



THE LOUISIANA PUBLIC DEFENDER BOARD
AT THE CROSSROADS
ETHICS AND LAW IN PUBLIC DEFENSE
(Executive Summary)

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EXECUTIVE SUMMARY

On April 27, 2015, in support of House Bill 605, a highly misleading and inaccurate memorandum and other documents were sent by the Louisiana District Attorneys Association (LDAA) to every member of the Louisiana Legislature’s House of Representatives. Through HB 605, the membership of the Louisiana Public Defender Board (LPDB) and enabling legislation contained in the Louisiana Public Defender Act (Act 307 of the 2007 Regular Legislative Session) came under attack. First the bill brought by the LDAA sought to strip capital representation from the LPDB. Imbedded within the bill was the removal of the rights of appeal and post-conviction representation. Based on the district attorneys association paper, replete with misinformation, untruths and inaccuracies, the Louisiana Public Defender Board responds with evidence-based factual corrections.

MYTH #1: Restriction of Services is a surprise

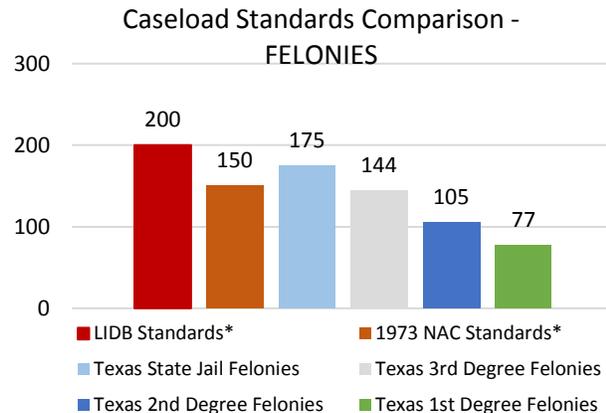
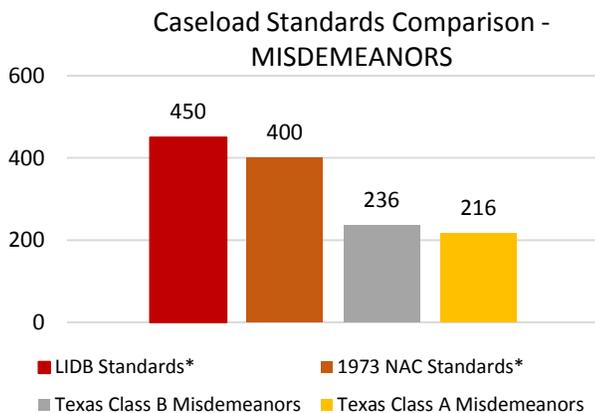
FACT

- ✓ The Service Restriction Protocol (LAC 22: XV, Chapter 17) was promulgated in 2012 to address excessive workload and insufficient funding.
- ✓ For years districts have been dependent on fund balances to meet the gap between local revenues, supplemental state funding, and expenditures.
- ✓ Legislative auditor reports have consistently noted fund balance depletion caused by insufficient revenues.

MYTH #2: LPDB attorney caseload standards are arbitrary

FACT

- ✓ Louisiana standards were promulgated by the Louisiana Indigent Defender Board (LIDB) in 1994. LIDB took the National Advisory Commission on Criminal Justice Standards and Goals (NAC Standards, 1973) and added 50 cases to all categories except capital.
- ✓ Louisiana standards exceed those of every other known caseload standard in the United States.



*Note: LIDB and NAC Standards are disjunctive. For example, if a public defender is assigned cases from more than one category, the combined weighted total should not exceed the equivalent of 450 misdemeanors.

The noble ideal [of a fair trial] cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him. *Gideon v. Wainwright*, 373 U.S. 335 (1963).

MYTH #3: LPDB inflates attorney caseloads

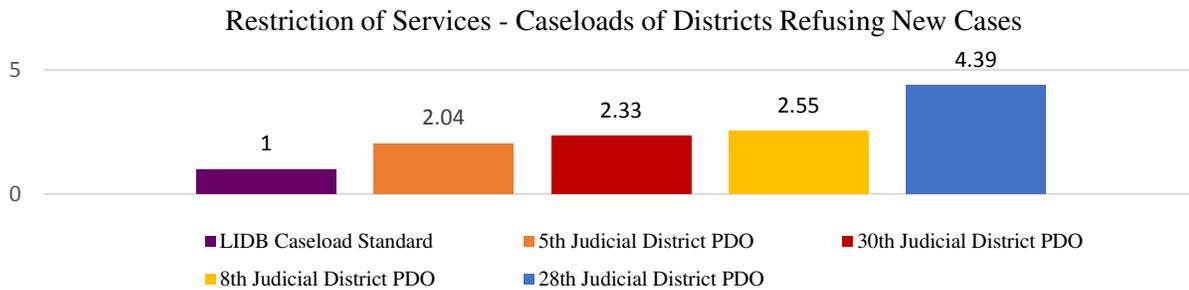
FACT

- ✓ LPDB’s database automatically changes the status of cases which have been dormant for more than six months, these cases are not considered open.
- ✓ LPDB conforms to the definition of a case as established in Louisiana R.S. §15:174(C).

MYTH #4: LPDB uses caseload standards to close district offices

FACT

- ✓ No local Public Defenders Offices have closed.
- ✓ Of the eight districts currently in restriction of services – three districts have eliminated the offices’ conflict panels (1st, 20th, and 26th); four districts are refusing new cases due to excessive existing caseloads (5th, 8th, 28th, and 30th); one has implemented a hiring freeze which has not affected client representation (19th).
- ✓ The four districts which are refusing new cases due to excessive caseloads all maintain caseloads more than two times the caseload standards.



MYTH #5: LPDB lacks accountability and oversight

FACT

- ✓ LPDB is an agency established within the Office of the Governor, overseen by the Senate Judiciary B Committee, the House Committee on the Administration of Criminal Justice, and the Louisiana Legislative Auditor.
- ✓ The Governor either directly appoints or must approve the appointments of six of the 15 board members, including the Board Chairperson.
- ✓ Other appointing entities include the Louisiana Supreme Court, Louisiana Bar Association, Louisiana Legislature, Louis A. Martinet Society, Louisiana Interchurch Conference, and the Louisiana Law Institute’s Children’s Code Committee.

MYTH #6: LPDB is short-changing local Public Defenders Offices to fund capital programs

FACT

- ✓ Capital cases are expensive. During testimony on HB 605, it was noted that one capital case can cost a District Attorney’s Office anywhere from \$500,000 to \$1,500,000. In contrast, LPDB spent approximately \$5,800,000 at the trial level on more than 70 potentially capital cases in calendar year 2014 – an average of less than \$83,000 per case.

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