



Bobby Jindal
Governor

Frank X. Neuner, Jr.
Chairman

Jean M. Faria
State Public Defender

EQUAL JUSTICE FOR ALL

PRESS STATEMENT

LPDB Sues Orleans Traffic Court for Non-Remittance of Public Defense Funds

Contact Frank Neuner (337) 654-4424

BATON ROUGE – On Tuesday, July 31, 2012, the Louisiana Public Defender Board (“LPDB”) sued the judges of New Orleans Traffic Court for persistent non-payment of fees to the Orleans Parish Indigent Defender Fund, in violation of state law. This is the second lawsuit that LPDB has filed against members of the New Orleans judiciary; the first was a successful mandamus petition that affirmed the judges’ statutory obligation to assess, collect and remit special court costs for public defense.

The Orleans Public Defenders (“OPD”) has, since January 2012, been forced to restrict services due to insufficient financial resources. Clients who are affected by the service restriction are assigned to a waitlist. A significant portion of OPD’s budget depends on fines and fees collected by the Judiciary, the majority of it from Traffic Court, which handles the highest volume of infractions.

In November 2011, the Office of the Inspector General, an independent agency dedicated to improving government accountability in Orleans Parish’ public agencies, found that the New Orleans Traffic Court misdirected traffic fines and statutory fees owed to the Indigent Defender Fund, some of which were wrongly directed to the Traffic Court’s Judicial Expense Fund.

As a result, OPD retained the forensic auditing services of LaPorte CPAs and Business Advisors to evaluate and quantify Traffic Court’s compliance with the law relating to the remittance of fees to the Indigent Defender Fund. LaPorte examined every available traffic ticket and receipt for two months in 2011 and found that the Traffic Court routinely failed to remit the monies that it collected on behalf of the Indigent Defender Fund, wrongfully diverting and/or withholding between \$2,448,298 and \$6,706,476 from the Indigent Defender Fund between August 15, 2007 (the effective date of the Public Defender Act of 2007) and May 15, 2012.

LPDB is the state regulatory agency charged with ensuring the effective and efficient administration of public defense services statewide and takes seriously its obligation to ensure that each public defender office has the resources required to serve its local criminal justice systems and community. LPDB has unsuccessfully exhausted all efforts to receive funds that are legally dedicated to OPD, and therefore, must rely on litigation as its strategy of last resort. Despite intensive communication and efforts to resolve this amicably, updated analyses of Traffic Court’s 2012 revenue collections and remittances through June 2012 show continued non-compliance, with decreased payments to the Indigent Defender Fund and significant increases in deposits to the Court’s Judicial Expense Fund.

LPDB Chairman Frank Neuner comments, “The New Orleans Traffic Court has failed to provide any evidence that disputes the finding of the Inspector General Report or the LaPorte forensic audit, has taken no action to pay OPD the funds that they admit were misdirected to the detriment of OPD, and has made no changes to their accounting practices to ensure prompt and accurate payment in the future. As result, the public defender was forced to lay off staff and cut services, and remains in financial crisis.”

Because local revenues affect the state funding formula, the impact of this defiance is not limited to Orleans, but affects every public defender office in the state by withholding significant funds in a severely under-resourced system, in violation of the law, which recognizes how vital these funds are to the uninterrupted operation of the local criminal justice system. LPDB expects at least 10 public defender offices to be forced to restrict services during the current fiscal year.

Chairman Neuner adds, “In every district public defender office, every dollar counts. There is not enough money dedicated to public defense even when judges diligently and accurately assess, collect and remit these fees. It is unconscionable that the Traffic Court judges in Orleans, who are sworn to uphold the law, have shown no accountability for their legal obligations, which has directly caused OPD’s financial crisis and is aggravating the financial crises of offices around the state.”

The Board is being represented *pro bono* by renowned civil litigation attorney, Phillip Wittmann. Wittmann, who has been practicing law with the New Orleans-based Stone Pigman law firm for the past 49 years, is a past president of the New Orleans Bar Association and is regularly included in publications naming the top lawyers in the country.