



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

October 29, 2013

LSU Law Center, Tucker Room

Baton Rouge, Louisiana

2:00 p.m.

AGENDA

1. Call to Order and Remarks of the Chairman
2. Call for Public Comment
3. Review of Agenda pgs. 532-533
4. Review of the September 16, 2013 Meeting Minutes* **Tab 1**
pgs. 534-537
5. Executive Session¹*
6. SPD Selection*
7. District Issues **Tab 2**
pgs. 538-543
 - a. District 9 – District Defender Selection*
8. Budget Committee Reports and Recommendations **Tab 3**
pgs. 544-548
 - a. Financial Report*
 - b. FY 15 Budget Request - Ratification*
 - c. Delegation of Authority
 - i. DAF FY 14*
 - ii. 501c3 Contracts*
9. Policy Committee Reports and Recommendations* **Tab 4**
 - a. Capital pgs. 549
 - i. Expert Witness Fund Status pgs. 550-553
 1. FY 14 Recommendations*
 - ii. Long Term Recommendations*

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 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 following applicants for the State Public Defender position: James Dixon, Julie H. Ferris and Remy Voisin Stams. Additionally, the Board may discuss the candidates for the District Defender position in the 9th Judicial District (Rapides) – Bridget Brown and Glen Cortello.

10. Contracts
 - a. Professional Services:
 - i. Decuir Law Firm*
 - ii. Riviere Law Firm*
 - b. CPCPL – Angola 5 Contract Ratification – FY14*
 - c. CAP – Angola 5 – FY 14*

11. ISPD Report

Tab 5
pgs.554-560

12. Next Meeting Date*

13. Executive Session²*

14. Adjournment*

**Requires Board Action*

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: State v. Thibodeaux, Docket: 2013-190149, 16th JDC; State v. Brown, Docket: C-520401, 17th JDC; State v. Robertson, Docket: 07-12-0625, 19th JDC; Barry Edge v. LPDB/DOC, Docket: 624,295, 19th JDC, LPDB v. Robert Jones, et al, Docket: 614-262, Section 23, 19th JDC.



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MINUTES

1. Call to Order and Remarks of the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Tuesday, October 29, 2013, at 2:00 p.m. the LSU Law Center in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Leo Hamilton
Frank Holthaus
Rebecca Hudsmith
Dan Krutz
Robert Lancaster
Luceia LeDoux
Hector Linares
Tom Lorenzi
Pam Metzger
Jacqueline Nash
Herschel Richard
Majeeda Snead
Gina Womack

The following Ex Officio Board Member was present:

Rebecca Hudsmith

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

Julie Ferris, Interim State Public Defender
Jean M. Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Richard Pittman, Deputy Public Defender, Dir. Of Juvenile Defender Services

Tiffany Simpson, Juvenile Justice Compliance Officer
Erik Stilling, Information Technology and Management Officer

3. Review of Agenda. Upon review of the agenda, Ms. Womack moved to amend the agenda to include a discussion regarding the activities of the Juvenile Justice Implementation Committee. Prof. Snead seconded the motion which passed unopposed. Chairman Neuner asked that the issue be addressed later in the agenda after final disposition of action items.

4. Review of the September 16, 2013 Meeting Minutes*. Mr. Hamilton moved for adoption of the September 16, 2013 minutes which was seconded by Gina Womack. Professor Lancaster moved to amend the Minutes to include his dissenting vote for the delay of the state public defender selection at item one. Mr. Goff seconded Prof. Lancaster's motion and the Minutes passed as amended, unopposed.

5. Executive Session*. Ms. LeDoux moved to go into Executive Session. Rev. Krutz seconded the motion. Professor Metzger moved to leave Executive Session which was seconded by Ms. Womack.

6. SPD Selection*. Upon the reconvening of the full Board meeting, Mr. Neuner announced Mr. Starnes' withdrawal for the State Public Defender position, explained the voting procedure and proceeded to count ballots. After final tally, Rev. Krutz moved that Mr. Jay Dixon, who received the majority vote, be approved as the next State Public Defender. Ms. Womack seconded the motion which passed unopposed. Prof. Snead noted the exemplary work done by Ms. Ferris in her capacity as Interim State Public Defender and extended her thanks. Ms. Ferris received a standing ovation.

7. District Issues.

a. District 9 – District Defender Selection*. Considering Staffs' recommendation, Mr. Richard moved to appoint Mr. Glenn Cortello as the District Defender for District 9 (Rapides Parish). Prof. Metzger seconded the motion. Mr. Cortello provided a brief introduction at Prof. Linares' request. Special thanks was given to Mr. Tony Tillman for his interim supervision of the District office pending Mr. Cortello's appointment. Mr. Tillman thanked the current staff at the 9th PDO for their professionalism and hard work.

Ms. LeDoux moved to amend the motion to offer Mr. Cortello a salary equal that of the previous District Defender. The motion passed unanimously, as amended.

Reverend Krutz inquired of Mr. Dixon the date of his official capacity as State Public Defender. Mr. Dixon indicated December 1, 2013, which would provide him enough time to transition out of his current position in Districts 14/38. Mr. Holthaus moved that Mr. Dixon's official start date be December 1, 2013. Judge Burns seconded the motion which passed unopposed.

Mr. Neuner encouraged discussion between Ms. Ferris and Mr. Dixon to determine Ms. Ferris' status with LPDB and clarified that Ms. Ferris would remain in her current capacity as Interim State Public Defender until December 1, 2013. Mr. Hamilton inquired whether Ms. Ferris would

return to the First Assistant State Public Defender position. Professor Metzger reminded the Board that that position no longer exists as there is no Table of Organizational space available for the position and, as advised by General Counsel Roger Harris, the legality of the original formation of the position is questionable.

8. Budget Committee Reports and Recommendations.

a. Financial Report*. Ms. Carter gave a summary of LPDB's current financial status, reporting a total of \$155,730 available for reallocation. Mr. Hamilton moved to adopt the financial report as submitted. Mr. Lorenzi seconded the motion which passed unopposed.

b. FY 15 Budget Request - Ratification*. Ms. Ferris reported that the FY15 budget request was submitted timely on October 15, 2013 for \$53M. The request incorporated all Districts' Needs Based Budgets and included a request for increased T.O. (Table of Organization) from 16 to 19. The ratification of the FY 15 Budget Request is brought to the Board on the recommendation of the Budget Committee. Mr. Hamilton moved to ratify the request which was seconded by Prof. Metzger and passed unopposed.

c. Delegation of Authority -DAF FY 14* and 501c3 Contracts*. Because it is not known when the Board will meet again, Ms. Ferris reported that Staff is requesting that the Board give authority to the Budget Committee to delegate authority to Staff to renew 501c3 contracts that end in December and to distribute the second half of the DAF to the districts once approved by the Budget Committee. Mr. Hamilton moved to give the Budget Committee authority to delegate authority to staff to renew 501c3 contracts and disperse the second half of the DAF to the districts. Mr. Lorenzi seconded the motion, which passed unopposed.

9. Policy Committee Reports and Recommendations*. Ms. Ferris reported that the Policy Committee and the Capital Case Working Group are recommending three action for Board adoption. First is to accept an outstanding offer for additional funds from CDPSELA and CAPOLA in the amount of \$331,000 and \$100,000, respectively, which would be redirected to the Expert Witness Fund to help defray current outstanding invoice submittals for FY 14. If approved, the contract with the Louisiana Appellate Project would have to be amended to include these funds for an annual total of \$1,031,000. Second, the immediate release of the proposed letter to all expert witness fund applicants informing them that expert witness funds are not available but that their applications will be considered once funding becomes available; and, last, adoption of the long-term capital strategic plan as presented.

Mr. Hamilton inquired as to how the funds would transfer. Ms. Ferris reported either by amendment to the contracts or redirection of the funds. Ms. Ferris clarified that any amended contracts would have to be approved by OCR first, which could take time. Several guests inquired when their requests would be approved. Staff clarified that until the funds are reserved for the Expert Witness Fund either by redirection or contract amendment, which would require OCR approval, that the application approval process will remain in suspension and judges are to be made aware that the Board has addressed the issue and until the funds are in place, there will be no expert witness approvals. Mr. Lorenzi urged that the proposed letter be provided to all offices so there is no confusion as to what information is being provided to judges and that all applicants be given 30- day reports on the fund status.

Mr. Hamilton moved to amend the agenda which was seconded by Mr. Holthaus. Mr. Hamilton further moved to amend the Louisiana Appellate Program's contract to incorporate the funds from CDPSELA and CAPOLA, increasing the contract amount from \$600,000 to \$1,031,000 for FY 14. The motion passed unopposed.

9b. Chairman Neuner reported that the Policy Committee is recommending to the Board adoption of a policy that LPDB shall never assume any financial responsibility in trial level DOC cases and that staff draft this resolution for the next Board meeting. Prof. Metzger seconded the recommendation which passed unopposed.

10. Contracts.

a. Professional Services.

i. Decuir Law Firm* and Riviere Law Firm*. Ms. Ferris reported that contracts for legal services have been signed with the Decuir Law Firm for representation of LPDB in the 19th Judicial District in the amount of \$15,000 (to be billed against hourly) and with the Riviere Law Firm in the 17th Judicial District for assistance the *State v. Brown* matter in the amount of \$10,000. Staff is requesting ratification of these contracts which were necessary in order to comply with court order.

b. CPCPL – Angola 5 Contract Ratification and CAP – Angola 5 – FY 14*. Staff is requesting ratification of the contracts for services in the Angola 5 cases.

Services by CPCPL for the remainder of FY14 are in the amount of \$208,800 as the funds provided in the original contract exhausted in September. Ms. Ferris clarified that the funds are available and the contract has been submitted to OCR for approval.

The contract for CAP in the amount of \$151,377 has not yet been executed. Again, Ms. Ferris clarified that the funds are available.

Judge Burns moved to ratify the contracts and Mr. Richard seconded the motion which passed unopposed.

c. JJIC (Amended Agenda Item). Ms. Womack asked for a status and/or recent activity report on the Juvenile Justice Implementation Commission. Mr. Neuner reported that there has not been a meeting of the Commission in six months and there is no activity to report of which he is aware. Ms. Womack and Mr. Pittman discussed holding a meeting of the Juvenile Working Group prior to the JJIC meeting.

11. ISPD Report. The ISPD report is located in the Board meeting materials.

12. Next Meeting Date*. The next meeting date is set for Tuesday, January 7, 2014. The location will be announced once it is determined.

Professor Snead welcomed Tiffany Simpson.

13. Executive Session*. Ms. LeDoux moved to go into Executive Session, seconded by Professor Metzger. Professor Metzger moved to leave Executive Session. Prof. Linares seconded the motion.

14. Other Business. Mr. Hamilton moved to form a Capital Litigation Working Group to oversee capital litigation.

At Mr. Neuner's request, Professor Snead, Herschel Richard and Rebecca Hudsmith volunteered to join the working group. Mr. Lorenzi seconded the motion which passed unopposed.

Ms. LeDoux announced that because of conflicts of interest in other areas of her employment, she would not be requesting re-appointment of her Board term which expires on December 31, 2013.

Rev. Krutz also informed the Board that his term expires December 31, 2013, and he will also not be seeking re-appointment.

15. Adjournment.* Reverend Krutz moved to adjourn, which was seconded by Ms. LeDoux.

Guests:

Michael A. Mitchell
Irina Zheludkova
Bruce Unangst II
Sarah Ottinger
Tony Champagne
J. Clay Carroll
Reggie McIntyre
Derwyn Bunton

G. Paul Marx
Julie Betz
Richard Bourke
Jay Dixon
Teresa King
Jim Looney
Herman Castete

Richard Goorley
Donald Sauviac
Kerry Cuccia
Steve Thomas
Tanner Magee
Tony Tillman
Richard Tompson

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 29th day of October, 2013, as approved by the Board on the 7th day of January, 2014, at Baton Rouge, Louisiana.



Judge Robert J. Burns (Ret.), Vice-Chair