

LOUISIANA PUBLIC DEFENDER BOARD

Wednesday, September 30, 2009
2:00 PM

Geismer Community Center
12060 Hwy. 73
Geismar, LA 70734

Agenda

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

9. Date and Location of Next Board Meeting

10. Adjournment

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* Requires Board Vote

LOUISIANA PUBLIC DEFENDER BOARD

Minutes of Meeting

September 30, 2009

Geismar Community Center
Geismar, LA

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

The following Board Members were present:

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

The following *ex officio* Board Member was present:

Rebecca Hudsmith

The following Board Members were absent:

Leo C. Hamilton	Judge William Norris
Lucy McGough	

The following *ex officio* Board Member was absent:

Judge Robert Brinkman

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FRANK X. NEUNER, JR.
CHAIRMAN