

CY2009 LPDB ANNUAL REPORT TO THE JOINT LEGISLATIVE COMMITTEE ON THE BUDGET

MARCH 2010

LOUISIANA PUBLIC DEFENDER BOARD

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Executive Summary

March 1, 2010

Article 1, Section 13 of the 1974 Louisiana Constitution provides that indigent citizens are entitled to assistance of counsel when facing potential imprisonment and further states as follows: “The legislature shall provide for a uniform system for securing and compensating qualified counsel for indigents.” These provisions effectively codified the landmark ruling of the United States Supreme Court in *Gideon v. Wainwright* which mandated states to provide representation of indigent citizens accused of crime. Act 307 of the 2007 Louisiana legislature is the most recent enactment of statutory provisions to move toward full implementation of the provisions of both state and federal constitutions.

The Louisiana Public Defender Board (LPDB) is working diligently to streamline the delivery of public defender services across the state. To determine the most cost-effective and efficient means of providing these services, the LPDB seeks more than anecdotal evidence. Currently, the public defender database is rudimentary and has limited ability to create reports and perform other critical functions, including the capability to enhance attorneys’ casework productivity. Pursuant to a federal grant, the LPDB staff researched database and case management systems of various other, non-local, public defender sites to determine the most compatible system for Louisiana’s needs to provide accurate data.

To improve the accuracy of information that is collected from the various districts across the state, the LPDB needs to acquire a statewide database and case management system that will allow public defenders to more efficiently manage their cases while simultaneously collecting critical data needed for state-level supervision. The data is critical for the state staff in making evidence-based decisions that will determine and impact cost and efficiency in the delivery of services.

Additionally, the state faces litigation or potential litigation in several districts due to insufficient funding of indigent defense. A class action law suit filed by public defender clients in the 14th Judicial District (Calcasieu Parish) is pending in the 19th Judicial District (East Baton Rouge Parish). The lawsuit alleges that the plaintiffs are systemically denied their constitutional right to the effective assistance of counsel due to inadequate resources and staffing in the public defender’s office. In the 15th Judicial District (Lafayette Parish), after a complaint was filed in early 2009, a full study of the district was conducted by the National Legal Aid and Defender Association in late summer 2009. The report outlining the study’s results is expected in March 2010. Additionally, litigation has been threatened in the 22nd Judicial District (Washington and St. Tammany Parishes) as well as in the 41st Judicial District (Orleans Parish).

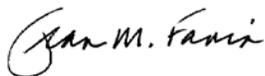
There are various ways in which funding for the districts has recently been impacted. The districts derive approximately sixty percent (60%) of their operating income from locally generated revenues. In 2009, some District Defenders saw a decrease in locally generated revenues caused from the introduction and use of traffic (red-light) cameras and speeding vans. Defenders were not included in the discussions on the distribution of the revenues obtained from

traffic cameras and speed vans, even though their revenues were directly impacted by the decisions.

Unlike prior years, 2009 was a very different year for distributions of state funding to the districts because the districts transitioned from Calendar Year reporting to Fiscal Year reporting. To assist with this reporting transition, LPDB made three District Assistance Funds (DAF) distributions during CY 2009 whereas every other year the LPDB has and will make only two distributions. Thus, the DAF distributions reported for 2009 are approximately one-third higher than they would usually be.

The LPDB continues to seek ways to improve the delivery of services guaranteed by the state and federal constitutions. Through its commitment to performance standards, ethical excellence, and data-driven practices, the LPDB oversees the delivery of high quality legal services, improves the justice systems affecting adults, children and families, and supports community well-being across Louisiana. On February 11, 2010, LPDB Chairman Frank Neuner created a Policy Committee to consider and address policy issues that affect indigent defense on a statewide level. Not insignificantly, the LPDB administrative staff utilized a mere seven percent (7%) of its annual state appropriations, making it one of the most cost efficient state agencies in Louisiana.

This report provides a summary of the various changes that the LPDB has implemented since the enactment of the Public Defender Act of 2007. Additionally, the report provides information about the Board members, including Chairman Frank Neuner, and the LPDB staff. A summary of all 2009 Board meetings has been included, along with the details of FY2009 expenditures, budget-related policies adopted by the Board, the formula used in distribution of the District Assistance Funds from LPDB to the various districts, and each district's year-end financial and caseload data.



Jean M. Faria
State Public Defender



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Summary of Changes to Public Defense
Pre and Post Act 307 of 2007

Effective August 15, 2007, through Act 307 of 2007, all local public or indigent defender boards ceased to exist and the supervision and oversight of the local offices transferred to the new 15 member Louisiana Public Defender Board (LPDB). The seminal difference between pre and post August 15, 2007 indigent defense practice is LPDB's active involvement in the oversight and supervision of the local offices and 501(c)3 not-for-profit corporations which provide representation to accused indigents.

Upon hiring the State Public Defender on June 1, 2008, the new Board took a very proactive role in setting attorney performance standards of practice for adult representation; capital guidelines creating a workable structure for the appointment and supervision of capital defenders throughout the state; developing uniform financial monthly reports on income, expenses, average attorney salaries and the number of hours attorneys in a given jurisdiction spend on public defense work and privately retained work.

It is through information gathering that a strategic plan for the development of a uniform statewide indigent defense system will be based. Currently, the state has two databases--one for the trial court level and the other for appeals. The trial level database is very rudimentary; however, without the information contained in the database all information would be anecdotal.

Prior to the new staff being hired, the same database was in place, but was not used by everyone. Those who did use it frequently entered partial or inaccurate information, creating the appearance of reliable data, when in fact the data was error-laden. Once the training director and information technology management officer were in place, they began a whirlwind tour of the districts in May of 2009, training nearly every office across the state. Within months, the database was in use and the quality of the input rose dramatically. It is only through accurate and complete data that the LPDB and its staff can make informed, evidence-based decisions about site visits, the District Assistance Fund formula and the funds disbursed pursuant to it.

With the hiring of the new Budget Officer in February of 2009, collection and review of uniform financial reports became mandatory. Through the creation of the Budget Committee, the LPDB delegated its authority to a three-member subcommittee to review budget related issues arising in the districts and to make budget related policy recommendations to the full Board. For example, with information gathered by staff, the Budget Committee determined that despite the creation and passage of a reserve policy in 2008, several districts continued to amass local reserves despite the fact that the state Board was paying them a very small amount of District Assistance Fund monies.

The Board has also created an Ethics Committee to identify and address ethical issues that impact the district public defenders and to provide guidance to them, as needed. The committee produced several policies to increase the transparency of the agency and the most efficient use of state funds.

What follows is a comparison of indigent services, pre and post Act 307, which reflects the dedication, commitment and hard work of the highly talented, professional LPDB staff in improving the administration, oversight and quality of legal services to indigent defendants.

Agency:

Pre: A five-person staff based in New Orleans.

Post: An 18-person staff comprised of a 16-position Table of Organization (T.O.) and two grant-supported positions based in Baton Rouge. (NOTE: LPDB administrative staff utilized 5% of state appropriation, making it one of the most cost-efficient state agencies in Louisiana. As of March 1, 2010 the LPDB will be fully staffed at its T.O. of 16.)

Budget:

Pre: For fiscal year 2005-06, the actual budget was \$10,411,461.

Post: For fiscal year 2007-08, the T.O. went from 4 to 16 people and the state appropriation increased to \$28,645,243.

District Defenders Appointed:

Pre: Upon the dissolution of the local boards (effective August 15, 2007), eight districts were left without a District Defender or appropriate person managing the local public defender system.

Post: Vacant districts were filled via new, "best-practice" protocol and in 2009 new District Defenders were appointed in 7 districts. Performance based contracts with District Defenders are currently being developed. Newly appointed District Defenders are provided with an orientation handbook prepared by LPDB staff.

Backlog of Outstanding Expert Witness Invoices Addressed:

Pre: A significant backlog of unpaid invoices threatened the ability of Louisiana defense lawyers to procure experts in cases.

Post: All invoices are up to date. A procedure for prompt payment was developed and a contract with the Louisiana Appellate Project (LAP) was entered into in order to process approved payment vouchers more efficiently and effectively.

District Assistance Fund Formula Improved:

Pre: The formula was inaccurate and did not reflect district needs adequately. It permitted districts to claim state funds without first accounting for local funds thereby increasing some districts' local reserves.

Post: Staff developed an accurate formula that does the following:

1. Projects each district's expenditures based on the preceding year's financial data; and,
2. Deducts from projected expenditures all locally generated revenues and requires local reserves spend-downs to determine if any state funding is needed and if so, how much.

This new formula virtually eliminates the build-up of local reserves in a lean budget year by requiring local reserve fund spend-downs prior to determining whether any state funds are needed.

Database:

Pre: Because local-level database users had received little or no formal training, compliance with data entry was very low. The database itself is rudimentary and has limited ability to create reports, further adding to serious inaccuracies.

Post: Database training was offered to every district. Numerous adjustments were made to the database fields improving its ability to collect data. This led to significant improvements in case counts and entries as to outcomes. Statewide policies to standardize local reserve funds were approved and implemented. Pursuant to the conditions of a federal grant, staff conducted research of non-local database/case management systems to provide much needed case management tools (attorney dockets, court calendars, document management, internal email). These case management tools are in addition to database case counting needed to improve Louisiana's indigent defense system for practitioners while providing accurate caseload and workload data, evidence needed by policy makers.

Annual Reports:

Pre: Due to the lack of statewide data, reports reflecting statewide public defense work were of limited value.

Post: Comprehensive caseload and financial data has been collected from which summaries on Louisiana's 42 defender districts and 8 contract programs have been drafted.

In Calendar Year 2009, public defenders opened in excess of 274,101 cases, which were added to their existing caseloads.

Districts derive approximately sixty percent (60%) of their operating income from locally generated revenues. As a result of data collection, LPDB and the District Defenders saw a decrease in locally generated revenues caused from the introduction and use of traffic (red-light) cameras. Defenders were not brought "to the table" when the distribution of the revenues obtained from traffic cameras was discussed. In addition to traffic cameras, speeding vans are also expected to negatively impact locally generated funds for public defenders.

Standards:

Pre: Trial standards had been developed, but not promulgated or implemented.

Post: Adult Trial Performance Standards were promulgated in April 2009. These standards serve as the basis for trial level performance evaluations. Capital Guidelines were approved by the Board and submitted for promulgation in January 2010. Capital, juvenile defender, and Child in Need of Care (for parent representation) standards are currently being developed. All proposed standards are vetted by other criminal justice system members and, starting with the Capital Defense Guidelines, through the Louisiana State Bar Association's Right to Counsel Committee. LPDB also is part of a Louisiana Appleseed-initiated campaign which has created standards for interpreters working in Louisiana state courts. Working with the Right to Counsel Committee and the Access to Justice Committee of the LSBA, the Language Access Guidelines cleared the House of Delegates to present the recommendation to the Louisiana Supreme Court.

Post-Conviction Representation Advocacy:

Pre: Prior to Act 307, there was no systemic advocacy for post-conviction representation.

Post: In coordination with the Louisiana Supreme Court, the State Public Defender has prepared reports and made a presentation to the task force on state post-conviction, and undertaken a public education campaign through a submission to the Louisiana Bar Journal and the website. LPDB has authorized the creation of a Capital Case Coordinator which position, among many other tasks, is responsible for monitoring the capital cases currently in the system and the status of each.

Juvenile Representation Improvements:

Pre: Prior to Act 307, there was no systemic advocacy by defenders in the juvenile justice system.

Post: The juvenile division has worked in collaboration on a number of legislative recommendations including the prompt appointment of counsel, a presumption of indigency, and changes to Child In Need of Care (CINC) procedures. Juvenile defenders have worked on projects statewide with the MacArthur Foundation (Models for Change), the Annie E. Casey Foundation (the Juvenile Detention Alternatives Initiative), the National Juvenile Defender Center, and the Juvenile Indigent Defense Action Network. A juvenile defender listserv has been created, connecting all juvenile defenders in the state via email allowing the exchange of

information and research. A juvenile defender training curriculum is currently being developed and a handbook was written for parents in CINC cases. Thanks to a grant by the MacArthur Foundation, juvenile defenders are developing protocols for juvenile appeals and post-disposition representation. Juvenile specific site visits have been conducted in 29 of 42 districts.

Development:

Pre: Prior to Act 307, there were very few statewide projects and minimal grant activity.

Post: More than \$500,000 in non-state grant funds was awarded to LPDB, including funding from national foundations. The year 2009 marked the first ever non-emergency award from the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice to evaluate other database/case management systems prior to selecting a new system. The U.S. Department of Justice granted a direct award to LPDB to conduct capital case training to defenders, prosecutors and both jointly. The LPDB Chairman and State Public Defender worked with the Right to Counsel Committee of the Louisiana State Bar Association (LSBA) to pass a resolution in the House of Delegates which endorses the reclassification of nonviolent misdemeanors to civil infractions and to retain funding associated with those civil infractions as currently allotted within the criminal justice system.

Media Work:

Pre: Prior to Act 307, there was no proactive strategy for media activity.

Post: The LPDB Chairman, several Board members and staff met with eight editorial boards, which led to numerous editorials and the presentation of LPDB's "voice" in media coverage. Staff worked closely and cooperatively with the districts in developing media contacts. Further, LPDB maintains a media archive of both local and national media coverage related to public defense.

Infrastructure/Community:

Pre: Prior to Act 307, there were no committees or forums for defenders to work with other district offices or with the State Board.

Post: Separate advisory councils have been formed for District Defenders and Juvenile Defenders. An advisory council for Assistant Defenders is currently under development. These councils provide information from the field to the State Public Defender as well as allow for the dissemination of information from the SPD. On January 1, 2010, the first bi-weekly e-newsletter, which includes news, accomplishments, training updates and defender features was issued and sent to over 800 defenders and their support staff. The staff created and monitors a secure juvenile defender legal listserv with 100 members and counting.

Website:

Pre: Prior to Act 307, the website was a twelve-year old system which did not allow for the interactive exchange of information.

Post: The LPDB Chair and staff have developed a new web site. Nationally, websites are the leading resource for clients, practitioners and the public. Located at www.lpdb.la.gov, a fresh

and vibrant new website is scheduled to launch by mid-March 2010. It contains detailed maps and descriptions of every public defender office in the state, descriptions of every delivery model (staff or contract system), and contact information for every defender. The website contains links to all of our state and national partners working on the issues of indigent defense. Job opportunities, internships, trainings, calendar of events are just a few of the resources contained in the new website.

National Presence:

Pre: Prior to Act 307, the Louisiana Public Defender System received only “bad press,” and had no professional national presence.

Post: The LPDB Chair has traveled to national conferences supporting public defense in Louisiana. LPDB staff has served as faculty for the National Legal Aid and Defender Association Annual Conference. The State Public Defender (SPD) is a founding member of the American Council of Chief Defenders and is a member of its Executive Committee. The SPD is a member the ABA’s Standing Committee on Legal Aid and Indigent Defense and chairs its Indigent Defense Advisory Group (IDAG). As Chair of IDAG, she oversees and presents at the ABA’s Annual Indigent Symposium. In February 2010, she presented at the National Symposium on Indigent Defense in Washington, D.C. pursuant to an invitation by the U.S. Department of Justice. In May 2010, the SPD will be presenting on Capital Defense at a National Defender Symposium in Tennessee hosted by the Justice Project.

Our Special Projects Advisor has worked on the development of Community Oriented Defense Network Standards with the Brennan Center. The juvenile division represented Louisiana at a number of juvenile justice events, including the National Juvenile Defender Center Annual Summit, the MacArthur Foundation’s Models for Change Conference (Louisiana is one of the four original states selected by the MacArthur Foundation to be a Models for Change state), and the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) meetings. LPDB is the “lead entity” for Louisiana’s Juvenile Indigent Defense Action Network (JIDAN), which supports the MacArthur Foundation’s Models for Change work.

Litigation:

Pre: A class action suit was filed in the 14th Judicial District, Calcasieu Parish.

Post: The case was transferred to the 19th JDC in Baton Rouge in 2008 and was held in abeyance until 2009. The LPDB staff conducted a full-system site visit with follow-up training for the defenders. In December 2009, the LPDB Chairman and State Public Defender met with all members of the criminal justice system in Lake Charles. LPDB staff is now engaged in addressing systemic problems through research. Litigation provides opportunities for outreach, media work and public education. Based on a complaint filed in the 15th JDC, a full study of the district was conducted by National Legal Aid and Defender Association in late summer, 2009. The report is expected in March of 2010. Litigation has been threatened in the 22nd Judicial District (St. Tammany and Washington Parishes) as well the 41st Judicial District (Orleans Parish).

Emergency Preparedness:

Pre: Prior to Act 307, the Louisiana Public Defender system had no statewide plan for emergency preparedness.

Post: An LPDB Continuity of Operations Plan (COOP) was created with assistance from Bureau of Justice Assistance to be shared with all relevant agencies and circulated to individual districts for local COOP development. Every district defender has a copy of LPDB emergency contact information, LPDB has every defender's emergency contact information, and every district defender office and LPDB Board and Staff has emergency g-mail accounts and National Communications System Government Emergency Telecommunications Service telephone accounts in the event local email servers and telephones are incapacitated.

Site Visits:

Pre: Prior to Act 307, there was no systemic plan for site visits or supervision of the districts.

Post: A formal site visit protocol has been developed to be used in visits to the districts. Data collected from all of the districts has been used to develop a statewide plan for supervision and training. Site visits have been conducted in more than 90% of all districts and five of the eight contract programs. Staff has traveled more than 50,000 miles of Louisiana's highways overseeing public defense.

CINC Improvements:

Pre: Prior to Act 307, the state staff was on the Task Force for Legal Representation in Child Protection cases.

Post: LPDB staff has continued to work with the Task Force to develop a statewide plan for legal representation in CINC cases. On January 1, 2010, LPDB began representing all parents statewide in CINC cases. LPDB staff also developed a handbook for parents in CINC cases to help guide them through the process.

Board Meetings:

Pre: In 2005, LIDAB (the predecessor to LPDB) met only three times.

Post: In 2007, 2008 and 2009, LPDB had 10 scheduled meetings per year, only one of which was cancelled in 2007. Board agendas and minutes are now circulated and archived.

Training:

Pre: Prior to Act 307, the state staff did not provide training for defenders.

Post: LPDB Training Division has created capital training, juvenile training, database training, employment law training, preliminary hearing training, leadership and management training, trial skills training, cultural competency training and training on the use of social workers in public defender offices. In addition, explicit efforts have been undertaken to offer regional training in non-traditional places such as Lake Charles, Monroe, Houma, Ruston and Lafayette. The first ever Defender Training Institute, an intensive week-long skills training for new defenders, is scheduled for September 2010.

Recruitment:

Pre: Prior to Act 307, there was no statewide program for recruiting new defenders.

Post: In the summer of 2009, LPDB created its first internship program. The LSU internship program placed 10 interns in five offices around the state. LPDB staff also recruited at the LSBA Job Fair and collaborated with Equal Justice Works fellows for extra legal surveys in the 10th and 19th judicial districts.

Client Complaint Policy:

Pre: Prior to Act 307, there was no client complaint policy for use by public defender clients.

Post: The Client Complaint Policy, developed with feedback from District Defenders, Louisiana Attorney Disciplinary Board Office of Disciplinary Counsel and national partners, was passed in May 2009 and applies to all public defender offices and contract programs (including complaints against District Defenders, Program Directors and conflict counsel). The policy must be posted in every office. Records are required to be maintained for review by LPDB.

Budget Committee/Ethics Recommendations:

Pre: Prior to Act 307, there was minimal statewide budget data and no proactive budget committee.

Post: The Budget Committee is comprised of three Board Members and is staffed by the State Public Defender, Deputy Defender-Director of Training, Budget Officer and the Information and Technology Management Officer. The Budget Committee is responsible for reviewing financial information relating to indigent defense, identifying issues relating to the budget and developing policies for recommendation to the LPDB. As a result of the proactive leadership of the Budget Committee there is better accounting of state and local funds; a more equitable and reliable funding formula for the District Assistance Fund; a newly established emergency distribution procedure for districts; amended language in the capital contracts requiring Legislative audit and improved financial reporting, including budget requests. With the assistance of the Legislative Auditor and other stakeholders, the Budget Committee is working to develop uniform reporting requirements from local entities to ensure completeness and accuracy of District Defenders' local revenues. The Budget Division at LPDB conducted statewide budgeting/accounting trainings that were free and open to all districts.

**LOUISIANA PUBLIC DEFENDER BOARD
BOARD OF DIRECTORS
2010**

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Chairman**

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FRANK X. NEUNER, JR., PARTNER

Laborde & Neuner
Lafayette, Louisiana

Frank X. Neuner, Jr. was born in Baton Rouge, Louisiana on May 23, 1951. He received a Bachelor of Science degree in 1972 and a Juris Doctor in 1976 from Louisiana State University. He has been a partner with Laborde & Neuner in Lafayette, Louisiana since its formation in 1987 and currently serves as the Managing Partner. Since his admission to the Louisiana Bar in 1976, Mr. Neuner has been involved in admiralty, insurance, employment law, commercial, and toxic tort litigation. He was admitted to the Texas Bar in 1994.

He is a member of Louisiana, Texas and American Bar Associations, the Louisiana Association of Defense Counsel, the Defense Research Institute and the Maritime Law Association of the United States. He served as Treasurer of the Louisiana State Bar Association for 2002-2004, and was President of the Louisiana State Bar Association in 2005-2006. Mr. Neuner is a Past President and Board Member of the Lafayette Parish Bar Association and the Lafayette Parish Bar Foundation, and was a member of the House of Delegates of the Louisiana State Bar Association from 1980 through 1996. He was on the Board of Governors of the Louisiana State Bar Association from 1997-1999. He is currently serving as a Louisiana state wide elected Delegate to the American Bar Association.

He is a Team Leader for the Acadiana Inns of Court and is a Past President. Mr. Neuner is a Past Chairman and member of the Louisiana State Bar Association's Committee on Professionalism and Quality of Life. He has also been a member of the Louisiana Supreme Court's Committee on the Prevention of Lawyer Misconduct and serves on the Council of the Louisiana State Law Institute. Mr. Neuner is also a member of the Federation of Defense & Corporate Counsel.

Mr. Neuner has written an article for the Louisiana Bar Journal, Vo. 45, No. 1 entitled "Mandatory Professionalism: A Cure for an Infectious Disease" as well as an article for the Tulane Law Review, Volume 73, Numbers 5-6, entitled "Professionalism: Charting a Different Course of the New Millennium". He has been a guest lecturer at the Louisiana State University and Tulane University Law Schools' Continuing Legal Education programs and has presented at seminars for the International Association of Drilling Contractors, the Louisiana State Bar Association, the Lafayette Parish Bar Association, the Louisiana Judicial College, Marine Insurance Institute, Federal Bar Association and the Louisiana Association of Defense Counsel.

He is a Past Chairman and Board member of Our Lady of Lourdes Regional Medical Center, and serves on the Lafayette Advisory Board for Iberia Bank Corporation. He served as inaugural Co-Chairman of the Lafayette Outreach for Civil Justice in 2003 and 2004 which was honored with a Harrison Tweed award in 2005. He is also a Past President of the United Way of Acadiana and Past Campaign Chair for the United Way of Acadiana. Mr. Neuner is currently the Chair of the Louisiana Public Defender Board, and he was appointed by Governor Bobby Jindal to the Drug Policy Board in 2008.

In 2004 the Louisiana State Bar Association honored Mr. Neuner with the David A. Hamilton Lifetime Achievement Award for his demonstrated commitment to the promotion of legal services to the poor and his significant contributions which have enhanced pro bono efforts in the State of Louisiana during his lifetime. He was also honored in 2004 by the National Client Protection Organization with its prestigious Isaac Hecht law Client Protection Award for his leadership and guidance in reforming the Louisiana State Bar Association's Client Protection Program.

On January 21, 2006, Mr. Neuner was honored by the Louisiana State Bar Association with its Professionalism Award for his dedicated service in assisting the bench and bar in re-establishing the rule of law in the storm-affected areas of Louisiana and for his successful efforts in assisting the lawyers of Louisiana in the aftermath of hurricanes Katrina and Rita.

On June 8, 2006, Mr. Neuner was honored by the Louisiana Bar Foundation with the 2006 President's Award in recognition of outstanding leadership, volunteer service and dedication to the mission and goals of the Louisiana Bar Foundation.

On June 9, 2006, the Louisiana State Bar Association's twenty living Past Presidents honored Mr. Neuner for his outstanding service to the profession, the judiciary and the public in response to the unprecedented challenges of Hurricanes Katrina and Rita.

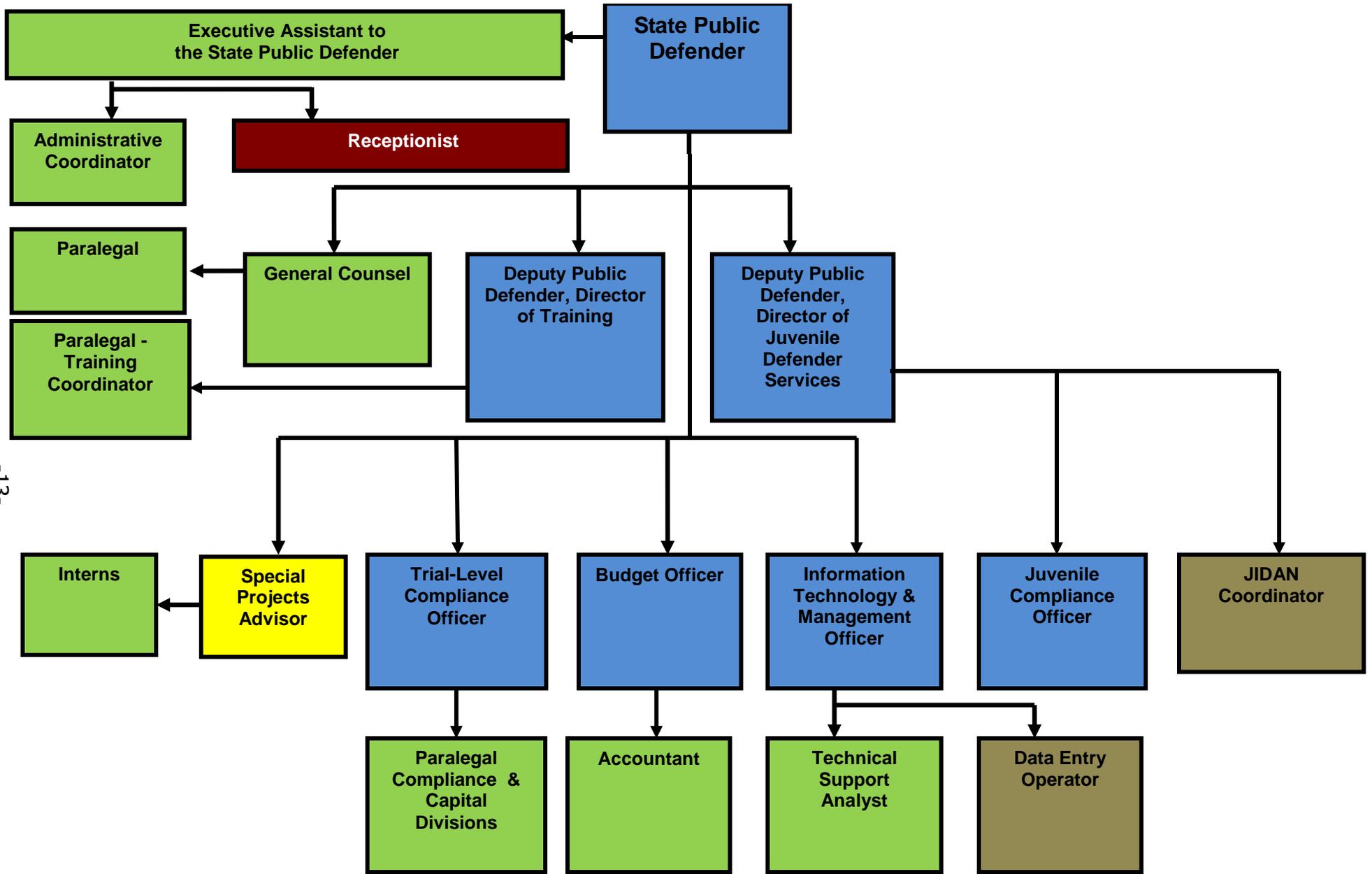
In December of 2006, The Louisiana Association of Criminal Defense Lawyers presented Mr. Neuner with the Public Defender Gideon Award.

In 2008, the LSU Paul M. Hebert Law Center named Mr. Neuner as the Distinguished Alumni of the Year.

Finally, Mr. Neuner was named as one of the Top 50 Louisiana Lawyers for 2007 by Louisiana Life magazine in its Winter 2006/2007 edition.

He has been married to Tracy Owens Neuner for thirty-eight years and they have four children and one grandson.

LOUISIANA PUBLIC DEFENDER BOARD STAFF ORGANIZATIONAL CHART



-13-

Statutory	Administrative	Board Created	Grant-Funded	Temporary Staff
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Caseloads and Attorneys – CY 2009

In order to assess case overloads, measurement of the caseloads of attorneys with a variety of different case-types among their files is potentially problematic. By counting cases only, no differentiation is made between a shoplifting charge and a murder. As different case-types require varying amounts of time and effort and other resources, the case counts must be value-adjusted for time and effort according to the former Louisiana Indigent Defense Assistance Board (LIDAB) Standards. Those standards are modeled after those promulgated by the American Bar Association, but allow for slightly higher caseloads in order to conform more closely to local practice. More difficult cases are adjusted to weigh-in more heavily in an attorney's caseload. In order to convert gross categories of cases, such as felonies, misdemeanors, certain juvenile proceedings, etc., to a common value for purposes of determining whether attorneys are carrying ethical caseloads, LIDAB adopted a rating system which converts cases to a value based on the least complicated cases, namely misdemeanors (which typically required the least time and effort on the part of the attorney).

Case Value Adjustments based on the rating system proposed by LIDAB are as follows:

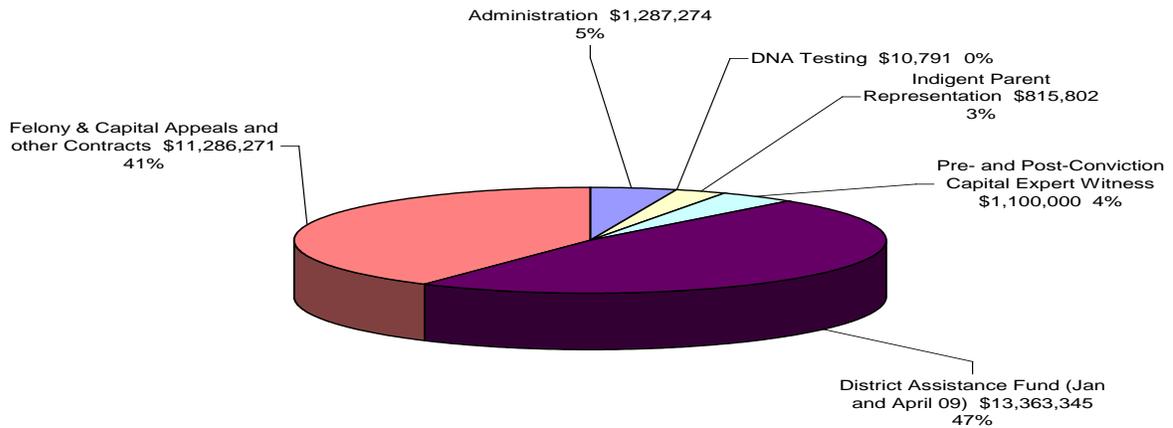
1 Capital (death penalty) = 90 Misdemeanors; 1 Felony/Revocation/Post-Conviction Review = 2.25 Misdemeanors; 1 Juvenile/Family In Need of Services (FINS) case = 1.8 Misdemeanors; 1 Child In Need of Care (CINC) case = 4.5 Misdemeanors, 1 Traffic/Child Support-Related/Extradition = 1 Misdemeanor. It may well be that in the future, more refinement in the value adjustments will need to be made. For example, there are certainly a number of subcategories of felonies which require varying amounts of skill and effort. A second degree murder or an aggravated rape case, both of which carry mandatory life without parole sentences, should be given more weight than a drug possession case, for example, though they both fall into the felony category for present analysis purposes. Also some kinds of cases, such as Habitual Offender prosecutions and offenses involving issues of sex offender registration, are on the increase and also require substantial time and resources.

Note: The attorney numbers below are self-reported and self-defined. Attorneys vary in the amount of time devoted to public versus private cases in most District Defender Offices (DDO), since few offices maintain full-time staff. Among the district defender offices, attorney time devoted to public defense varies, even among full-time staff attorneys. Some attorneys have reduced loads because they provide supervisory services, while others are new hires, or have retired or resigned mid-year. So each attorney does not represent a full-time equivalent attorney (FTE).

CY2009 Caseloads and Attorneys

District #	Value-Adjusted Caseload	Raw Caseload	Attorneys**	Full-Time	Part-time	Contract	Conflict	NonAttorney	Undesignated
1	46056	23442	69	24	0	14	7	24	0
2	5054	2060	5	0	0	5	0	0	0
3	1061	385	8	0	0	5	3	0	0
4	31693	14875	57	0	0	37	1	18	1
5	4592	2224	5	0	0	5	0	0	0
6	1659	688	9	1	5	2	0	1	0
7	1954	848	10	2	0	4	2	2	0
8	1581	625	5	1	1	1	1	1	0
9	17171	8224	25	1	0	22	0	2	0
10	3949	1553	27	1	2	6	15	3	0
11	2432	1025	10	0	0	9	1	0	0
12	5588	2806	9	1	0	5	2	1	0
13	3475	1441	7	0	0	7	0	0	0
14	31080	13768	42	19	0	11	2	10	0
15	47205	19812	60	0	0	51	0	8	1
16	14624	6393	45	4	29	1	0	10	1
17	11608	5719	23	7	1	3	7	5	0
18	8326	3587	15	0	0	11	0	4	0
19	42332	25528	92	45	0	8	1	38	0
20	1920	927	2	2	0	0	0	0	0
21	48318	24135	44	21	0	4	4	14	1
22	30232	12946	59	23	0	0	23	13	0
23	8522	3321	22	0	4	15	0	3	0
24	30628	12251	45	1	0	39	0	5	0
25	3393	1641	15	5	0	0	5	5	0
26	28176	16436	39	4	10	6	7	10	2
27	16918	9129	26	0	1	24	1	0	0
28	979	378	6	0	0	3	0	2	1
29	4262	1943	11	0	0	10	0	0	1
30	1617	758	10	0	0	7	2	1	0
31	6197	3092	9	0	0	9	0	0	0
32	13634	5966	33	3	0	16	9	5	0
33	2089	916	6	2	0	2	0	0	2
34	5891	3170	8	0	5	1	1	1	0
35	2318	811	13	0	2	3	7	1	0
36	3078	1432	6	0	0	5	0	1	0
37	1439	635	2	1	0	0	0	0	1
38	0	0	10	0	0	0	8	0	2
39	844	410	6	0	0	6	0	0	0
40	7277	3528	15	2	1	9	1	2	0
41	59742	33374	138	56	7	45	5	22	3
42	4401	1899	7						
Totals	664266	274101	1054	226	68	411	115	212	16

LPDB FY09 Expenditures (Total: \$27,863,483)



Louisiana Public Defender Board
Expenditures for FY2009

SALARIES	\$760,662
OTHER COMPENSATION	18,829
RELATED BENEFITS	188,412
TOTAL PERSONAL SERVICES	967,903
TRAVEL	16,417
OPERATING SERVICES	135,430
SUPPLIES	18,384
TOTAL OPERATING EXPENSES	170,231
PROFESSIONAL SERVICES	127,281
INTERAGENCY TRANSFER	49,261
OTHER CHARGES	26,592,865
ACQUISITIONS	81,529
TOTAL ALL EXPENDITURES	\$27,989,070
<u>Positions</u>	
Classified	9
Non-Classified	7
Total Positions (Admin.)	16

Note: FY 2009 for Period beginning July 1, 2008 and ending June 30, 2009.

Expenditures include Carry forwards for Contracts issued prior to June 30, 2009.

Site Visit Fiscal Audits

The Budget Officer reviews the latest audited financial statements and any previous audit findings in preparation of a site visit audit. Any concerns involving Internal Control and Segregation of Duties are noted to review in person and discuss with the District Defender or Executive Director of the Contract Program.

A site visit of the District Defender's or Contract Program's offices includes:

- Tracing monthly totals from General Ledger accounts to the Monthly Financial Statement which is submitted by the District Defender to our office in order to determine completeness, accuracy and that expenditures are being recorded to the correct category.
- Tracing individual entries to source documents such as Sheriff's check transmittal forms and expenditure invoices.
- Determining whether the District is running the office in accordance with Act 307 (District Defender not giving himself a raise) and being alert for Ethics violations (District Defender paying himself overhead for his own privately owned office).
- A study of internal controls including segregation of duties by using a questionnaire and observations while reviewing records.
- Reviewing insurance policies, expense accounts, expert witness fee invoices with back up receipts, rental lease agreements.
- Reviewing three payroll registers during a 12-month period, noting raises and making copies for our internal recordkeeping.
- Verify by reviewing bank statements that the cash on hand per ledger agrees to the bank reconciliation. Verify that the reconciliations are made timely.
- Discussion with District Defender to consider purchase of fiduciary or fidelity bonds when segregation of duties are not maintained.
- Determining whether the bookkeeper is in need of training.
- After returning to the office, clarify findings with staff and issue a written document to the District Defender for needed corrections, if any.

Reserves Policy Impact

The impact of the reserves policy is that it causes the 42 District Defenders to use a portion of their reserves (cash and investments) which were earned in prior periods to help fund their operations first before State distributions are made.

LPDB takes the *District Cash and Investment Balance Policy* into consideration in determining each District's semi-annual operating assistance distribution (DAF). Pursuant to Policy Statement No. 1, seventy percent (70%) of each District's total self-reported annual expenditures is compared to the total cash and investment reserves balance that the District has at the end of the most recent reporting period. If the reserve balance exceeds the adjusted expenditure figure, the District is required to use that excess portion of its reserves for its future year's operations before receiving additional state funds.

Effective December 31, 2009, Policy Statement No. 7 revised Policy Statement No. 1 to require Districts to expend cash reserves down to fifty percent (50%) of the District's annual expenditures. (See *District Cash and Investment Balance Policy* below.)

District Cash And Investment Balance Policy **Effective October 28, 2008**

Policy Statement #1:

If a district's cash reserve and investment balances exceed 70% of the total annual expenditures of the prior calendar or fiscal year at the start of a new calendar or fiscal year, the district may be required to use its balances in excess of 70% to fund its general operating budget. Application of this policy statement shall not include the value of buildings or other real property owned by a district.

Policy Statement #2:

If a district incurs expenditure needs that exceed its local revenues and state board funds during a calendar or fiscal year, it may request assistance from the board even if it has cash reserve and investments balances. The board will address these issues on a case-by-case basis by comparing the resources of the board and those of the district.

Policy Statement #3:

Failure of a district to report any funds received or to not disclose cash reserves or investments is a violation of the Public Defender Act (Act 307) which requires financial reporting. Per Act 307, financial information is sent to the Legislature and Legislative Auditor. If it is determined that false information has been provided or that information has been intentionally omitted, that information shall be reported to the board and to appropriate agencies and shall be addressed in accordance with the provisions of Act 307.

Policy Statement #4:

After the date of board approval of a cash reserve and investment policy, a district without a cash or investment balance or with balances less than 70% of total annual expenditures may still carry forward funds. Any cash and investment balances carried forward by these districts must be due to increased efficiencies of the district or local revenues that exceed the expenditure needs of the district.

Policy Statement #5:

A district that carries forward cash reserve and investment balances and foresees revenue shortfalls or expenditure overruns must plan for liquidation of investments as needed regardless of penalties. If the board provides assistance to a district because funds could not be liquidated from investments in a timely manner, any future board assistance to the district may be reduced accordingly.

Policy Statement #6:

No policy statement adopted by the board shall preclude it from requiring that a district use its balance of funds for operations in situations of financial exigency.

Policy Statement #7:

The cash and investment balance threshold amount shall be reduced from 70% to 50% effective December 31, 2009.

Presented: September 23, 2008 Board Meeting

Approved: October 28, 2008 Board Meeting

LPDB District Assistance Fund (DAF) Distribution Formula

The LPDB DAF Distribution Formula calculates the projected expenditures of each District based on caseloads and previous overhead expenditures and then deducts local revenues and Board-mandated spend-downs of local reserves before considering a district eligible to receive state funding. The objective of the formula is to fairly and proportionately distribute available yet inadequate state funds.

To understand the impact of the current LPDB District Assistance Fund (DAF) Distribution Formula, it is helpful to contrast it with the distribution formula of the predecessor Louisiana Indigent Defense Assistance Board (LIDAB). The former LIDAB formula simply disbursed state funds based on proportional caseload calculations, irrespective of local revenues, expenditures and reserves. These state funds were then expended by the districts first, leaving all local revenues to meet any expenditure shortfalls. Importantly, local revenues were only expended *AFTER* all state funds were depleted. Any remaining local funds were then moved to a reserve account. The use of this earlier formula resulted in some districts accumulating reserve funds while other districts experienced fiscal crises. Over time, the consistent accumulation of reserves or depletion of funds created a system that did not comply with principles of fairness nor the Legislature's constitutional obligation to provide a "uniform system for securing and compensating qualified counsel for indigents" (Article 1, Section 13 of the Louisiana Constitution).

The new LPDB DAF Distribution Formula takes a dramatically different approach. The LPDB DAF Formula starts with a projection of each district's funding needs, assuming sufficient attorney salaries and overhead to meet local caseload. This calculation is considered to be the "projected expenditures" of that district. Contrary to the old formula, the new formula requires that all local revenues be expended first, before any state funding is to be considered. Secondly, the *District Cash and Investment Balance Policy* requires that local reserves be expended to a specific level before any state funding is considered. (See *Policy* above.)

Local revenues and local reserve spend-downs are applied against the district's projected expenditures before determining how much state funding is actually needed by each district. Those districts that do need state funding after exhausting local funds are identified and the total state funds needed by these districts collectively is calculated. Next, the formula calculates the percentage of the total state funding each district needs. That percentage is then multiplied by the total state DAF allocated funds. The result is the actual dollar amount each district *in need of state funding* will receive from the limited District Assistance Fund. This formula fairly and proportionately distributes the available yet inadequate state DAF funds.

DAF Adjustment Formula:

The LPDB DAF Adjustment Formula calculates the projected shortfalls of districts facing insolvency and withholds that amount proportionately from districts with reserve accruals in order to cover the shortfalls of insolvent districts. The objective of the DAF Adjustment Formula is to adjust district DAF allocations to compensate for disparities between districts with high and low local revenues and reserve funds and to reduce the build-up of reserve funds.

The LPDB District Assistance Fund Formula (above) is a complex formula applied uniformly and consistently across the state in order to minimize the disparity between districts with reserve accruals and districts with shortfalls. Funding disparities are the result of widely recognized variations in locally generated funds. Nonetheless, even after deducting the requisite local spend-down of reserves and the local revenues from the projected expenditures, most districts require some state funding. Those districts might still accrue reserves due to the complex DAF calculations involving local revenues, reserve spend-down requirements, caseloads and in some districts, the inability to recruit and retain attorneys. These districts are considered “**Reserve-Accruing Districts.**” LPDB calculates their combined DAF disbursements to determine the “**Total Statewide Reserve Accrual.**”

Other districts experience financial shortfalls, even after receiving and expending state DAF funding and after expending local revenues and mandatory reserve spend-downs. Because of their financial shortfall, these districts must spend additional reserve funds beyond the mandatory spend-down to remain solvent (or “break even”). These districts are considered “**Reserve-Dependent Districts.**” They remain solvent, but only by using additional reserves.

Still other districts fall short of solvency even after spending all local revenues and state funds and after completely depleting their reserves. These districts are called the “**Shortfall Districts.**”

In its application, the District Assistance Fund Adjustment Formula determines the total shortfall amount from all Shortfall Districts combined and proportionately withholds that amount from the Reserve-Accruing Districts’ Total Statewide Reserve Accrual. These funds are moved to Shortfall Districts such that Shortfall Districts can break even while Reserve-Accruing Districts can, in some cases, still receive some state funds. By law, locally generated revenues must remain local; only state DAF funding is withheld from Reserve-Accruing Districts and moved to Shortfall Districts. Some Reserve-Accruing Districts with very high local revenues might still accumulate reserves even if a portion of state funds are withheld and moved to Shortfall Districts. However, this adjustment formula increases the likelihood that all districts will be solvent.

Importantly, one-to-four year trends indicate that at the present DAF funding allocation from the Legislature, Reserve-Accruing Districts steadily become Reserve-Dependent Districts and Reserve-Dependent Districts steadily become Shortfall Districts. Shortfall Districts continue to face the likelihood of insolvency.

2009 Annual Fiscal Report by District

LOUISIANA PUBLIC DEFENDER BOARD CY 2009 ANNUAL FISCAL REPORT

Uncharacteristically, in Calendar Year 2009 three DAF distributions were made, instead of the usual two. This "extra" distribution occurred as a result of the Board's vote to transition the districts to the fiscal year. This apparent increase is non-reoccurring.

JDC	State Revenue	Non-State Grants	Local Revenue	Total Revenue	Percent of Total Revenue Funded by State	Total Expenditures	Total Value-Adjusted Caseloads	Average Attorney Caseload Percentage Above a Standard Caseload
1	2,069,059		1,518,375	3,587,434	57.68%	3,256,934	46,056.00	156%
2	49,823		329,699	379,522	13.13%	421,559	5,054.00	258%
3	178,583		356,064	534,647	33.40%	567,621	1,061.00	-42%
4	652,998		1,251,308	1,904,306	34.29%	2,413,009	31,692.80	163%
5	201,172		199,464	400,636	50.21%	425,814	4,592.00	322%
6	253,037		268,170	521,207	48.55%	535,035	1,659.00	13%
7	229,731		56,078	285,809	80.38%	344,863	1,954.20	7%
8	179,657		67,850	247,507	72.59%	215,781	1,580.70	332%
9	464,729	2,469	720,165	1,187,363	39.14%	1,077,909	17,170.90	229%
10	236,880		267,470	504,350	46.97%	497,727	3,949.20	137%
11	181,515		248,764	430,279	42.19%	554,203	2,432.10	255%
12	193,126		146,170	339,296	56.92%	377,522	5,588.10	233%
13	288,943		123,633	412,576	70.03%	370,157	3,475.20	229%
14	1,156,967		979,046	2,136,013	54.16%	1,851,022	31,079.70	83%
15	1,090,710		2,212,482	3,303,192	33.02%	2,953,032	47,204.70	375%
16	597,365		1,221,446	1,818,811	32.84%	1,757,792	14,623.60	148%
17	388,526		551,380	939,906	41.34%	689,759	11,607.70	245%
18	154,058		869,659	1,023,717	15.05%	762,562	8,326.40	359%
19	1,834,369		3,735,946	5,570,315	32.93%	4,829,871	42,332.10	119%
20	62,096		156,282	218,378	28.44%	172,345	1,920.10	342%
21	1,445,270		1,400,473	2,845,743	50.79%	2,522,221	48,318.30	441%
22	947,333	30,000	1,392,332	2,369,665	39.98%	2,481,006	30,232.40	229%
23	323,739		770,101	1,093,840	29.60%	1,014,004	8,522.40	63%
24	555,840	12,498	2,665,313	3,233,651	17.19%	3,465,592	30,627.60	172%
25	102,350		185,816	288,166	35.52%	421,384	3,393.00	54%
26	542,016		1,206,368	1,748,384	31.00%	1,672,540	28,175.80	741%
27	259,012		585,879	844,891	30.66%	793,451	16,917.90	269%
28	34,749		140,061	174,810	19.88%	223,827	978.90	17%
29	75,213		647,771	722,984	10.40%	828,752	4,261.50	44%
30	83,913		368,939	452,852	18.53%	436,286	1,617.30	-20%
31	141,332		417,955	559,287	25.27%	532,036	6,197.30	262%
32	445,404		915,192	1,360,596	32.74%	1,270,922	13,634.40	205%
33	125,128		167,588	292,716	42.75%	244,577	2,088.60	344%
34	32,500		126,491	158,991	20.44%	316,515	5,890.80	426%
35	60,628		113,160	173,788	34.89%	189,924	2,318.30	269%
36	47,405		276,801	324,206	14.62%	372,989	3,078.30	156%
37	54,314		39,390	93,704	57.96%	142,528	1,439.00	244%
38	25,739		89,417	115,156	22.35%	143,018	no report	no report
39	39,790		46,103	85,893	46.33%	125,338	843.90	706%
40	230,935		475,349	706,284	32.70%	646,615	7,277.40	367%
41	4,345,568	766,668	986,131	6,098,367	71.26%	6,940,565	59,742.10	116%
42	0		150,761	150,761	0.00%	224,751	4,400.80	353%
Totals	20,381,522	811,635	28,446,842	49,639,999	39.20%	49,083,358	563,315.50	