

# **Louisiana State Bar Association Criminal Justice Committee Meeting**

Tuesday, April 21, 2020 – 11AM

*Attendees:*

Hon. Karen Herman, Orleans Criminal District Court  
Hon. Scott Schlegel, 24<sup>th</sup> JDC  
Hon. Jules Edwards III, 15<sup>th</sup> JDC  
Jarrett Ambeau, Attorney at Law  
Meredith Angelson, Innocence Project New Orleans  
Graham Bosworth, Attorney at Law, Chair  
Richard Bourke, Louisiana Capital Assistance Center  
Joshua Branch, Justice and Accountability Center  
Derwyn Bunton, Orleans Public Defenders  
Christopher Cox, Jefferson Parish District Attorney's Office  
Norma Dubois, Jefferson Parish District Attorney's Office  
Jennifer Eagan, Louisiana Supreme Court  
Paul Fleming, Jr., Attorney at Law  
Meghan Garvey, Orleans Public Defender  
Mithun Kamath, Jewish Federation of New Orleans  
Loren Lampert, Louisiana District Attorney Association  
Quintillis Lawrence, 19<sup>th</sup> JDC Public Defender  
Simone Levine, Court Watch NOLA  
Michael Mitchell, 19<sup>th</sup> JDC Public Defender  
Will Snowden, Vera Institute  
Vanessa Spinazola, Justice and Accountability Center  
Madalyn Wasilczuk, Louisiana State University  
Jon Wool

*Staff:*

Amy Duncan  
Jordan Maier  
Monte Mollere

## **Minutes**

1. The minutes from the January 2020 meeting were approved as written.
2. **COVID-19 Updates**
  - a. **District Courts**
    - i. 15<sup>th</sup> JDC, reported by Judge Jules Edwards:
      1. The 15th JDC is using video conferencing to conduct 1st Appearances (72-Hr. Hearings), conduct arraignments, and take guilty pleas. The

ADAs are negotiating bond reductions with the defense attorneys and electronically reporting their agreements to the judges who are then electronically notifying the jail. Most of our judges have notified our sheriffs that when defendants are arrested for warrants issued for past failure to appear in court for a non-violent, non-sexual offense, that defendant is served with a new court date and released without sanction and not being held pre-trial.

2. The court is moving to have attorneys bring all their cases at one time, with public defenders appearing in the morning and private attorneys appearing in the afternoon.
  3. The clerks are currently unable to change the notification process due to the limits of their software.
  4. When the courthouse reopens, defense attorneys will be encouraged to use written pleas of not guilty at arraignment under the provision of LSA-Cr.P. Art. 553.
- ii. 24<sup>th</sup> JDC, reported by Judge Scott Schlegel:
1. The court is operational for emergency hearings, utilizing Zoom for probable cause determinations to collect remote testimony from officers; e-filing
  2. In each division, the jail and court are taking electronic guilty pleas using an e-form available on the court website.
  3. Continuing to consider stagger dockets using an online calendar to set 10 per hour and hold no more than 50 per day (this compared to 100 every other Thursday and about 70 the following Monday for the beginning of the Judge's criminal trial week). Will no longer hold court on Thursdays. Instead, each public defender will be given an hour block to pre-try cases by video on that Thursday in preparation for the upcoming trial week. Each public defender will be given a set day for their cases and will be expected to have completed all of their plea forms before they even walk in the door. The private defense attorneys can set whenever is convenient.
- iii. Orleans Criminal District Court, reported by Chief Judge Karen Herman:
1. District courts are operational with first appearances occurring by Zoom; the presence of defendants is currently waived; currently bond hearings and emergency matters only
  2. Some proceedings occurring by phone – calls recorded and archived by CallBridge
  3. Clerk's office is closed.
  4. All sections are accepting filings via email to the section email address
  5. The court is planning a slow reopening for May 18.
  6. The district's 18% reduction in jail population is one of the highest in the country.
- iv. Louisiana Supreme Court, reported by Jennifer Eagan:
1. The Supreme Court is offering IT support to local courts: every jurisdiction now has a Zoom account, with training available to expand

their video court. However, because courts are not a unified system, it is otherwise difficult to take top-down action.

2. LASC is working on a new order to be released Friday with recommendations on how to reopen a court – the Committee is welcome to offer feedback on the guide. The hope is that some of the measures taken during the public health crisis will remain in place to increase efficiency and cost savings for the courts with some remote processes becoming standard.
- v. Public access to hearings held remotely
  1. Some judges are using phone conferences for proceedings, which are not open to the public.
  2. Courts using Zoom for court proceedings have various methods of making the Zoom join info publicly available.
    - a. 24<sup>th</sup> JDC – members of the public can request access using <https://www.courtonline.us/public-access>, where they can sign up to receive an email with the Zoom info for a particular hearing.
    - b. Orleans – members of the public can call the court to obtain the info for hearings held by Zoom. Sheriff's office has one camera available for zoom.

b. **District Attorneys** – reported by Loren Lampert, Louisiana District Attorneys Association:

- i. Judge Schlegel's video training has been a resource to local courts on how to adopt software for remote work.
- ii. Jail populations are down 12-14%; staff are reviewing populations daily to look for opportunities for release, including via the expansion of pretrial supervision and day reporting. DOC is on board to reduce their population as well.
- iii. Criminal justice stakeholders are facing a funding crisis, given that they are mostly funded by traffic fines and some misdemeanor fines, which have vanished indefinitely. Lampert reported that seven DA's offices will be in constitutional crisis within 60 days. Additionally, up to 80% of funding for the Jefferson Parish Public Defender's Office comes from traffic ticket revenue.
  1. Richard Bourke noted similarities between the crisis now and after Katrina, except that now it is occurring on a statewide level.
  2. Jennifer Eagan noted that there may be emergency funding available through the Bureau of Justice Assistance.
- iv. There may be issues with proper case docketing as courts are unable to give definitive dates for hearings; court dates are listed as "upon notice" with the expectation that the DA will send notice of arraignment later.

c. **Public Defenders** – reported by Derwyn Bunton, Orleans Public Defenders Office; and Paul Fleming, 24th Judicial District Court:

- i. Reiteration of the severity of the funding crisis, which disproportionately impacts the public defense system – unlike other criminal justice stakeholders, public defender offices are having to furlough staff.

1. Jefferson Parish cut contracts for all lawyers by 50%, with half of all support staff furloughed, allowing the office to live through October.

**d. Non-profit organizations and private practitioners –**

- i. Richard Bourke noted that nonprofits are similarly being looked at for budget cuts and furloughs, as they receive funding from the LPDB.
- ii. JRI is on hold as JAC is working to keep people out of jail, holding a virtual clinic in EBR to address warrants.

**3. Other Discussion Items**

- a. Status of DOC attorney-client visits continues to vary from facility to facility:
  - i. Orleans has one computer with a camera for attorney-client discussions and is trying to accommodate videoconferencing in the mornings ahead of court hours.
  - ii. JAC has had long-term difficulties accessing clients in Plaquemines, possibly due to lack of clarity on directives from DOC. Now using VendEngine conferencing system – can register at [www.jailfunds.com](http://www.jailfunds.com).
    1. The contact at DOC for video communications is Malcolm Meyer; [mgmyer@corrections.state.la.us](mailto:mgmyer@corrections.state.la.us)
- b. Richard flagged a concern that videoconferencing and other emergency provisions should not be allowed to become the new normal after the crisis, arguing that even if they are cheaper, they do not meet the standard of service the justice system aspires to outside of emergency.
- c. Modernizing modes of service of process: how can defendants be served when budgets will make it impossible to serve everyone physically? Option to introduce email service, either via consent or statute?
  - i. How to ensure that the defendant receives service?
    1. Domiciliary service already has its own issues with ensuring receipt.
    2. Email is free, easily accessible for some people – but not everyone
  - ii. How to ensure receipt of jury and witness summonses?

**4. Next Steps**

- a. Meghan Garvey proposed that the Committee prepare something in support of public defenders' request for funding. An ad hoc funding subcommittee was created which will include Meghan, Jon Wool, and Norma Dubois and/or Loren Lampert. Amy will follow up to coordinate meetings.
  - i. There is currently a group to study court funding to which Judge Edwards was appointed. The group extended it through the next legislation session and may be one avenue by which to push legislators to properly fund the legal system.

**5. Next Meeting – Tuesday, August 11, 2020 at 2pm**

**6. Adjourn**