 93,622 to \$105,622. Professor North reported the Budget Committee is recommending favorable adoption of the adjustments as presented, retroactive to September 27, 2018. Judge Foote seconded the recommendation which passed unopposed.

- c. FY19
 - i. Solvency Projections. Mr. Dixon gave a brief summary of the solvency projections as presented. He reported that staff is watching several districts very closely for fiscal year end and possible FY20 shortfall.
 - ii. Exigency. Professor North reported the Budget Committee is recommending to the full Board immediate distribution of \$43,864 to District 11, which is the minimum amount needed for the district to maintain operations through Apr/May of 2019. Judge Foote seconded the recommendation which passed unopposed.
- d. DAF FY20
 - i. P & N Plan. SPD Dixon reported that staff has met with the DDAC and provided this draft DAF plan strictly as an example of what the DAF would look like with the P&N Plan using 2018 funding numbers for FY20. He stated this presentation is not a staff recommendation but should the P & N plan be a part of the DAF formula for FY20 that this is potentially what the distribution could look like. District Defender Brian McRae addressed the Board and assured them that the DDAC was not taking its duty lightly and has been working with Dr. Stilling and Mr. Dixon toward a viable formula. Mr. Dixon stated that if things stay the same that there will be fiscal problems in 2020.
 - ii. Hybrid Plan. This information is also an example of what the DAF would look like with the Hybrid Plan using 2018 funding numbers for FY20 and is not a staff recommendation. Mr. Ginart took the opportunity to urge the District Defenders to keep up with all of the information that is being provided and to provide as much information as possible so that the Board can make the best decision possible when the time comes.
 - iii. DDAC. This portion was address by Mr. McRae in item 8di.
 - iv. Accumulating v. Depleting Districts. The Budget Committee has no recommendations or discussion on this issue at this time.
- e. ROS. Dr. Tiffany Simpson reported the results of all ROS site visits that have been completed since June of 2018: five districts have exited ROS – Districts 8, 20, 23, 30, and 33; three are scheduled to exit as soon as they complete their hiring process - Districts 26, 28, and 33; and, five will remain in ROS with the potential to further restrict services - Districts 19, 16, 25, 41 and 15. Dr. Simpson stated that staff are planning a site visit to District 11th (Sabine) to see where the district stands in terms of service restriction. Dr. Simpson also brought to the attention of the Board a one-pager on talking points on the FY20 fiscal landscape that was requested by the Board at the November 2018 meeting.
- f. Changes in CINC Funding. SPD Dixon reported that the federal government has indicated possible funding to supplement the districts in CINC cases for parent representation in fiscal year 2020. He reported the distinct possibility that increased data collection from the districts may come with the increased funding, but details are still unknown. Staff will provide information as it is learned.
- g. FY 2020 Contracts. Mr. Dixon reported that in addition to the FY19 contracts presented, in FY20 two additional contracts will be added for Board consideration for JLWOP (Miller) conflict cases and JLWOP expert funding.

9. LPDB Fiscal Landscape. Mr. Dixon stated that this report originated as a request from Mr. Ginart on how and where LPDB get its funding. Mr. Ginart thanked Dr. Erik Stilling for the excellent “primer” and stressed its usefulness for preparing to talk to stakeholders.

10. Division Reports.

a. Capital. Professor North and Mr. Ginart both addressed the capital report as presented. Professor North’s inquiries were focused on obtaining a better understanding of the capital defense process and how the programs work from beginning to end. Mr. Ginart requested that the capital report provide additional information in order for Board members to be able to lead meaningful and accurate discussions with legislators and other stakeholders. Mr. Holthaus suggested an at-a-glance document with the pertinent information. Staff agreed to include the requested additional information as discussed in future reports.

b. Juvenile Strategic Plan. Mr. Dixon indicated the Juvenile Strategic Plan is in the materials for review.

11. Announcements. Mr. Holthaus announced the death of Chris Bowman’s mother and the Board recognized Mr. Bowman’s loss.

12. Next Meeting. The Board set the next meeting for March 19, 2019, at 12:00 p.m. in Baton Rouge. The location will be announced.

13. Adjournment. Mr. Fanning moved to adjourn. Mr. Robert seconded the motion and the meeting adjourned at approximately 2:55 p.m.

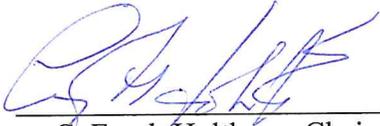
Guests:

Deirdre Fuller
Reggie McIntyre
Don Kneipp
Brian McRae
John Wagar
Alan Robert
G. Paul Marx
David Marcantel
Paul Fleming
Jee Park
Mike Mitchell
Remy Starns

John Albert Ellis
Tony Champagne
Willis Brewer
Colin Reingold
Maggie Simon LeBlanc
Thomas Gernhauser
Richard Tompson
Steve Thomas
Kyla Romanach
Kerry Cuccia
Kenn Barnes

Herman A. Castete
Ella Kliebert
Mark Plaisance
Yvette Beamon
Tony Tillman
Trisha Ward
Chris Aberle
Gary Clement
Aaron Clark Rizzio
Don Kneipp
Rick Candler

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 31st day of January, 2019, as approved by the Board on the 9th day of May, 2019 at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, May 9, 2019
Bluebonnet Regional Library, Baton Rouge, LA
12:30 p.m.

AGENDA

1. Call to Order and Comments by Chairman, Frank Holthaus
2. Adoption of the Agenda* pgs. 119-121
3. Call for Public Comment¹
4. Adoption the Minutes, January 31, 2019* **Tab 1**, pgs. 122-126
5. Executive Session²
6. Strategic Plan* **Tab 2**, pgs. 127-163
The amended Strategic Plan as presented at the January 30, 2019 Board meeting to meet state compliance (for approval) through the remainder of FY2019 in addition to current state instructions and templates for new submittals covering FYs 2020-2021, and 2024-2024, which are due July 1, 2019 to OPB.
7. Budgetary and Fiscal **Tab 3**
 - a. Financial Report through March 31, 2019* pgs. 164-168
The Budget Committee is recommending the report as presented.
 - b. FY19
 - i. Solvency Projections. *District projections made with data through February 28, 2019 (reviewed by Budget Committee) and March 31, 2019* pgs. 169-170

¹ Public Comments shall be limited to items on the duly noticed agenda pursuant to open meeting laws.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards*, et al, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge; *State v. Frederick Jackson*, Docket No.: 222,275 (26th JDC, Bossier Parish); *State v. Derek Mitchell*, Docket No.: 2017-CR-62422 (15th JDC, Vermilion Parish); *State v. Dakota Theriot*, Docket No.: 38517 (21st JDC, Livingston Parish) and *State v. Dakota Theriot*, Docket No.: 40300 (23rd JDC, Ascension Parish).

The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The Board may discuss the candidates for the District Defender position in District 17 (Lafourche Parish) – Item 10 on the Agenda.

- ii. Exigency Funding*
 - a. District 11 (Sabine Parish) - \$10,000 pgs. 171-173
The Budget Committee is recommending exigency funding in the amount of \$10,000 to District 11.
 - b. District 19 (East Baton Rouge Parish)- \$600,000 pgs. 174-178
The Budget Committee is recommending exigency funding in the amount of \$452,593 to District 19.
 - c. District 35 (Grant Parish)- \$24, 000 Hand Out
This request for exigency was received on May 6, 2019. The Budget Committee has not reviewed this request. Staff will present a recommendation to the full board.
 - d. District 41 (Orleans Parish) – \$700,000 Hand Out
This request for exigency was received on May 6, 2019. The Budget Committee has not reviewed this request. Staff will present a recommendation to the full board.
 - c. Catastrophic ROS*. *The Budget Committee brings this issue to the full Board for guidance and discussion to include the possible creation of a plan requiring district defenders to create ROS plans that do not allow for office closures, rather a gradual reduction in staff if at all possible; Alternatively, to refer the issue to the Policy Committee to review and update existing ROS protocols/guidance with consideration to suggestions from district defenders.* pgs. 179-189
 - d. FY20 Appropriation - informational
 - i. CINC FY20 Funding. *Update regarding funding for partial reimbursement by the federal government for parent and child representation in child welfare cases, which will most likely result in increased detailed timekeeping reports by the districts that handle CINC cases in order to obtain the funding match.*
 - e. FY2020 Contract Amounts* pg. 190
The Budget Committee is recommending maintaining funding for FY20 as presented (staff recommendation column), which is equal to what each contractor was initially approved for in FY19. (501c3 and McCoy contracts in Drop Box)
 - i. Professional and Consulting
 - ii. 501(C)3 Programs
 - iii. McCoy Remand Contracts
 - f. DAF FY20*
The Budget Committee is recommending Method 14 Consensus \$24.08M for FY20 which would provide for approximately \$2M in exigency funds for districts in need.
 - i. Assuming \$20.5M, Hypothetical, 95% DAF Allocation pgs. 191-199
 - ii. Assuming \$24.08M, Hypothetical, 95% DAF Allocation pgs. 200-214
 - iii. All Formulae DROP BOX
 - iv. Method 14 Consensus, \$20.5M w/ CAP pg. 215-216
 - v. Method 14 Consensus, \$24.08M w/ CAP pg. 217-218
8. ROS Updates **Tab 4**
 - a. 19th Judicial District – East Baton Rouge ROS Plan pgs. 219-237
 - b. 41st Judicial District – Orleans ROS Plan pgs. 238-243

9. Resolutions and Policies **Tab 5**
- a. Resolution – Authority for Staff to Submit Request for Attorney General Opinion* *The Board requested that General Counsel seek an Attorney General Opinion on the issue of email strings possibly violating Open Meeting Laws and proper email procedures among Board members and the field. AG rules require a current Board Resolution attached to the opinion request at submittal time.* **pg. 244**
10. District Information **Tab 6**
- a. District 17 – District Defender Selection*
The Selection Committee submitted a list of three candidates and interviews were held on Tuesday, April 23, 2019 at the LPDB offices. Staff will present a recommendation.
- b. District 25 - Resignation of District Defender (Plaquemines Parish) **pg. 245**
- i. Search for District Defender – Status. *The final appointment was made to the Selection Committee by the LSBA President on April 15, 2019. The Committee has 60 days from that date to present their list of at least three qualified candidates for the position.*
- ii. Interim District Defender, District 25* **pg. 246**
The Budget Committee is recommending ratification of the appointment of Tom Gernhauser as Interim District Defender made on March 22nd at a salary of \$3000 per month pending selection of a permanent district defender.
- c. LLA District Compliance Report, 2019 **pgs. 247-273**
Annual report released by the LLA on district compliance.
11. LPDB – JLCB 2018 Report **Tab 7, pgs. 274-279**
Annual mandatory report submitted to JLCB on March 1.
12. Legislative Session, 2019 - informational
13. Division Reports **Tab 8**
- a. Capital **pgs. 280-288**
- b. Juvenile Strategic Plan **pgs. 289-290**
14. Announcements
- a. Executive Staff Position Interviews
15. Next Meeting
16. Adjournment*



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, May 9, 2019
Bluebonnet Regional Library, Baton Rouge, LA
12:30 p.m.

Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, May 9, 2019, at the Bluebonnet Regional Library in Baton Rouge, Louisiana, at approximately 12:30 p.m.

The following Board members were present¹:

| | | |
|-----------------|---------------|-----------------|
| Zita Andrus | Chris Bowman | Flozell Daniels |
| Patrick Fanning | W. Ross Foote | Michael Ginart |
| Frank Holthaus | Donald North | Chaz Roberts |

The following Board members were absent:

| | |
|------------------|----------------|
| Katherine Gilmer | Moses Williams |
|------------------|----------------|

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

James T. Dixon, Jr., State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Anne Gwin, Executive Assistant
Richard Pittman, Deputy State Public Defender, Dir. of Juv. Defender Services
Tiffany Simpson, Juvenile Compliance Officer/Legislative Director
Erik Stilling, Information and Technology Director

2. Adoption of the Agenda. Professor Donald North moved to adopt the agenda. Mr. Chris Bowman seconded the motion which passed unopposed.

3. Call for Public Comment. No one presented for public comment.

4. Adoption the Minutes, January 31, 2019. Judge Ross Foote moved to adopt the Minutes of the January 31, 2019 meeting. Professor North seconded the motions which passed unopposed.

¹ Mr. Flozell Daniels arrived at approximately 12:40 pm.; Mr. Patrick Fanning arrived at approximately 12:45; Mr. Mike Ginart arrived at approximately 12:55p.m. Voting quorum was not affected by the late arrival of the three Board members.

Chairman Holthaus announced that item 10a – District 17 – District Defender Selection - would be taken out of place on the agenda and in Executive Session.

10a. District 17 – District Defender Selection. State Public Defender James Dixon reported having received from the Selection Committee an alphabetical list of three candidates for the district defender position in District 17 (Lafourche Parish), that staff had completed all interviews and that their recommendation for the position is attorney Andrea Stentz.

5. Executive Session. Professor North moved to go into Executive Session. Mr. Bowman seconded the motion which passed unopposed. Professor North moved to leave Executive Session. Ms. Zita Andrus seconded the motion which passed unopposed.

Chairman Holthaus called the regular meeting to order at approximately 1:05 p.m.

10a. (continued). Chairman Holthaus reported the recommendation of Andrea Stentz for the District Defender position in District 17. Judge Foote moved to adopt the recommendation and appoint Ms. Stentz as the District Defender in District 17. Ms. Andrus seconded the motion. Upon vote, the motion passed with one abstention by Professor North. Professor North then rescinded his abstention and the vote was made unanimous.

6. Strategic Plan. State Public Defender Dixon reported that the Strategic Plan as presented is required by the Board. Professor North moved for adoption. Judge Foote seconded the motion which passed unopposed.

7. Budgetary and Fiscal

a. Financial Report through March 31, 2019. Ms. Carter reported \$33,786,377 encumbered or expended as of March 31, 2019; \$1,765,792 projected to be expended or encumbered through June 30, 2019; and, \$114,121 available for reallocation less several thousand inadvertently omitted for administrative expenses through the end of the fiscal year. Professor North reported that the Budget Committee is recommending the report for adoption, as presented. Mr. Chaz Roberts seconded the recommendation which passed unopposed.

b. FY19

i. Solvency Projections. SPD Dixon gave a brief summary of the district projections made with data through February 28, 2019 which were reviewed by Budget Committee and an updated version with March 31, 2019 data. He reported that the March projections indicate that Districts 11, 19, 35 and 41 will experience shortfall and those districts have requested exigency, two of which have been review by the Budget Committee (District 11 (Sabine Parish) and District 19 (EBR Parish) and come with recommendations by that Committee. District 35 (Grant Parish) and District 41 (Orleans Parish) exigency requests were received on May 6th and have not been before the Budget Committee.

ii. Exigency Funding*

a. District 11 (Sabine Parish) - \$10,000. Mr. Dixon reported that District 11 (Sabine Parish) has requested and the Budget Committee is recommending exigency funding in the amount of \$10,000. District Defender Steve Thomas reported that the funds

are absolutely necessary to get his district through July, 2019. Mr. Flozell Daniels seconded the recommendation which passed unopposed.

b. District 19 (East Baton Rouge Parish)- \$600,000. Mr. Dixon reported that District 19 (EBR Parish) has requested \$600,000 and the Budget Committee is recommending exigency funding in the amount of \$452,593; however, since the Budget Committee's review, the district received a one-time influx of funds from LDR tax refunds in the amount of \$169,122. Staff is recommending that the \$452,593 recommendation be reduced by the \$169,122 for a total exigency disbursement – at this time – of \$283,481. Mr. Dixon clarified that a June Board meeting will be necessary to discuss and finalize year end FY19 exigency needs. If these payments are made as discussed, there would be approximately \$491,000 left in the exigency fund. Judge Foote moved to approve exigency funding to District 19, as amended in the amount of \$283,481. Mr. Mike Ginart seconded the motion which passed unopposed.

c. District 35 (Grant Parish)- \$24,000. Mr. Dixon reported being unclear as to the actual request being made by District 35 (Grant Parish) stating the need for \$8,000 to make payroll in June but a total of \$24,000 needed to get through July, 2019. Professor North expressed disappointment and concern over the district's late submittal and the request not having gone through proper channels (Budget Committee/review/recommendation process). Mr. Dixon suggested, alternatively, to give staff the authority to provide up to \$8,000 in the event the district has an emergency, pending the opportunity for the Budget Committee to meet and review the request. Mr. Chaz Roberts moved to submit the district's request for exigency to the Budget Committee for recommendation to the Board. Professor North seconded the motion which passed unopposed.

d. District 41 (Orleans Parish) – \$700,000. Professor North reiterated his concern for the review/recommendation process and this request not having been before the Budget Committee. Mr. Chris Bowman moved to refer the request to the Budget Committee for recommendation. Professor North seconded the motion. Mr. Ginart reported that District 41 (Orleans Parish) District Defender Derwyn Bunton has been keeping the Budget Committee and the Board apprised of his fiscal situation for some time. Mr. Bowman expressed concern that districts would begin to establish a practice of bypassing the Budget Committee. Mr. Dixon clarified that staff is recommending a reduced allocation of \$228,811 and not the full \$700,000 request. Mr. Bunton addressed the Board and explained why his submittal comes before the Board at this time. Dr. Tiffany Simpson reported that even with this \$228,811 allocation, Mr. Bunton, whose district is already in ROS and who has submitted an updated ROS plan, will still have to make service restriction cuts. Mr. Dixon reported the \$228,811 to Orleans and other exigency payments would leave \$515,900 in exigency for dispersal in June. A friendly amendment was made to Mr. Bowman's motion

authorizing the State Public Defender to disburse exigency funds in the amount of \$228,811 to District 41 (Orleans Parish) only in the event of an emergency; otherwise, the request is to be referred to the Budget Committee for review and recommendation. Mr. Bowman accepted the amendment and the question was called. Upon vote, the motion as amended carried six in favor and three (Fanning/North/Roberts) against.

c. Catastrophic ROS*. Mr. Dixon reported that the Budget Committee is recommending this issue to the Policy Committee for review and update of the existing ROS protocol/guide. Judge Foote seconded the recommendation which passed unopposed.

d. FY20 Appropriation.

i. CINC FY20 Funding. Deputy State Public Defender/Director of Juvenile Defender Services Richard Pittman gave an update regarding funding for partial reimbursement by the federal government for parent and child representation in child welfare cases. He reported that because of the complicated structuring the process will most likely start out slowly which will mean the funding will not be as much as was hoped to begin, but as the attorneys and programs are set up the funding matches should grow with it. He further reported the potential for pilot programs in districts that parallel with existing DCFS parish programs. He reiterated from earlier meetings a timekeeping requirement likely to be tied to the funding.

e. FY2020 Contract Amounts. The Budget Committee's original recommendation was to maintain funding for FY20 as presented (staff recommendation column) equal to what each contractor was initially approved for in FY19. After discussion and concerns expressed regarding increases in some professional contracts when the same services are provided by salaried staff, missing data that was requested on the 501(c)3 programs in order to adequately access their funding needs and whether the Board is required to provide funding for McCoy issue cases, action continued on each contract section below, as follows:

i. Professional and Consulting. Judge Foote moved to authorize the contract amounts for the five professional and consulting contractors at the bottom of page 190, as invoiced in the past. Mr. Daniels seconded the motion. Upon vote, the motion carried with seven in favor and two (Bowman/North) in opposition.

ii. 501(C)3 Programs. Mr. Chaz Robert moved to approve the contract amounts as recommended in order to allow staff to start the contract process and, if necessary, to amend the contract amounts at a later date. Mr. Daniels seconded the motion. Upon vote, the motion carried with seven in favor and two in opposition (Bowman/North).

iii. McCoy Remand Contracts. Mr. Daniels moved to approve each contract at \$20,000 each, as recommended. Judge Foote seconded the motion. It was clarified before vote that the contractors would submit monthly invoicing. Upon vote, the motion carried six in favor and three in opposition (Bowman/Fanning/North).

f. DAF FY20. SPD Dixon reported having worked closely with the DDAC on various plans and a consensus reached on Method 14 in the materials that was presented to the Budget Committee with three other viable plans (out of 28). Method 14, which assumes \$24.08M available for distribution to the districts, gets all but

one district (District 41 (Orleans Parish)) through FY20 is being recommended for adoption by the Budget Committee. Mr. Dixon also reported that although there are four districts in this plan that get zero funding for FY20, this plan also results in an additional one million dollars to be combined with the usual 5% withheld (approximately \$1.2M) from the DAF for a total of approximately \$2M available for exigency distribution. Several board members expressed concern for not funding district that have exhibited good stewardship and administration over districts that may overspend and are then rewarded. Mr. Dixon reminded the Board that there needs to be a policy regarding fund balances, an issue which has not been addressed. Mr. Bowman suggested funding the districts that get zero funding at FY19 amounts using the \$1M additional funds that this plan provides. Mr. Dixon indicated doing that would result in some districts accruing huge fund balances. Mr. Reginald McIntyre (District 21 (Livingston, St. Helena, Tangipahoa, District Defender) reminded the Board that a decision is needed because the districts are required to prepare and advertise their budgets by mid-June.

Mr. Pat Fanning moved to adopt the recommendation of the Budget Committee with the exception that the four or five district that received zero funding would be funded at 50% of their FY19 DAF amount. Professor North seconded the motion with the exception that the 50% cap be removed allowing the “zeroed” districts the option to apply for available funding from the one million additional dollars in order to make them whole.

Discussion continued. Chairman Holthaus requested that Mr. Fanning reiterate his motion. Mr. Fanning moved that the Board adopt the recommendation of the Budget Committee with the exception that the five districts that got nothing get 50% of what they got last year. Professor North then seconded the motion without condition.

Discussion continued and Mr. Chaz Roberts offered a substitute motion to adopt the Budget Committee’s recommendation (Consensus Method 14) and refer the residual one million dollars to the Budget Committee for consideration for disbursement across the state, as needed. Mr. Flozell Daniels seconded the motion. Mr. Fanning did not accept the substitute motion and Chairman Holthaus called for a vote on Mr. Fanning’s original motion. Upon oral vote, Mr. Fanning’s motion failed to carry as a tied vote. (Four in favor: Bowman, Fanning, Ginart, North. Four against: Holthaus, Daniels, Foote, Roberts).

Discussion continued and Chairman Holthaus repeated Mr. Roberts’ motion that the Board adopt the (Budget Committee’s Consensus Method 14) recommendation and refer the available million dollars to the Budget Committee for consideration for disbursement across the state, as needed. He confirmed that the motion had been seconded and called for a vote. Upon vote, the motion passed with 5 in favor and 3 in opposition (Bowman/Fanning/North)².

² Board member Zita Andrus left the meeting at 3:00 p.m. affecting voting numbers, but not quorum.
5-Board_May 9 2019_Minutes

8. ROS Updates. Dr. Tiffany Simpson gave a brief report on statewide ROS and reported having received updated ROS plans from District 19 (EBR Parish) and District 41 (Orleans Parish) which are in the materials.

9. Resolutions and Policies. SPD Dixon reported that the Board requested at a prior meeting that General Counsel seek an Attorney General Opinion on the issue of email strings possibly violating Open Meeting Laws and proper email procedures among Board members and the field. AG rules require a current Board Resolution be attached to the opinion request at submittal time. Judge Foote moved that the Resolution be passed giving authority to seek the opinion. Mr. Ginart seconded the motion which passed unopposed.

10. District Information

a. District 17 – District Defender Selection. The item was taken up earlier in the agenda after Executive Session.

b. District 25 - Resignation of District Defender (Plaquemines Parish)

i. Search for District Defender – Status. Mr. Dixon reported that the final appointment the Selection Committee has set a deadline for applications and the position has been announced in various media venues.

ii. Interim District Defender, District 25. Mr. Dixon indicated that Tom Gernhauser has been appointed as Interim District Defender at a salary of \$3,000 per month pending selection of a permanent district defender and he is requesting ratification of the actions. Mr. Daniels moved to ratify the appointment and salary and Mr. Ginart seconded the motion which passed unopposed.

c. LLA District Compliance Report, 2019. Mr. Dixon reported that the annual report released by the LLA on district compliance is in the materials.

11. LPDB – JLCB 2018 Report. Mr. Dixon reported that the JLCB report in the materials is an abbreviated version on the annual report and is submitted annually to JLCB on March 1.

12. Legislative Session, 2019. Legislative Director Dr. Tiffany Simpson reported on recent legislative activity specifically HB – which forms a new indigent defense board in City Court in Lafayette Parish. She reported that this bill is to be heard on the House floor May 15, 2019.

13. Division Reports. Mr. Dixon reported the Capital and Juvenile reports are in the materials for review.

14. Announcements. SPD Dixon reported the Trial Level Compliance Officer and Director of Training positions have been announced, applications received and interviews are to be scheduled in the near future. Board members will be provided with the interview schedules for participation.

Judge Foote reported that he would like for the Policy Committee to focus on policies to “rebrand” indigent defense not as a public defender problem but as a problem of the criminal justice system as a whole and wants to start looking at funding mechanisms, among other things. He indicated he will be addressing this and other issues at the upcoming state judges meeting this summer.

Executive Session: Professor North moved to go into Executive Session. Mr. Ginart seconded the motion which passed unopposed. Professor North moved to leave Executive Session. Mr. Daniels seconded the motion which passed unopposed.

15. Next Meeting. The Board set the next meeting for June 11, 2019 at 1:00 p.m. The Budget Committee will meet the same date at 12:00 p.m.
16. Adjournment. Mr. Ginart moved to adjourn which was seconded by Mr. Roberts. The motion passed unopposed and the meeting adjourned at approximately 4:10 p.m.

Guests:

| | | |
|-------------------|----------------|--------------------|
| Richard Stricks | Irlane Lee | Olivier Carriere |
| Herman Castete | Andrew Wise | Damon Stentz |
| Maria Dugas | Andrea Stentz | Steven Thomas |
| Ella Kliebert | G. Paul Marx | Reggie McIntyre |
| Chuck Reid | Alan Robert | Mike Courteau |
| Jee Park | Cecelia Kappel | Kyla Romanach |
| Carlton Cheramie | Yvette Beamon | Jack Wagar |
| Thomas Gernhauser | Richard Bourke | Paul Fleming |
| Richard Tompson | Kerry Cuccia | David E. Marcantel |
| Derwyn Bunton | Bob Noel | Mike Courteau |
| Rachel Conner | | |

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 9th day of May, 2019, as approved by the Board on the 11th day of June, 2019 at Baton Rouge, Louisiana.



 C. Frank Holthaus, Chairman



LOUISIANA PUBLIC DEFENDER BOARD

Tuesday, June 11, 2019
East Baton Rouge Parish Main Library
7711 Goodwood Boulevard
Baton Rouge, LA 70806
1:00 p.m. – 4:30 p.m.

AGENDA

1. Call to Order and Comments by Chairman, Frank Holthaus
2. Adoption of the Agenda* pgs. 291-293
3. Call for Public Comment¹
4. Adoption the Minutes, May 9, 2019* **Tab 1**, pgs. 294-300
5. Executive Session²
6. State Public Defender **Tab 2**
 - a. Resignation of James T. Dixon, Jr. pg. 301
 - b. Senate Resolution, "Jay Dixon Day" pgs. 302-303
 - c. Appointment of an Interim SPD*
 - d. Personnel Working Group
 - e. Statutory Qualifications and Duties of the State Public Defender pgs. 304-305
La. R. S. 15:150 and La. R.S. 15:152
7. Budgetary and Fiscal **Tab 3**
 - a. Financial Report through April 30, 2019* pgs. 306-310
 - b. FY19
 - i. Solvency Projections-informational pg. 311
 - ii. Exigency Requests*
 1. District 15 (Acadia, Lafayette and Vermilion Parishes) \$ 175,737
Staff Recommendation - \$0- pg. 312-313
 2. District 35 (Grant Parish), \$8,000
Staff Recommendation - \$8,000 pg. 314-315
 3. District 41 (Orleans Parish)
Staff Recommendation - \$121,000 pgs. 316-320

¹ Public Comments shall be limited to items on the duly noticed agenda pursuant to open meeting laws.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards*, et al, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge.

- c. Final FY19 DAF Disbursement* pg. 321
After exigency needs of are considered, Staff recommendation is to distribute all remaining Fy19 DAF pro rata, to all districts following the original FY19 distribution formula. The chart in the materials is a demonstration of the methodology and not a recommendation.
 - d. FY19 501(c)3 Contract* pgs. 322-325
 - i. Capital Defense Project of Southeast Louisiana
 - e. Authority to Disburse FY19 Year End Funds*
Because the next meeting of the Board will be in the next fiscal year, staff is requesting authority to disburse any remaining FY19 funds to the districts as deemed necessary.
 - f. FY20 – HB105 - Informational pg. 326
 - g. FY2020 CINC* pgs. 327
Proposed CINC disbursement to the districts based on estimated FY20 caseloads using May 1 2018 – Apr 20 2019 case counts.
 - h. FY2020 DAF – One Million Residual Disbursement* pgs. 328-330
*The Board approved the Method 14 consensus DAF distribution plan at the May 9 meeting. That plan results in an additional \$1M residual monies for the Budget Committee to disburse statewide, as needed. Staff will present a recommendation to disburse **a portion** of those funds at this time to cover funding needs by a large number of districts through July of 2020, and to reserve the balance for disbursal at a later date.*
 - i. FY20 501(c) Contract Amendments* pg. 331
The Board approved 501(c)3 contract amounts at the May 9 meeting in order that staff could meet state contract deadlines with the understanding that amendments to those amounts would be sought. Increase requests are to the capital contracts only.
 - j. District 17 Salary Ratification* pg. 332
The Board approved Ms. Andrea Stentz for the district defender position at the May 9, 2019 meeting. The current annual salary for the position is set at \$76,000; however, District 17 falls within Tier 2 with District 3 (Lincoln and Union Parishes) and District 5 (Franklin, Richland and W. Carroll Parishes). Those two districts are managed by LPDB’s two most recent hires, Mr. Rick Candler and Mr. John Albert Ellis, respectively, both of whom are paid an annual salary of \$90,000.
- 8. District Issues
 - a. District Defender – District 25 - Informational
The selection committee is interviewing applicants for the position on Monday, Jun 3, 2019.
 - 9. Legislative Session, 2019 - informational
 - 10. Division Reports - Informational **Tab 4**
 - a. Capital pgs. 333-341
 - b. Juvenile Strategic Plan pgs. 342-343

11. Announcements
12. Next Meeting*
13. Adjournment*



LOUISIANA PUBLIC DEFENDER BOARD

Tuesday, June 11, 2019
East Baton Rouge Parish Main Library
7711 Goodwood Boulevard
Baton Rouge, LA 70806
1:00 p.m.

Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Tuesday, June 11, 2019, at the Goodwood Regional Library in Baton Rouge, Louisiana, at approximately 1:25 p.m.

The following Board members were present¹:

| | | |
|---------------|----------------|-----------------|
| Zita Andrus | Chris Bowman | Patrick Fanning |
| W. Ross Foote | Michael Ginart | Frank Holthaus |
| Donald North | Chaz Roberts | Moses Williams |

The following Board members were absent:

| | |
|-----------------|------------------|
| Flozell Daniels | Katherine Gilmer |
|-----------------|------------------|

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

James T. Dixon, Jr., State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Anne Gwin, Executive Assistant
Richard Pittman, Deputy State Public Defender, Dir. of Juv. Defender Services
Tiffany Simpson, Juvenile Compliance Officer/Legislative Director
Erik Stilling, Information and Technology Director

2. Adoption of the Agenda. Professor Donald North moved to adopt the agenda. Ms. Zita Andrus seconded the motion which passed unopposed.

3. Call for Public Comment. No one presented for public comment.

4. Adoption the Minutes, May 9, 2019. Professor Donald North moved to adopt the Minutes of the May 9, 2019 meeting. Mr. Chris Bowman seconded the motions which passed unopposed.

¹ Mr. Williams arrived after roll call; however, voting quorum was not affected by the late arrival.
1_Board Minutes_Jun 11 2019

5. Executive Session². Judge Foote moved to amend the agenda to move executive session to the end of the agenda. Professor North seconded the motion which passed unopposed and executive session was deferred to later in the meeting.

6. State Public Defender

a. Resignation of James T. Dixon, Jr. State Public Defender James Dixon announced his resignation effective July 19, 2019 and his new employment in Massachusetts. Chairman Holthaus thanked Mr. Dixon for his service.

b. Senate Resolution, "Jay Dixon Day". Chairman Holthaus reported briefly on the Resolution presented by the Senate declaring June 3 at Jay Dixon Day and again thanked Mr. Dixon for his service.

c. Appointment of an Interim SPD*. Mr. Chris Bowman moved to defer this issue to Executive Session as a personnel matter. Professor North seconded the motion which passed unopposed.

Professor North inquired how long the process of hiring a new State Public Defender would take. Mr. Dixon indicated that staff would assist in the search but that the interviews of all applicants would be done by the Board as staff would not be involved in the interview process.

d-e. Appointment of Personnel Working Group and Statutory Qualifications and Duties of the State Public Defender. Mr. Holthaus indicated items 6d and 6e would be discussed after Executive Session is held.

7. Budgetary and Fiscal

a. Financial Report through April 30, 2019. Budget Administrator Natashia Carter reported that the financial report as presented is being recommended for adoption by the Budget Committee and reflects \$33,952,313 expended or encumbered; \$1,658,888 projected to be expended by the end of the fiscal year and approximately \$89,645 available for reallocation to the districts. Mr. Bowman seconded the Committee's recommendation for adoption which passed unopposed.

b. FY19

i. Solvency Projections-informational. Mr. Dixon gave a brief summary of the solvency projections as they relate to the exigency requests below. He further reported that the Budget Committee is recommending exigency payments as follows: District 15 (Acadia, Lafayette and Vermilion Parishes) requested \$175,737; however, projections indicated the district will remain solvent through July 15, 2019 with the addition of the final year-end DAF distribution so his recommendation is zero exigency funding to that district; \$8,000 to District 35 (Grant Parish) and \$121,086 to District 41 (Orleans Parish). Judge Foote seconded the Committee's recommendation which passed unopposed.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards, et al*, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge.

c. Final FY19 DAF Disbursement. Mr. Dixon reported that after exigency distributions in the approved amounts, his recommendation is to distribute all remaining FY19 DAF on a pro rata basis to all districts following the original FY19 distribution formula. He further reported that the Budget Committee is favorably recommending the pro-rata distribution. Judge Foote seconded the Budget Committee's recommendation which passed unopposed.

d. FY19 501(c)3 Contract - Capital Defense Project of Southeast Louisiana. Chairman Holthaus reported that the Budget Committee took no action on this item as they were satisfied with Mr. Kerry Cuccia's report to the Board on the issue of his current fund balance.

e. Authority to Disburse FY19 Year End Funds. Mr. Dixon reported approximately \$89,000 remaining in administrative funds which he is requesting authority to distribute to the districts, based first on need, following the original DAF distribution formula. He indicated the Budget Committee's recommendation to grant the authority to distribute the funds, as needed. Judge Foote seconded the recommendation which passed unopposed.

f. FY20 – HB105 – Informational. Mr. Dixon reported that HB 105 has passed both house and senate and is awaiting the Governor's signature. The bill allocates \$39,193,193 to the Public Defense Fund of which 65% (\$25,275,575) is allocated to the districts, pursuant to La. R.S. 15:167(E), leaving \$13,717,618. Additionally, the districts will receive their pro rate share of the CINC monies of \$979,680 (based on CINC caseloads). The DNA funds in the amount of \$50,000 are distributed by staff pursuant to court orders. There is an additional \$50,000 provided for interagency transfers for a total allocation to LPDB for FY20 in the amount of \$40,272,872.

g. FY2020 CINC. Mr. Dixon reported that the Budget Committee is recommending CINC disbursement to the districts based on estimated FY20 caseloads using May 1, 2018 – April 20, 2019 case counts. Mr. Fanning seconded the Committee's recommendation for disbursal which passed unopposed.

h. FY2020 DAF – One Million Residual Disbursement. The Board approved the Method 14 consensus DAF distribution plan at the May 9th meeting. That plan results in approximately one million residual dollars to be disbursed to the districts. Mr. Dixon reported his recommendation to the Budget Committee to disburse a portion of those funds to cover funding needs by a large number of districts through July of 2020, and to reserve the balance for disbursal at a later date has been deferred without action by the Committee to the full Board. Mr. Dixon reported that while the Board has the authority to expend any funds that no districts are facing shortfall through July of 2020.

Mr. Mike Ginart and Mr. Chris Bowman each expressed concern for districts either receiving no DAF or were cut drastically from last year's allocation. Specifically, District 2 (Bienville, Claiborne, Jackson Parishes) is down \$100,000 and District 34 (St. Bernard Parish) cut almost 80% from FY19. The district defenders from those parishes reported to the Board. Board member, Chaz Roberts, expressed concern for giving any district funding at this point when none are in trouble. He urged the Board to withhold the funds until such time as need could be established and exigency requests brought before the Board. He also expressed concern regarding providing funds to districts with large projected fund balances.

The discussion that followed resulted in several concepts for the distribution of the residual monies for Board decision/action: 1) use a portion (later determined to be one-half (\$500,000)) which would "re-pay" those districts whose DAF was lessened in order to get

all districts through the FY20 year, adding the balance to the remaining 5% DAF exigency fund; 2) hold all funds (\$2.2M) as exigency and get a greater focus on where the greater need is; and/or, 3) use a hybrid and disburse a portion of the funds to Districts 2 and 34 and withhold the remainder to be disbursed on a case-by-case basis, based on documented need.

Professor North then moved to provide District 2 (Bienville, Claiborne, Jackson Parishes) with the requested funds, to withhold the balance and for the remainder of the districts to bring their requests to the Board.

Discussion continued in order to clarify the amounts being requested, requested by whom, and the amounts to be disbursed. It was determined that District 2 (Bienville, Claiborne, Jackson Parishes) is requesting \$100,000 in addition to his proposed DAF allocation (\$107,000) which would bring him equal to his FY19 allocation. Mr. Tom Gernhauser, District Defender, District 34 (St. Bernard Parish) indicated that with the 80% cut in DAF that his district would expend all fund balances in FY20 and he would be a zero.

Chairman Holthaus asked for a second to Professor North's motion to provide District 2 (Bienville, Claiborne, Jackson Parishes) with \$100,000. Mr. Bowman seconded the motion. Mr. Dixon clarified that the full amount to District 2 (Bienville, Claiborne, Jackson Parishes) under Professor North's motion would be \$107,154.

Mr. Roberts addressed the issue of districts accruing fund balances and inquired the status of District 2 (Bienville, Claiborne, Jackson Parishes). Mr. Kneipp clarified that his district is experiencing reduction in local revenues but that the budgets aren't out yet. Mr. Roberts expressed concern regarding how the Board will address future requests by the other districts who experienced reduction in their DAF. Mr. Moses Williams also expressed concern about giving out funds at this time to districts not in trouble.

Mr. Pat Fanning offered an amendment to Professor North's motion that District 34 (St. Bernard Parish) receive funding as well. Professor North agreed to accept any amendment that would provide assistance to them. Mr. Richard Pittman stated that dollar amounts were needed to clarify the motion. After discussion, Professor North offered a substitute motion that the Board provide funding to District 2 (Bienville, Claiborne, Jackson Parishes) and District 34 (St. Bernard Parish) in the amount of \$75,000 in addition to the allocated DAF. Mr. Bowman seconded the substitute motion. Upon vote, the motion passed with five in favor (Bowman, Fanning, Ginart, North, Williams) and four against (Andrus, Holthaus, Foote, Roberts).

i. FY20 501(c) Contract Amendments. Mr. Dixon reported the proposed budget in HB 105 would have approximately \$1.4M available for reallocation to the contract programs and pursuant to that he is recommending increases to the Louisiana Capital Assistance Center (LCAC) in the amount of \$600,000 (\$1,110,009 to \$1,170,009), \$345,000 to the Capital Post Conviction Program of Louisiana - CPCPL (\$1,110,009 to \$1,455,009) and \$345,000 to the capital trial expert witness fund (\$250,000 to \$595,000). The remaining capital trial programs Baton Rouge Capital Conflict Office (BRCCO) and the Capital Defense Project of Southeast Louisiana (CDPSLA) would remain at FY19 allocations of \$1,110,009 each. Mr. Dixon indicated that the increase to LCAC is to fund an additional full team in order to alleviate the growing waitlist and that group is currently fully staffed

and in the best position to move forward with an additional team. Additionally, CPCPL has been underfunded and the expert witness fund is running out of funds.

Mr. Kerry Cuccia and Ms. Kyla Romanach, Executive Directors of the CDPSLA and BRCCO, respectively, addressed the Board. Mr. Cuccia stated that LCAC, currently underfunded for two full teams in the same way that BRCCO and CDPSLA is underfunded for two full teams, would be using the \$600,000 first to fully fund its current two teams. He suggested that an equal split of the available funds allowing each program to fully fund two full teams is the most equitable disbursement and the best way to address the growing waitlist. Mr. Cuccia explained that in the next fiscal year his group has three capital trials scheduled, and without additional funding he will be expending his fund balance. Mr. Cuccia also expressed his dismay that there was no conversation between staff and the programs this year as in the past as to how best to distribute available funds and address capital needs.

Ms. Romanach indicated her office is similarly structured to Mr. Cuccia's and a standstill budget will result in having to expend reserves. Her group also has trials statewide this fiscal year. She agreed with Mr. Cuccia that allocating the money equally between the programs would provide equal capacity and the three groups could then maintain two full teams as opposed to two offices having to go down to one and a half teams, cutting capacity while expending reserves.

After a brief discussion, Mr. Chris Bowman moved to adopt staffs' recommendation. Judge Foote seconded the motion. Mr. Moses Williams asked for clarification on the impact of staffs' recommendation. Mr. Dixon reported that, at the least, the waitlist would go down. Mr. Mike Ginart asked how many cases one team would be able to take. Ms. Jean Faria, Capital Case Coordinator indicated three to five, based on their capacity to take the case which is based on what they currently have, whether they're going to trial, whether they are in trial, distance, and the discretion of the executive director.

Mr. Ginart asked what problems would be caused by deferring a decision on this issue. Ms. Faria indicated the programs would not be able to staff up or start working on the waitlist that would continue grow. Mr. Holthaus inquired if a program could be required to take a determined number of cases if the Board funded them as a means to get the waitlist down. Ms. Faria reported the programs at set up on an "hour purchase" basis and all have a full caseload. They are each set up to take three to five cases. Mr. Holthaus inquired that even if LPDB should agree to pay for more hours, how is LPDB ensured new (waitlisted) cases are taken rather than just more hours expended on current cases. Mr. Dixon indicated that they would have a new team to assist.

Given the information from the discussion, Mr. Bowman withdrew his motion to adopt staffs' recommendation.

Mr. Roberts asked for clarification on why one group is better suited to handle these cases than the other two. Ms. Faria reported LCAC has an international reputation, is able to bring in people from all over the country and world, has a massive number of interns that come in free and is able to utilize what funding that they get from LPDB to assist in getting

other funds from other entities to help bring in people. Mr. Roberts asked Mr. Cuccia if \$600,000 seemed reasonable to staff one full team. Mr. Cuccia agreed.

Mr. Moses Williams then moved to table this matter until the next Board meeting with a request that the Board get a detailed explanation on how we can be assured that the extra expenditure will in fact have a positive impact in reducing the caseload by a certain number. Mr. Fanning agreed and indicated that LCAC should at least be at the next meeting to address the board and seconded the motion. Mr. Holthaus asked to exchange the word “table” with “defer”. Upon a vote, the motion passed with eight in favor and one (Ross Foote) in opposition to deferring the capital trial program contract amounts to the next meeting.

j. District 17 Salary Ratification. Mr. Dixon reported that the Budget Committee is recommending an annual salary of \$90,000 for Ms. Andrea Stentz, District 17 (Lafourche Parish) District Defender. Mr. Fanning seconded the recommendation which passed unopposed.

8. District Issues

a. District Defender – District 25. Mr. Dixon reported that the Selection Committee has completed the interview process and should be submitting the list of applicants for the position for second round of interviews in the next few days.

9. Legislative Session, 2019. Dr. Tiffany Simpson, Legislative Director, provided a brief summary of the 2019 session as it pertained to indigent defense and LPDB.

10. Division Reports. Mr. Dixon reported the Capital and Juvenile reports are in the materials for review.

6c. Chairman Holthaus then returned to Item 6c – Personnel Working Group. Mr. Holthaus reported that historically the Board has formed committees to hear all applicants and attend interviews and indicated his desire to form a search committee comprised of three to five members who are to develop the process and start the search for the next State Public Defender. Mr. Holthaus indicated he was appointing the two Committee Chairs -- Donald North and Ross Foote -- and himself to the Search Group and asked for other volunteers. Mr. Chris Bowman and Mr. Moses Williams volunteered. Mr. Ginart stated his opinion that five members to the group is too many. Discussion continued as to the duties of the Committee. Clarification indicated duties are to include the dissemination of the position notice, receipt of resumes, spreadsheet tracking, application criteria, vetting of applicants for qualifications, interview preparation and interviews. Clarification was also made that the committee would not exclude any applicant unless unequivocally unqualified but that a list all applicant names would be submitted to the full board for review nor would the committee vote on any applicant as a committee.

5. Executive Session. Mr. Bowman moved to go into Executive Session. Mr. Ginart seconded the motion. Professor North expressed opposition and stated his desire to discuss the hiring of an interim. Mr. Bowman indicated no action would be taken in Executive Session and that discussion would be had in regular session. Mr. Ginart then took the opportunity to thank Mr. Dixon for his service after which Mr. Holthaus called Executive Session and asked all staff and guests to leave.

Chairman Holthaus called the regular meeting to order at approximately 4:00 p.m. Upon return to Regular Session, Mr. Pat Fanning moved to appoint Mr. Richard Pittman as Interim State Public Defender for 60 days, subject to renewal, at the same salary as the current State Public Defender during the interim period. Mr. Ginart seconded the motion which passed unopposed.

11. Announcements. No announcements were made.
12. Next Meeting. The next meeting was set for August 8, 2019, at 12:00. Location to be announced.
13. Adjournment. Mr. Fanning moved to adjourn. Ms. Andrus seconded the motion which passed unopposed.

Guests:

| | | |
|--------------------|---------------------|----------------------|
| Paul Fleming | Renee Bourg | Richie Tompson |
| Kevin Fouquier, II | Gary Clements | Kyla Romanach |
| Cecelia Kappel | Jee Park | Derwyn Bunton |
| Deirdre Fuller | John Albert Ellis | Chris Aberle |
| G. Paul Marx | Don Kneipp | Alan Robert |
| Bob Noel | John Lindner | Herman A. Castete |
| Robert L. Kennedy | Michael A. Mitchell | Lindsay Blouin |
| Stephen Stanford | Edmund (LNU) | Kerry Cuccia |
| Mike Courteau | Maggie LeBlanc | John Burkhart |
| David Marcantel | Thomas Gernhauser | Bruce E. Unangst, II |

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 11th day of June, 2019, as approved by the Board on the 8th day of August, 2019 at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, August 8, 2019
Bluebonnet Regional Library
9200 Bluebonnet Boulevard, Room 2
12:00 p.m.

AGENDA

1. Call to Order and Comments by Chairman, Frank Holthaus
 - a. Commendation – Mr. LeRoy Smith, District Defender, District 6
2. Adoption of the Agenda* pgs. 344-346
3. Call for Public Comment
4. Adoption the Minutes, June 11, 2019 Meeting* **Tab 1**, pgs. 347-353
5. Executive Session¹, ^{2*}

ACTION ITEMS

6. District 6 – District Defender* **Tab 2**, pg. 354
 - i. Ratification of Appointment and Salary of Interim District Defender, Ms. Angela Claxton, \$2,000/mo*
SPD Jay Dixon appointed Attorney Angela Claxton as Interim District Defender after the death of Mr. LeRoy Smith. Her appointment and salary requires the Board's ratification. The Selection Committee for District 6 was finalized on Friday, Aug 2 2019 with the final appointment to the committee by the LSBA Chairman. The committee has 60 days to submit a list of at least 3 candidates for the position.

¹ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards*, et al, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge; Orders or pending orders in the following capital cases: *State v. Isom Scott*, Docket: 79115, 11 JDC; *State v. Blake Kendall*, Docket: 77572, 11th JDC; *State v. DeWayne Watkins*, Docket 362447, 1st JDC; *St. v. Derrick Mitchell*, Docket: 2017-CR-62422, 15th JDC; *St. v. Dakota Theriot*, Docket 38517, 21st JDC and Docket 40300, 23rd JDC.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The board may discuss the applicants interviewed for the District Defender position in District 25: Ms. Chanel Long, Ms. Autumn Harrel, Mr. Victor Papai and Mr. Amos Cormier.

7. **District Defender – District 25 Recommendation*** **Tab 3**
Staff has completed interviews of applicants submitted by the Selection Committee for the District 25 (Plaquemines Parish) and will make a recommendation for the position and a salary. pgs. 355
8. **Capital Case Funding – Registry of the Courts - \$300,000***
Since the last Board meeting, LPDB has been ordered to remit \$300,000 to the registry of the courts in 3 separate capital cases in Citizen litigation. Writs are being taken. The programs have proposed a resolution to the Citizen litigation and have proposed a contract schedule for the capital programs and EWF's.
9. **501(c)3 contract amounts*** **Tab 4, pg. 356**
The Board deferred the amendment of 501(c)3 contract amounts at the Jun 11 2019 meeting. At that time there was appx \$1.4M available for allocation. Recent court orders for funding ongoing capital cases reduces the available funds forreallocation by \$300,000. The capital programs have proposed a resolution to the ongoing Citizen litigation and have proposed a contract schedule for the capital programs and EWF's.

INFORMATIONAL ITEMS

10. **Budget** **Tab 5**
- a. **Financial Report**
The state's financial reporting (for the prior month) is not available to Budget Administrators until after the 6th business day of each month. The Board's financial report is made up of a number of individual state reports and takes several days to compile into the Board approved format. There was not enough time to compile a Financial Report for this meeting.
- b. **Solvency Projections – Informational** pgs. 357-359
- i. **Local Revenues by District – FY18 vs FY19** pg. 360
- c. **Final 5% DAF and FY 19 Disbursements – Informational** pg. 361
The final DAF in the amount of \$515,909.25 and year end administrative funds in the amount of \$73,368.00 have been disbursed to the district.
- d. **FY20 DAF and CINC Disbursement – Informational** pg. 362
The initial FY20 DAF in the amount of \$22,638,233.72 and CINC monies in the amount \$979,680 have been sent out to the districts. Five percent of the 65% public defense fund is being withheld for exigency.
- i. **Residual Fund Options: District Grants - Discussion**
For Board consideration is the option of offering "Deficiency Based" or "Needs Based" Grants to the Districts as an alternate mechanism for Disbursing the FY20 residual funds.
- e. **FY21 Budget Process** pgs. 363-364
Budget requests are due to OPB annually on or before a date between October 15 – November 15 which has not yet been announced. Last year's budget request was \$66,743,462. Failure to meet OPB's deadline could result in a capped budget at the prior year's allocation.
11. **DAF – FY21 - Discussions need to begin on the approach the FY 21 DAF.**
12. **Personnel**
- a. **SPD Search**
- i. **Working Group Update.**

- ii. **Reappointment of ISPD.** *The Board appointed Deputy SPD Richard Pittman as Interim State Public Defender at the Jun 11, 2019 Board meeting for 60 days pending the hiring of new SPD. Mr. Pittman’s term began Jul 20, 2019. The sixty-day term expires Sep 18, 2019.*
 - b. **Other Open Positions.** *Discussion regarding the filling of two open positions – Trial Level Compliance Officer and Director of Training, both of which are statutory positions and help makeup LPDB’s total Table of Organization (T.O.) of 16. The TLCO position goes before the La State Civil Service for review/renewal in February 2020.*
- 13. **District Issues**
 - a. **ROS – Status.** *A brief summary of restriction of services in district PDO’s statewide.*
- 14. **Interim State Public Defender Report** **Tab 6**
 - a. **Electronic Fund Transfers – District Options**
Some districts still receive paper checks via US Mail rather than electronic Transfer of funds which sometimes results in funding delays. Staffs’ recommendation is that all districts be urged to remit EFT paperwork requests to OPB to be ensured prompt payment of their DAF and other supplemental funding.
 - b. **Capital Report Format – Update.** *Board members have requested an easier to read “at a glance” reporting of capital data. Staff have been working on the compilation of the reports requested.*
 - c. **Site Visit – Update.** *Staff will be visiting districts 11 and 12 between Jul 30 and Aug 30 to address new and existing issues in those districts. The site visits include court watch, file review and interview of office staff.*
 - d. **Title 4E Funding (CINC).** *ISPD Richard Pittman will provide an update on the availability of federal funding for parent and child representation in child welfare cases.*
 - i. **Defender Leadership Training, Sept. 17 – 18, 2019.**
The 2019 Defender Leadership Training will focus on Title 4E Funding.

pg. 365-368
- 15. **LPDB Division Reports** **Tab 7**
 - a. **Interim SPD** pgs. 369-372
 - b. **Capital** pgs. 373-380
 - c. **Juvenile** pgs. 381-382
- 16. **Announcements**
- 17. **Next Meeting(s)**
- 18. **Adjournment***



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, August 8, 2019
Bluebonnet Regional Library
9200 Bluebonnet Boulevard, Room 2
12:00 p.m.

Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, August 8, 2019, at the Bluebonnet Regional Library in Baton Rouge, Louisiana, at approximately 12:08 p.m.

The following Board members were present¹:

Zita Andrus
Patrick Fanning
Frank Holthaus
Moses Williams

Chris Bowman
W. Ross Foote
Donald North

Flozell Daniels
Michael Ginart
Chaz Roberts

The following Board members was absent:

Katherine Gilmer

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

Richard Pittman, Interim State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Tiffany Simpson, Juvenile Compliance Officer/Legislative Director
Erik Stilling, Information and Technology Director

1a. Commendation – Mr. LeRoy Smith, District Defender, District 6. Mr. Holthaus announced the recent death of LeRoy Smith who had served as District Defender in District 6 (E. Carroll, Madison and Tensas Parishes) for the last twelve years. He thanked Mr. Smith for his dedicated service to indigent defense.

2. Adoption of the Agenda. Mr. Pat Fanning moved to adopt the agenda. Mr. Flozell Daniels seconded the motion which passed unopposed.

¹ Ms. Andrus, Mr. Ginart, Professor North, and Mr. Roberts arrived after roll call; however, voting quorum was not affected by the late arrivals.
1 – Board Minutes-Aug 8 2019

3. Call for Public Comment. District Defender Harry Fontenot, District 14 (Calcasieu Parish) and District Defender Brian McRae District 39 (Red River Parish) submitted the DAF and DDAC issues, respectively, for discussion. Mr. Holthaus indicated public comment is welcomed with each item as they are reach in the agenda.

4. Adoption the Minutes, June 11, 2019 Meeting. Mr. Moses Williams moved to adopt the Minutes of the June 1, 2019 meeting as presented. Mr. Fanning seconded the motion which passed unopposed.

5. Executive Session. Mr. Holthaus announced that Executive Session would be moved to the end of the agenda. There was no opposition.

6. District 6 – District Defender - Ratification of Appointment and Salary of Interim District Defender, Ms. Angela Claxton, \$2,000/mo. Mr. Williams recognized Mr. LeRoy Smith for his service in District 6 and welcomed Ms. Angela Claxton as the Interim District Defender. He reported that Ms. Claxton has been an attorney in the 6th PDO for the past 11 years. Ms. Claxton will remain in the interim position pending appointment of the permanent District Defender. Ratification on the appointment and her salary will be taken up by the Board after Executive Session.

Mr. Holthaus indicated Action Items 7 – 9 will also be moved to the end of the agenda, after Executive Session. Chairman Holthaus asked to defer discussion of Budget issues at agenda Item 10 until the Budget Chairman is present. There was no opposition.

11. DAF – FY21. ISPD Pittman reported that discussions need to begin on the approach to the FY21 DAF and he would like to submit for future discussion the possibility of guiding principles as a means of distribution of state funds rather than reliance just on numbers. Mr. Chris Bowman suggested a point system based on specific objective criteria that would pay a certain amount of money per case so that everyone is treated the same. Mr. Pittman cautioned that the challenges in that approach are the broad range of services and unstable, inequitable local funding across districts. Mr. Pittman agreed that the basis needs to be objective, but policies need to be decided and they need to be transparent. Mr. Williams reminded everyone that the Board’s job is to provide indigent services and how the state is funding the public defense system needs to be addressed. Mr. Holthaus referred this issue to the Budget Committee for continued study.

12. Personnel

a. SPD Search

i. Working Group Update. Mr. Holthaus reported two applications received for the SPD position to date.

ii. Reappointment of ISPD. No action was taken on this issue as the sixty day appointment of the interim does not expire until September 18, 2019.

b. Other Open Positions. Mr. Pittman announced that two statutory positions – Trial Level Compliance Officer and Director of Training – remain unfilled. He expressed his concern for the possibility of losing the positions within the agency’s current Table of Organization (T.O.) of 16 due to the extended vacancies. Both positions are included in the FY20 budget and will be included in the FY21 request. Mr. Pittman suggested that staff move forward with reposting the positions pending the placement of the new State Public Defender who would be responsible for the interview and hiring phases. Several board members expressed disappointment that these positions remain unfilled. Chairman

Holthaus referred the matter of advertising and filing vacant positions to the Policy Committee. After some discussion, staff was directed to re-advertise the positions, to provide a list of all advertising venues to the full Board, to provide the prior applicants with notice of the re-posting and to provide all application submittals via a drop box to all Board members. In the event a new State Public Defender is not put in place at the end of the advertising process, the interim was given the authority to move forward in the interview and hiring process and provide a recommendation to the full Board.

13. District Issues

a. ROS – Status. Dr. Tiffany Simpson reported that, pursuant to the ROS protocol, staff has completed follow up ROS site visits to all but three districts: (District 15 (Acadia, Lafayette and Vermilion Parishes), District 16 (Iberia, St. Martin and St. Mary Parishes), and District 41 (Orleans Parish).

14. Interim State Public Defender Report

a. Electronic Fund Transfers – District Options. Mr. Pittman reported that some districts still receive paper checks via US Mail rather than electronic transfer of funds which sometimes results in funding delays. He expressed a desire for a policy urging EFT's which would ensure a more reliable, uniform and timely transfer of state funds to the districts.

Discussion moved to the recent allocation of a portion of the residual funds. Mr. Chris Bowman inquired why District 2 (Bienville, Claiborne, Jackson Parishes) did not receive the \$7,000 DAF in addition to the \$75,000 residual approved by the board at the June meeting. Mr. Pittman explained that the Board approved the methodology (Method 14) and, by error, the base distribution amount presented at the June meeting did not exclude the funding allocation of \$1.3M for Miller-Montgomery cases. Once that money was removed from the base distribution amount, the DAF changed for all districts. District 2 (Bienville, Claiborne, Jackson Parishes) which was to have received \$7,000 in DAF, got zero DAF funding as a result of the methodology but did receive the \$75,000 residual.

Mr. Harry Fontenot, District 14 (Calcasieu Parish) District Defender addressed the board. He reported a \$1.1M cut in DAF, a declining local revenue and that he would be requesting \$600,000 from the Board to address the accruing shortfall. However, he also reported a \$2M fund balance which directly resulted in the reduced DAF amount. Professor North indicated that the Budget Committee would be addressing this issue prior to the next Board meeting.

b. Capital Report Format. Mr. Mike Ginart indicated that the charts presented are not what he was looking for and do not answer the questions regarding capital cases which is needed in order to inform legislators. Chairman Holthaus suggested a different "measuring stick" that would measure how much money it takes to NOT go to (capital) trial. Mr. Pat Fanning reiterated the need to know that the money allocated to capital is being spent properly. He and Mr. Ginart agreed to meet with the Capital Case Coordinator to work out the details of a report containing the needed information.

c. Site Visit – Update. Dr. Simpson reported that staff will be visiting districts 11 and 12 between Jul 30 and Aug 30 to address new and existing issues in those districts. Mr. Moses Williams asked how staff determines which districts to visit. Dr. Simpson reported that any district in ROS is visited pursuant to the ROS protocols/guide, litigation in districts, requests for additional funds or salary increases, or other issues or concerns brought to the attention of staff would initiate a site visit.

d. Title 4E Funding (CINC). ISPD Richard Pittman reported that federal funding for CINC cases will be managed and distributed through DCFS; however, the details regarding the corresponding reporting requirements have not been finalized. He further reported that he believes that estimated funding in the amount of \$250,000 per year is less than originally anticipated. He agreed that the funds could be sent to the districts as “CINC” funds, but stressed that the funds should be used strictly for parent representation, as intended.

i. Defender Leadership Training, Sept. 17 – 18, 2019. Mr. Pittman reported that the 2019 Defender Leadership Training in September will focus on Title 4E funding.

10. Budget

a. Financial Report. Budget Officer Natasha Carter reported that because the state’s financial reporting (for the prior month) is not available until after the 6th business day of each month, that there was not sufficient time to compile a final financial report.

b. Solvency Projections. Mr. Pittman reported no new projections this early in the fiscal year. What is provided in the materials are all projections made for FY19 which indicate that by the end of fiscal year 2019, districts’ fund balances averaged within 7.57% of the February projections.

i. Local Revenues by District – FY18 vs FY19. For informational purposes, local revenue changes between FY18 and FY19 are provided. Twenty-two of the 42 districts were less than or above 10% of the local revenues projected for FY19² with eight of those being above 20 percent. Seventeen districts were 10 to 20 percent below FY 19 projections.³ Three districts fell greater than 20% below projections.⁴

c. Final 5% DAF and FY 19 Disbursements. Mr. Pittman reported the final DAF in the amount of \$515,909.25 and year end administrative funds in the amount of \$73,368.00 have been disbursed to the districts. Mr. Harry Fontenot, District 14 (Calcasieu Parish) District Defender reports losing approximately \$125,000 per month, indefinitely. Mr. Flozell Daniels asked for an evaluation by staff of other districts permanently losing money and the impact. Mr. Moses Williams suggested that the districts provide ideas on how better to fund their offices in preparation for talks with legislators on more stable and permanent funding sources.

d. FY20 DAF and CINC Disbursement. Mr. Pittman reported the initial FY20 DAF in the amount of \$22,638,233.72 – approximately two million dollars more than last year’s DAF -- and CINC monies in the amount \$979,680 have been sent out to the districts. Mr. G. Paul Marx, District 15 (Acadia, Lafayette and Vermilion Parishes) District Defender addressed the Board and suggested the Board look at what takes priority: districts that are faced with zero fund balances at the end of the year or making districts whole.

i. Residual Fund Options: District Grants. Mr. Pittman reported that the Method 14 distribution of the FY20 DAF left a “residual” of approximately \$736,000 (after the \$150,000 total payments to District 2 (Bienville, Claiborne, Jackson Parishes) and District 34 (St. Bernard Parish). He suggested several

² Districts above or below 10% projections: 10, 5, 11, 18, 12, 31, 30, 33, 8, 42, 1, 25, 19, 22, 9, 16, 7, 26, 3, 17, 41, 21

³ District 10-20% below projections: 32, 24, 27, 29, 23, 36, 38, 39, 4, 35, 2, 15, 28, 6, 20, 40, 13

⁴ Districts greater than 20% below projections: 14, 34, 37

options for discussion for the disbursement of the funds: 1) pro-rata distribution to the 16 districts that were cut from FY19 which would give them back approximately 40 percent; and, 2) a “grants” program to assist districts with addressing their local office issues, from hiring investigators and clerical to upgrading I.T. systems.

e. FY21 Budget Process. Ms. Carter reported that OPB has not announced the date that the FY21 budget is due but that staff has begun to submit divisional budgets for a compilation to be included in the agency’s full budgetary request. Last year’s budget request was \$66,743,462.

15. LPDB Division Reports. Mr. Holthaus reported that the Interim SPD, Capital and Juvenile reports are in the materials for review.

16. Announcements. Mr. Brian McRae, District 39 (Red River Parish) District Defender reported that the DDAC continues to meet and is taking the DAF very seriously and would like to bring their comments and work product to staff and the Budget Committee as they progress.

There was no new business brought for discussion.

17. Next Meeting(s). The next meeting is scheduled for Thursday, September 12, 2019 at 1:00 p.m. The Budget Committee will meet the same day at 12:00 p.m.

5. Executive Session. Judge Foote moved to go into Executive Session. Professor North seconded the motion which passed unopposed and guests and staff were asked to leave. Ms. Zita Andrus moved to leave Executive Session. Judge Foote seconded the motion which passed unopposed and the meeting returned to regular session. Chairman Holthaus called the regular meeting to order at approximately 3:12 p.m.

6. District 6 – District Defender - Ratification of Appointment and Salary of Interim District Defender, Ms. Angela Claxton, \$2,000/mo. Mr. Fanning moved to ratify the appointment of Ms. Claxton as the Interim District Defender in District 6 at a salary of \$2,000 per month pending the appointment of a permanent district defender. Mr. Ginart seconded the motion which passed unopposed.

7. District Defender – District 25 Recommendation. Mr. Pittman reported that all interviews have been completed and it is the Selection Committee’s and staff’s recommendation to appoint Ms. Chanel Long to the position of District Defender in District 25 (Plaquemines Parish). Professor North moved to adopt staff recommendation. Mr. Flozell Daniels seconded the motion. Upon a vote, the motion carried with six members in favor (Holthaus, Andrus, Daniels, Foote, North, Williams) and four against (Bowman, Fanning, Ginart, Roberts).

8. Capital Case Funding – Registry of the Courts - \$300,000; and,

9. 501(c)3contract amounts.

Since the last Board meeting, LPDB has been ordered to remit \$300,000 to the registry of the courts in 3 separate capital cases in Citizen litigation. Writs are being taken; however, a resolution to the *Citizen* litigation is being recommended in conjunction with the funding of the three capital trial programs, expert witness funds, and post-conviction for FY20.

Board counsel Maggie Broussard addressed the Board with the recommendation that Board enter into a Memorandum of Understanding or settlement to address orders issued by five trial courts

in six cases to fund capital defendants that have currently been appointed to counsel by those courts. This will encumber the \$1.4 million dollars that the board has remaining for FY20 to be expended on capital representation in trial cases, expert witness funding and in post-conviction cases. Further, she advised that doing so will address seven defendants currently awaiting counsel and will prevent or give the Board additional defenses against future such orders. Judge Foote moved to accept the recommendation and stretch the funds to the different areas as recommended. Professor North asked for clarification from Mr. Pittman on his recommendation. Mr. Pittman agreed that the disbursement of funds in this manner would maximize coverage including handling all cases currently in *Citizen* litigation. The programs would be able to staff up and cases would get representation. Professor North called the question and upon a vote there were eight Board members in favor and two in opposition (Bowman and Fanning).

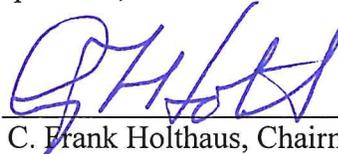
Professor North clarified that he voted for the recommendation in the belief that it will provide the best coverage for these cases. Mr. Fanning explained his opposition is that by settling this way, a precedent is created for this type of action in the future. Chairman Holthaus indicated the record should reflect that the entire board is concerned about the precedential consequences of this settlement. Mr. Williams suggested that the capital organizations should work with staff to formulate a simpler way to explain -- without graphs and charts -- how the programs work, what cases their programs are working on and what has been put into cases.

18. Adjournment. Mr. Pat Fanning moved to adjourn which was seconded by Ms. Zita Andrus and passed unopposed.

Guests:

| | | |
|---------------------|--------------------|--------------------|
| Harry Fontenot | Chuck Reid | Reggie McIntyre |
| Bob Noel | Mike Courteau | Angela L. Claxton |
| Victor Papai | Amos Cormier | Herman Castete |
| Deirdre Fuller | Maggie LeBlanc | G. Paul Marx |
| Paul Fleming | Richie Tompson | Rene Bourg |
| Susan Kutcher Jones | Jené O'Keefe Trigg | Bruce Unangst |
| Brian McRae | Steven Thomas | Margaret Lagatutta |
| Richard Bourke | Raymond L. (LNU) | Derwyn Buntun |
| David E. Marcantel | Thomas Gernhauser | Don Kneipp |
| Lindsay Blouin | Sadé Lee | Yvette Beamon |
| Kyla Romanach | Kerry Cuccia | Mitch Bergeron |
| Michael A Mitchell | Maggie Broussard | Cecelia Kappel |
| Chanel Long | Autumn Harrel | John Lindner |

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 8th day of August, 2019, as approved by the Board on the 12th day of September, 2019 at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, September 12, 2019
Scotlandville Branch Library
7373 Scenic Highway, Baton Rouge, LA
1:00 p.m.

AGENDA

1. Call to Order and Comments by Chairman, Frank Holthaus
 - a. Commendation – Mr. Vic Bradley
 - b. Commendation – Ms. Pamela Smart
2. Adoption of the Agenda* pgs. 383-384
3. Call for Public Comment
4. Adoption the Minutes, August 8, 2019 Meeting* **Tab 1**, pgs. 385-390
5. Budget and Financial **Tab 2**
 - a. Financial Report through July 31, 2019 pgs. 391-395
 - b. Districts of Concern
Staff is monitoring several districts (District 13 (Evangeline Parish) and District 34 (St. Bernard Parish)) for risk of insolvency.
 - c. District DAF Requests
 - i. District 14 pgs. 396-397
District Defender Harry Fontenot is requesting a minimum of \$250,000 to offset the 45% decrease in FY20 DAF, loss of LACE proceeds, loss of free rent and file storage for the district offices totaling approximately \$600,000 annually.
 - ii. District 40 pgs. 398-400
District Defender Richard Stricks is requesting \$230,233 to cover the shortfall being realized from Court costs (\$143,784) and to pay two contract attorneys and an expert (\$86,449).
 - d. DAF FY21 – *A discussion of policies and principles on which to begin the formulation of an equitable means of distribution of the District Assistance Fund.*
6. ROS status. *A report on ROS.* **Tab 3**, pgs. 401-402
7. Executive Session¹, ²*

¹ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards, et al*, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character

8. District Defender Issues*
 - a. Ratification of Appointment and Salary of Interim Richard Tompson, District 29 (St. Charles Parish) *ISPD Richard Pittman appointed District Defender Richard Tompson (District 24 (Jefferson Parish) to serve as Interim in District 29 (St. Charles Parish) pending the appointment of a permanent District Defender at a salary of \$2,000 per month.*
 - b. Ratification of Appointment and Salary for Interim Steve Thomas, District 1 (Caddo Parish) Effective Oct 1, 2019. *ISPD Richard Pittman is recommending the Appointment of District Defender Steve Thomas (Districts 11 (Sabine Parish) and 42 (Desoto Parish) to serve as Interim in District 1 (Caddo Parish) at a salary of \$3,000 per month pending the appointment of a permanent District Defender.* pg. 403
 - c. Ratification of Salary of District Defender, District 25 (Plaquemines Parish) Chanel Long *The Board hired Ms. Chanel Long as the District Defender in District 25 (Plaquemines Parish) at the August meeting. The salary of the prior District Defender, who had comparable experience at the time of hiring was \$80,000.*
9. Personnel
 - a. SPD Search
 - i. Reappointment of ISPD*. *The Board appointed Deputy SPD Richard Pittman as Interim State Public Defender at the Jun 11, 2019 Board meeting for 60 days pending the hiring of new SPD. Mr. Pittman's term began Jul 20, 2019. The sixty-day term expires Sep 18, 2019.*
 - b. Other Open Positions - Updates. *Trial Level Compliance Officer and Director of Training position descriptions have been posted with the La Department of State Civil Service, LACDL, the LPDB Website and sent out to alldistricts. The posting term is Sep 1 – Oct 1 2019. All prior applicants (Feb 2019) have been advised by email and US mail of the opportunity to re-apply.*
10. LPDB Division Reports **Tab 4**
pgs. 404-406
pgs. 407-413
pg. 414
 - a. Interim SPD
 - b. Capital
 - i. Capital Case Reporting – Update
11. Announcements **Tab 5**, pg. 415-416
 - a. John Lavern Memorial Continuing Education
 - b. Defender Leadership Training, Sep 17-18
12. Next Meeting(s). *Meeting space is becoming harder to secure within the limited time between meetings. Scheduling more than one meeting at a time would help ensure meeting location.*
13. Adjournment*

and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The board may discuss the interim appointments in Districts 1 and 29. The Board may discuss personnel issues in the Capital Defense Project of Southeast Louisiana (CDPSLA), Kerry Cuccia-Executive Director. The Board may discuss the interim state public defender/position, personnel and the open Trial Level Compliance Officer and Director of Training positions.



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, September 12, 2019
Scotlandville Branch Library
7373 Scenic Highway, Baton Rouge, LA
1:00 p.m.

Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, September 12, 2019, at the Scotlandville Branch Library in Baton Rouge, Louisiana, at approximately 1:10 p.m.

The following Board members were present¹:

| | | |
|-----------------|---------------|-----------------|
| Zita Andrus | Chris Bowman | Flozell Daniels |
| Patrick Fanning | W. Ross Foote | Michael Ginart |
| Frank Holthaus | Donald North | Chaz Roberts |
| Moses Williams | | |

The following Board members was absent:

Katherine Gilmer

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

Richard Pittman, Interim State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Erik Stilling, Information and Technology Director

Chairman Holthaus commended District Defenders Victor Bradley District 29 (St. Charles Parish) and Pamela Smart District 1 (Caddo Parish) for their dedication to indigent defense. Mr. Bradley passed away in mid-August and Ms. Smart is retiring from the Caddo Parish District Defender position effective October 1, 2019.

2. Adoption of the Agenda. Professor North moved to adopt the agenda as presented. Mr. Flozell Daniels seconded the motion which passed unopposed.

¹ Mr. Ginart arrived after roll call; however, voting quorum was not affected by the late arrival.
1_Board_Minutes_Sep 12 2019

3. Call for Public Comment. Mr. Will Harrell addressed the Board and presented materials on new voting eligibility laws for parolees in Louisiana as a result of Act 636 of the 2018 Regular Legislative Session.
4. Adoption the Minutes, August 8, 2019 Meeting. The minutes of the August 8, 2019 meeting were adopted without opposition.
5. Budget and Financial
 - a. Financial Report through July 31, 2019. Budget Administrator Natasha Carter reported as of July 31, 2019 \$34,001,620 encumbered or expended, \$6,203,470 projected to be encumbered or expended through June of 2020 and zero funds available for reallocation. She also reported a change on the financial report for tracking the District Assistance Fund which will show the initial distribution, the Residual Fund and 5% Exigency Fund balances throughout FY20. Mr. Daniels moved to adopt the financial report which was seconded by Professor North and passed without opposition.
 - b. Districts of Concern. Interim State Public Defender Richard Pittman reported that staff is closely monitoring several districts (District 13 (Evangeline Parish) and District 34 (St. Bernard Parish)) at risk of insolvency. He further reported that no district is in immediate danger and staff will keep the Board apprised.
 - c. District DAF Requests. Mr. Pittman gave a summary of two districts requesting DAF funding. These districts both saw a drop in local revenue after the projections were done for the FY20 DAF distribution resulting in both districts receiving less DAF than originally projected.
 - i. District 14. Mr. Pittman reported that the Budget Committee is recommending \$250,000 to District 14. Judge Ross Foote seconded the recommendation which passed unopposed.
 - ii. District 40. Mr. Pittman reported that the Budget Committee is recommending the full amount of \$178,322 as requested but to be divided by one-third (\$59,440) with the balance (\$118,882) to be encumbered until the district's financial status can be revisited in three months. Judge Foote seconded the recommendation with passed unopposed.
 - d. DAF FY21. Mr. Pittman reported that he and staff are meeting with Board members about approaches to the FY21 DAF distribution. He indicated the FY20 DAF is being explained including some of the policies, guiding principles and assumptions behind it. He reported a meeting is scheduled with the DDAC on September 17th to being the discussion with the field. The Board indicated that they would like for staff to have met with all Board member within 30 calendar days.
6. ROS status. Mr. Pittman reported that Dr. Tiffany Simpson completed the updates on districts in ROS and four of five districts will remaining in ROS at this time. He indicated that District 28 (LaSalle Parish) has requested to exit ROS and although the district's financials look shaky, they have met the exit criteria set forth by Staff in the ROS plan and it is his recommendation that the 28th exit ROS at this time with Staff continuing to monitor.
7. Executive Session², ³*. Executive Session was moved to later in the agenda.

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards*, et al, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge.

8. District Defender Issues*

- a. Ratification of Appointment and Salary of Interim Richard Tompson, District 29 (St. Charles Parish). ISPD Richard Pittman reported his recommendation for District Defender Richard Tompson (District 24 (Jefferson Parish) to serve as Interim in District 29 (St. Charles Parish) at a salary of \$2,000 per month pending the appointment of a permanent District Defender and the Budget Committee's recommendation to ratify the salary. Mr. Moses Williams seconded the recommendation for the appointment and salary. Upon a vote the recommendations passed unopposed.
- b. Ratification of Appointment and Salary for Interim Steve Thomas, District 1 (Caddo Parish) effective October 1, 2019. ISPD Richard Pittman reported his recommendation for District Defender Steve Thomas (Districts 11(Sabine Parish) and 42 (Desoto Parish) to serve as Interim in District 1 (Caddo Parish) at a salary of \$3,000 per month pending the appointment of a permanent District Defender and the Budget Committee's recommendation to ratify the salary. Mr. Pat Fanning seconded the recommendations which passed unopposed.
- c. Ratification of Salary of District Defender, District 25 (Plaquemines Parish) Chanel Long. Mr. Pittman reported the Budget Committee's recommendation to pay Ms. Chanel Long an annual salary of \$80,000. Judge Foote seconded the recommendation which passed unopposed.

A brief discussion followed regarding how district defender salaries are set and staff was asked to bring this issue back to the Board to revisit how salary calculations are derived. Additionally, the Board agreed to revisit Ms. Long's salary at a later date.

Mr. Pittman then provided a summary on three active District Defender Selection Committees: District 1 (Caddo Parish), District 6 (E. Carroll, Madison and Tensas Parishes) and District 29 (St. Charles Parish). The Committees in the 1st and 6th are constituted and the 6th will have their recommendation to Staff by October 1st. The Caddo committee will have their recommendations in by November 4th and Mr. Pittman will make the final appointment to the 29th Selection Committee made on September 13, 2019. By statute, that recommendation is due to staff no later than November 12, 2019.

Judge Foote asked that the Board members be kept apprised of staff interviews as they are scheduled for Board participation.

Mr. Williams inquired if it is the Board's future recommendation that any District Defender be required to be full time with no private practice? Mr. Pittman indicated that if a viable candidate for the position should indicate they do not want to be full time, he (Mr. Pittman) would bring that to the attention of the Board. Mr. Williams stated that salaries should reflect this status.

³ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The board may discuss the interim appointments in Districts 1 and 29. The Board may discuss personnel issues in the Capital Defense Project of Southeast Louisiana (CDPSLA), Kerry Cuccia-Executive Director. The Board may discuss the interim state public defender/position, personnel and the open Trial Level Compliance Officer and Director of Training positions.

9. Personnel

a. SPD Search. Professor North reported that the State Public Defender position announcement was extended to applicants to September 20, 2019 because at the time of that decision there were only three applicants. Since that time and as of today there are six applicants. He urged anyone interested to move forward with submitting his/her application. The Board agreed to no further application extensions.

Mr. Holthaus reported that the National Association of Public Defenders has offered to assist in a nationwide search for a fee of \$30,000 and unless someone on the Board wants to go in that direction his recommendation is to take no action. No action was taken.

i. Reappointment of ISPD. Mr. Pat Fanning moved to extend Mr. Pittman's Interim State Public Defender position past the initial 60-day appointment at the same approved salary. Discussion followed as to how long the extension should be. Professor North indicated that a timeline and schedule would be created and those any scheduled dates would determine how much longer Mr. Pittman would remain in the position. Mr. Holthaus suggested a 90-day extension. Mr. Fanning amended his motion to extend Mr. Pittman's interim position for 90 days. Mr. Chris Bowman suggested an extension until such time as the full-time position is filled avoiding any future extensions. Mr. Fanning accepted Mr. Bowman's suggestion as a friendly amendment. Judge Foote clarified that the action should be that the position would be extended up to 90 days but if the SPD position is filled before that time, the interim position would terminate. Clarification was made that Mr. Pittman's pay would remain at the same level.

Mr. Chaz Roberts asked for an outline of the review process. Professor North indicated that all Board members will be invited to attend interviews, a timeline would be set, and the committee will come back after the initial interviews and make recommendations to the full Board.

Mr. Pat Fanning urged that the timeline be set at this meeting. Mr. Holthaus indicated his *goal* is to have all applicants interviewed and recommendations made by November 1, 2019.

Mr. Daniels asked that staff identify space, available dates and provide video access to the interviews. Mr. Roberts indicated that he would like to see every interview and who all participated and asked if the Committee would take questions from other Board members, even if not present. Mr. Holthaus indicated any board member can provide a list of questions. General Counsel is to research video access to the interviews.

After the question was called, Professor North seconded Mr. Fanning's motion as amended to extend Mr. Pittman's interim position for up to 90 days or until such time as the SPD position is filled. There was no further discussion and upon vote the motion carried with no opposition.

b. Other Open Positions - Updates. ISPD Pittman reported that advertising has begun for the Trial Level Compliance Officer and Director of Training positions. The original application deadline of November 1 was changed to October 1 on recommendation of several Board members and all prior applicants have been advised by email and US mail of the new application period.

Mr. Williams stated his concern that the SPD needs to be in place before filling these positions. Mr. Roberts agreed and Mr. Bowman clarified that the consensus at the previous meeting was that interviews would not be scheduled until after the Chief is selected. Mr. Williams again expressed concern over placing potential applicants in the position of applying for a job not knowing who their boss may be and that the deadline should be after the SPD is hired. He then moved to extend the deadline until December 1 or such time to give the Board time to hire the SPD position. Professor North seconded the motion which passed unopposed.

10. LPDB Division Reports. Chairman Holthaus reported that the following reports are in the materials: Interim SPD and Capital.

11. Announcements.

Robert Noel announced a two-day 12.5 CLE seminar sponsored by the 4th and 5th Public Defender's Offices, free for all public defenders in Louisiana at ULM, Strauss Hall, Room 148, on Thursday, September 19, 2019 and Friday, September 20, 2019. The seminar will also provide Professionalism and Ethics. Mr. Noel and District 5 (Franklin, Richland and W. Carroll Parishes) District Defender John Albert Ellis are leading the seminar.

Defender Leadership Training, Sep 17-18. Mr. Pittman announced the Defender Leadership Training will discuss the new Parent Representation federal monies and what to do with it.

Mr. Daniels asked to discuss the recent 5th Circuit judgment that was provided as a handout. Mr. Holthaus indicated it would be discussed in Executive Session as it may impact ongoing litigation.

Professor North moved to amend the agenda to discuss an issue brought to the attention of the Budget Committee by District 9 (Rapides Parish) District Defender Deirdre Fuller. Mr. Daniels seconded the motion and the agenda was amended. Ms. Fuller addressed the Board stating that she has been sued along with the DA and Sheriff of Rapides Parish regarding a confiscation of \$101,900 from an individual in a bond forfeiture of which 25% was given to the PDO⁴. Ms. Fuller reported having contacted LPDB General Counsel Barbara Baier after service of the petition and that Ms. Baier contacted the Office of Risk Management and the AG's office for direction and possible representation of Ms. Fuller, which was subsequently denied. Ms. Baier then contacted the attorney for the Plaintiff and obtained an indefinite extension of time. Ms. Fuller indicated she has not spoken with a recommended attorney to represent her pending bringing the issue to the Board's attention. Mr. Pittman clarified that Ms. Fuller, a passive recipient to the funds is not being accused of any wrongdoing, rather the allegation is that it was an improper civil forfeiture and plaintiff is seeking return of the funds. Professor North moved that the board hire counsel to represent the District Defender. Discussion followed after which Ms. Fuller agreed that she would contact her malpractice and general insurers for potential coverage/limits, get an hourly rate from the recommended attorney should she need representation and report the status of both to the Board at the

⁴ Ms. Fuller reported having spent the funds on computer upgrades for the office.

next meeting. Staff was instructed to put the issue on the next agenda. Professor North withdrew his motion.

12. Next Meeting(s). The Board set the next meeting for November 21, 2019. Professor North indicated that he and Mr. Pittman would be working on the DAF and that a Budget Committee meeting could possibly be set either at a date prior to the next Board meeting or the day of.

Mr. Bowman asked to discuss the Capital Report and requested clarification on the waitlist numbers which was provided by Capital Case Coordinator Jean Faria. He asked that in the future she include a list of cases that have been closed from the previously provided report(s). Ms. Faria acknowledged that would be done.

7. Executive Session. Mr. Daniels moved to go into Executive Session. Ms. Andrus seconded the motion which passed unopposed. A motion was made to leave Executive Session which was seconded and passed unopposed.

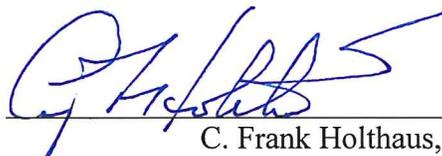
Upon return to regular session, the Board changed their next meeting to November 1, 2019 at 1:00 p.m.

13. Adjournment. Mr. Bowman moved to adjourn. Mr. Fanning seconded the motion which passed unopposed.

Guests:

| | | |
|----------------------|---------------------|------------------|
| Rene Bourg | Richie Tompson | Kerry Cuccia |
| Will Harrell | Herman A. Castete | Brian McRae |
| Rémy Starns | Don Kneipp | Cecelia Kappel |
| Andrea Stentz | Damon Stentz | Deirdre Fuller |
| Paul Fleming | Alan Robert | Dennielle Berger |
| Mike Courteau | Michael A. Mitchell | Lindsay Blouin |
| Joshua Newville (sp) | Chanel Long | Steven Thomas |
| Angela Claxton | Thomas Gernhauser | Gary Clements |
| David E. Marcantel | Jee Park | Mitch Bergeron |
| Harry Fontenot | Richard Stricks | Bob Noel |

I HERBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board's meeting held on the 12th day of September, 2019, as approved by the Board on the 21st day of November, 2019, at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, November 21, 2019
Scotlandville Branch Library
12:00 p.m.

AGENDA

1. Call to Order and Comments by Chairman, Frank Holthaus
2. Adoption of the Agenda* pgs. 417-419
3. Call for Public Comment
4. Adoption the Minutes, September 12, 2019* **Tab 1**, pgs. 420-425
5. Budget and Financial **Tab 2**
The Budget Committee will meet November 21, 2019 at 10:30 and will bring recommendations on items 5a-e, 7b and 7c below:
 - a. Financial Report through October 31, 2019* pgs. 426-430
 - b. Ratification of FY21 Budget Request - \$67,217,568* pgs. 431-432
The FY21 LPDB budget was submitted timely on Oct 29, 2019 in the amount of \$67,217,568.
 - c. Solvency Projections- Informational pg. 433
 - d. District FY 20 Funding Requests
 - i. District 25*. *District Defender Chanel Long is requesting \$103,000 to make substantial changes to the inherited organizational Structure of the Plaquemines PDO.* pgs. 434-436
 - e. Districts being Monitored – Informational
 - i. District 40. *At the Sep 12, 2019 Board meeting, District 40 was granted \$178,000 to be allocated to the district in 1/3 increments (\$59,333). The district is to be monitored and their financial situation revisited by the Budget Committee and Board every three months (Dec 12, 2019) for additional disbursement of the balance of the encumbered monies (\$118,666).*
 - ii. District 41 *On Oct 7, 2019, District Defender Derwyn Bunton indicated he will be requesting additional funding from LDPB as his district is over budget for Adult Conflict Case Representation, the Juvenile Conflict Case budget is dangerously low and he will be forced to begin declining conflict representation appointments from the court. He will also be requesting mid-year support from the City of New Orleans.*
6. Executive Session¹, ²*

¹ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: *Joseph Allen et al v. John Bel Edwards, et al*, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge.

7. District Defender Issues*

Tab 3
pg. 437
Drop Boxes

a. Salary Ranges

b. Appointment and Salaries of New District Defenders

i. District Defender - District 1 (Caddo Parish)*

The salary of the outgoing District Defender was \$100,000. This is a full-time position and the district falls within the Category I Salary Range \$100,000 - \$139,720 with a mean of \$121,600.

ii. District Defender - District 6 (E. Carroll, Madison, Tensas Parishes)*

The salary of the outgoing District Defender was \$81,960. That District Defender was in the position for over 12 years and maintained a private practice. This district falls within the Category IV Salary Range \$70,000-100,380 excluding part-time and DD's with multiple districts.

iii. District Defender - District 29 (St. Charles Parish)*

The salary of the outgoing District Defender was \$112,897. That District Defender was in the position prior to the formation of the LPDB in 2007 and maintained a small private practice until recent years. This district falls within the Category III Salary Range \$90,000-\$112,897 for fulltime District Defenders without other districts.

c. Salary Increase Request – District 25*

pgs. 438-439

District Defender Chanel Long is requesting an increase of her current salary of \$80,000. District Defender Long is fulltime.

d. District 9 (Rapides Parish) Forfeiture Suit - Informational

District Defender Deirdre Fuller will update the Board on the status of the lawsuit alleging an improper civil forfeiture and the return of \$20,000 disbursed to her district PDO.

8. Board Personnel

a. Report and Recommendations of the State Public Defender Search Committee*

b. Executive Positions - Informational

i. TLCO – *to date there are 10 applicants for the TLCO position. Of those 10, five are reapplicants from the February 2019 posting. All applicants have been provided an acknowledgment of receipt of their application.*

ii. DoT -- *to date there are six applicants for the DoT position. Of those six, four are reapplicants from the February 2019 posting. All applicants have been provided an acknowledgment of receipt of their application.*

9. DAF FY21 – Informational - *Staff has met with most members of the Board members and discussed/proposed policies and principles on which to base the formulation of an equitable means of distribution of the District Assistance Fund.*

² The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including character and professional competence of a person; provided, however, such person(s) may require that such discussion be held at an open meeting pursuant to La. R.S. 42:17(A)(1). No final or binding action will be taken during executive session. The board may discuss the applicants/appointments in District 1 (Caddo Parish), District 6 (E. Carroll, Madison and Tensas Parishes) and District 29 (St. Charles Parish); the applicants and final candidates for the state public defender/position; and, a salary issue in District 13 (Evangeline Parish).

10. LPDB Division Reports
 - a. Juvenile
 - b. Capital
11. Announcements
12. Next Meeting(s)
13. Adjournment*

Tab 4
pgs. 440-441
pgs. 442-447



LOUISIANA PUBLIC DEFENDER BOARD

Thursday, November 21, 2019
Scotlandville Branch Library
12:00 p.m.

MINUTES

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Thursday, November 21, 2019, at the Scotlandville Branch Library in Baton Rouge, Louisiana, at approximately 12:10 p.m.

The following Board members were present:

Chris Bowman
W. Ross Foote
Donald North

Flozell Daniels
Michael Ginart
Chaz Roberts

Patrick Fanning
Frank Holthaus
Moses Williams

Katherine Gilmore

The following Board members was absent:

Zita Andrus

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

Richard Pittman, Interim State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Budget Administrator
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Erik Stilling, Information and Technology Director

2. Adoption of the Agenda. Mr. Flozell Daniels moved to adopt the agenda as presented. Mr. Moses Williams seconded the motion which passed unopposed.

3. Call for Public Comment. No one presented for Public Comment.

4. Adoption the Minutes, September 12, 2019 Meeting. Mr. Daniels moved to adopt the Minutes of the September 12, 2019 meeting. Mr. Pat Fanning seconded the motion which passed unopposed.

5. Budget and Financial
 - a. The Financial Report through October 31, 2019 was recommended by the Budget Committee for adoption as presented. Ms. Katherine Gilmer seconded the recommendation which passed unopposed.
 - b. Ratification of FY21 Budget Request. The FY21 LPDB budget in the amount of \$67,217,568 was recommended by the Budget Committee for ratification by the full Board, seconded by Ms. Gilmer and passed unopposed.
 - c. Solvency Projections. No discussion was had on the solvency projections.
 - d. District FY 20 Funding Requests. Mr. Pittman reported the Budget Committee's recommendation instituting an application process for districts to access the remaining residual monies with a December 20, 2019 deadline. Interim State Public Defender (Pittman) was given the authority to review submittals and provide recommendations to the Committee/Board. The recommendation was seconded by Ms. Gilmer and passed unopposed.
 - i. District 25. Mr. Pittman reported that the Budget Committee's recommendation is for District Defender Chanel Long's request for \$103,000 of the residual monies to be vetted through the newly formed application process. Ms. Gilmer seconded the recommendation which passed unopposed.
 - e. Districts being Monitored.
 - i. District 40. Mr. Pittman reported that the funding situation in District 40 remains unchanged and the second installment of the funds previously encumbered for the district at the September meeting is scheduled for distribution.
 - ii. District 41. Mr. Pittman reported that District Defender Derwyn Bunton submitted a last minute request for funding which the Budget Committee tabled for later action.
6. Executive Session. Mr. Moses Williams moved to go into Execution Session. Ms. Gilmer seconded the motion which passed unopposed.

Mr. Fanning moved to exit Executive Session. Mr. Williams seconded the motion which passed unopposed. Regular Session resumed.

7. District Defender Issues.
 - a. Salary Ranges. No discussion was had on the salary ranges presented in the materials.
 - b. Appointment and Salaries of New District Defenders
 - i. District Defender - District 1 (Caddo Parish). Mr. Pittman reported staff recommendation to hire Ms. Michelle AndrePont in the District Defender position in District 1 (Caddo Parish) at a salary of \$115,000. Professor North moved to defer the issue to the next meeting. Mr. Williams seconded the motion which passed unopposed.
 - ii. District Defender - District 6 (E. Carroll, Madison, Tensas Parishes). Mr. Williams moved to hire Ms. Angela Claxton as the District Defender in District 6 (E. Carroll, Madison and Tensas Parishes) at a salary of \$100,000 with a 90-day period in which to close out her existing private cases. Additionally, Ms. Claxton is required to maintain a fulltime position and her current PDO workload. Professor North seconded the motion which passed unopposed.

- iii. District Defender - District 29 (St. Charles Parish). Mr. Pat Fanning moved to start with a clean slate and reconstitute the Selection Committee to begin the interview process anew. Professor North seconded the motion which passed unopposed. Staff is to report on the progress to the Board at the next meeting.
 - c. Salary Increase Request – District 25. Professor North moved to approve an increase to District Defender Chanel Long’s current salary of \$80,000 to \$95,000. Mr. Williams seconded the motion which passed unopposed. Mr. Ginart clarified that Ms. Long is to maintain her current caseload. It was also clarified that Ms. Long’s original salary was set at \$80,000 by mistake and is being rectified here. Staff was instructed to visit the district and address concerns of the local stakeholders.
 - d. District 9 (Rapides Parish) Forfeiture Suit. No discussion was had on this issue.
- 8. Board Personnel
 - a. Report and Recommendations of the State Public Defender Search Committee. Judge Foote moved that the Search Committee is to deliver to the State Public Defender a list of the Committee’s recommendation of applicants to call back for a second interview to be held before the full Board. Professor North seconded the motion. Discussion followed. Clarification was made that the SPD Search Committee would hold a separate, duly noticed meeting specifically to determine and provide a list of names of the applicants chosen to proceed to a second interview. A subsequent Board meeting would be held for the specific purpose of holding the interviews in Executive Session with the final vote for the new State Public Defender immediately afterward in regular session. There was no further discussion and with no opposition, the motion, as clarified, passed.
 - b. Executive Positions. Mr. Pittman reported that the application deadline to apply for both the Trial Level Compliance Officer and Director of Training positions is December 1, 2019.
- 9. DAF FY21. Mr. Pittman reported that the DAF discussions will reconvene in the near future.
- 10. LPDB Division Reports. The Juvenile and Capital Division reports are in the materials for review.
- 11. Announcements. Mr. Pat Fanning congratulated Ms. Gilmer on the birth of her first child.
- 12. Next Meeting(s). The Board set the following meetings: The SPD Search Committee will select and notice a meeting prior to the next Board meeting. The next Board meeting at which the finalists for the State Public Defender position are to be interviewed in Executive Session and the next State Public Defender vote on in Regular Session is Thursday, January 16, 2020. No other items are to be brought before the board at this meeting. Location to be determined. The next regular meeting of the Board is Thursday, February 20, 2020. Location to be determined.
- 13. Adjournment. Mr. Flozell Daniels moved to adjourn. Mr. Williams seconded the motion which passed unopposed.

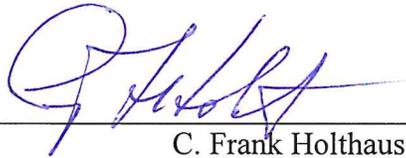
Guests:

Renee Bourg
Michelle AndrePont
Raymond Lee Cannon
Paul Fleming
John Hogue, III
Steven R. Thomas
Wendy J. Williams
Don Kneipp
Michael A. Mitchell
Jee Park

Derwyn Bunton
Rémy Starns
Alex D. Chapman, Jr.
Chanel Long
Cary Clements
John W. Lindner
Don Paul Landry
Bob Noel
Lindsey Blouin

Janet Miller
Alan Robert
Kyla Romanach
Angela C. Claxton
Sadé Lee
FenwickA. Swann, III
G. Paul Marx
Richard Stricks
Joshua Derville

I HERBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board's meeting held on the 21st day of November, 2019, as approved by the Board on the 20th day of February, 2020, at Baton Rouge, Louisiana.



C. Frank Holthaus, Chairman