



Louisiana Public Defender Board
Report of the Interim State Public Defender

To: The Board
Date: May 17, 2013

BUDGET DIVISION

To date, LPDB has disbursed 97.9% of DAF funds, or \$15,675,733; and 99.8% CINC funds, or \$978,038. The 41st PDO continues to receive monthly disbursements of \$221,375.

Mrs. Corlis Green's first day was April 17, 2013. She performed her first audit of the 22nd PDO from May 9 – May 16, 2013. She is currently in the process of consolidating the information she gather and submitting a field report. The next PDO's office to be audited has not been determined.

We have received the first 25 copies of the Capital Defense Guidelines and are ready to print another 475 copies which will be distributed to every active capital defense team member, board member, district defender, newly certified lawyer, mitigation specialist, Chief Judge (for districts with no or infrequent capital cases), and every judge in districts with constant capital cases.

On Monday, April 15th, LPDB staff, as well as Reverend Dan Krutz attended the Senate Finance Committee hearing for HB1 of the 2013 Regular Session. Our 2014 executive budget recommendation of \$33,612,948 was reviewed with no questions posed to the staff.

The district FY2014 pro-forma budget requests were submitted on April 1, 2013 have been thoroughly reviewed and analyzed by the Budget Officer Angel Williams and me. Ms. Williams is currently reaching out to district defenders to discuss any issues/concerns before submission of final, approved FY14 budgets on June 15, 2013.

On May 8, 2013, LPDB reported on FY2013 key performance indicators for the period July 1, 2012 through March 31, 2013. We are on track to meet our performance standards for the number of budget committee, policy committee, and board meetings held this fiscal year (six board and policy committee meetings and five budget committee meetings). Also, it is likely that we will also exceed the standard for number of statewide and local/regional trainings offered. The FY2013 standard was eight. However, as of March 31, 2013, we have held eight statewide and one local/regional training. The Training Division anticipates at least one more statewide training (*Miller Training*) and three more local/regional trainings before the end of the fiscal year.

Although we received seed funding of \$250,000 to fund counsel for legal representation in S.O.A.P cases, we project that we will spend a total of \$40,216 by the end of the fiscal year, leaving \$209,784 available to be used to repay the seed money. We were unable to completely expend the \$250,000 appropriation for several reasons: not receiving the seed request until mid-year, time spent identifying counsel, negotiating contractual terms with identified counsel, and the state's contract review and approval process.

CAPITAL DIVISION

Currently there are 89 indigent clients facing the death penalty at the trial court level. This includes pre and post indictment cases. Based on the Budget Committee's directives, we are currently holding applications and invoices for the expert witness fund. At the time of the Budget Committee meeting, invoices received were in line for payment in October 2013.

The Capital Case Working Group (CCWG) met earlier this month to discuss the group's work plan and its next steps. Among its priorities are to examine and document an evidence based approach to determining the cost effectiveness for delivering trial level services through the contract program model and the district defender office model; and improving the expert witness fund process particularly capturing and releasing the encumbered amount of outstanding expert fees.

Draft protocols for the Appointment of Counsel in Capital Cases and the Supervision of Provisionally Certified Attorneys have been drafted and are being vetted by staff. A draft Capital Protocol for Expert Witness Funding has been completed, but awaits further action of the Board and review by staff and the CCWG. Staff has spent considerable time organizing the expert witness information and making the information more useable.

On April 25, 2013, the Capital Case Coordinator facilitated a training for the Capital Appeals Project on team building. Based on the surveys CAP leadership and staff were pleased with the day's training and outcomes. Ms. Faria continues to participate in the Mitigation Specialist meetings and trainings which occur monthly in New Orleans. She continues to participate in the Criminal Justice Committee of the LSBA teleconferences. On May 23-24, 2013, Ms. Faria will attend the *Miller* training being co-hosted by the Juvenile Justice Project of Louisiana (JJPL) and LPDB.

COMPLIANCE DIVISION

Compliance Officer John Di Giulio continued his participation in Sentencing Commission meetings and Committee work, including Front End Committee, Reentry and Evidence Based Committee, and Release Mechanism Committee. He attended the Louisiana Supreme Court Rules Committee meeting on April 10, 2013 in Lafayette and participated by telephone in a Committee meeting on May 13, 2013. On April 26, 2013, Mr. Di Giulio attended the LACDL's Annual Law Seminar held in New Orleans. Mr. Di Giulio traveled to Natchitoches on May 15, 2013 to meet with District Defender Brett Brunson and me regarding possible service restriction. Mr. Di Giulio has also been actively involved in tracking the current legislative session. He has attended numerous Senate and House committee meetings.

On April 12, 2013, Compliance Officer Di Giulio traveled to Livingston Parish to testify at court hearing in *State v. Barry Edge* regarding expert witness funding issues.

Mr. Di Giulio continues to assist the Capital Division. He also maintains continuous communication with various District Defenders, including OPD, in order to monitor progress in service restriction cases.

INFORMATION TECHNOLOGY & MANAGEMENT DIVISION

Information Management

The ITM Division has completed projections of districts' estimated FY14 DAF amounts including the validation of two different methods of assessment of future revenues based on the as yet unstable percentages of increase or decrease due to Act 578. Staff notified districts that their anticipated first-half projected DAF for FY14 will be a 6-month distribution, and that DAF figures provided are estimates only which are subject to change as a result of many external variables, including the amount of the state's legislative appropriation. Districts were also notified that the DAF second half distribution amounts for FY14 will depend on the re-assessed effects, if any, of Act 578 statewide and within each district individually. The ITM Division, along with the Budget Division, has completed district solvency projections and has recommended disbursements to preserve solvency until June 30 as well as through July 15, 2013. ITM staff responded to a legislative request for a fiscal note relating to providing counsel in a gun control division in each judicial district and another regarding domestic battery charges under extreme time constraints. Staff has generated numerous ad hoc and workload reports on various topics such as caseloads and finances. Since the last board meeting, the ITM Officer participated in weekly staff meetings, as well as the Budget Committee meeting, pro forma budget reviews, and the Sentencing Commission Research & Technology meeting wherein a statewide cross-agency uniform charge code table is under development and nearing completion by LASC I.T. staff.

Technology Management

The ITM Division is in the process of improving the database through a number of CMS modifications including the Supreme Court-initiated uniform charge code table (mentioned above), capital and juvenile data collection and reporting changes, comprehensive information and services tab, CINC-specific adjustments, financial, and others. The Division released the dashboard reports to the districts in March, and continued to tweak data tables and receive district input on the usefulness of the dashboards. ITM staff attended a LLA performance audit interview with me where we demonstrated CMS capacity and provided information on resource manuals, dashboard reports, financial reporting guides and related documents.

The ITM division has begun to develop a dashboard report for statewide agency review. This dashboard will be a geographical data presentation (heat mapping) and will enable staff to instantly view graphics of various statistics by district to identify individual districts of interest regarding a particular statistic such as caseloads per attorney, insolvency date or overhead to line attorney expenditures, to name a few.

The ITM Division has compiled district responses to a CINC survey; developed, collected, and compiled data for a district Office Definition Survey; and, built a SOAP evaluation/invoice form for staff review. These surveys/forms were posted on LPDB data collection website www.LPDB.org. ITM staff has finalized the development of a COOP website which can be accessed from any device with web-access from anywhere on earth. The COOP website will facilitate real-time contact information updates for LPDB staff and District Defenders in the event of evacuation and relocation of detainees. It will also facilitate open communication among districts and staff, and private communication between any two users of the site. It is automated such that LPDB staff – if incapacitated – are not necessary for the open communication or real-time updates.

SPECIAL PROJECTS

Since the last meeting of the Board of Directors for LPDB, Special Projects Advisor Heather Hall has continued to work on the following projects: writing, editing and facilitating the dissemination of the LPDB e-newsletter to 900+ subscribers; updating the website with relevant announcements, employment opportunities, events and information; drafting and disseminating press statements as appropriate (one since last Board meeting); moderating the 'lajuveniledefenders' listserv; contributing as a member of the Southern Juvenile Defender Center Advisory Committee; and, participating in staff meetings and other discussions/projects as a member of the executive team.

Ms. Hall has been working with the Louisiana Supreme Court's Court Improvement Program and the districts on issues relating to CINC representation and curatorship expenses. With ITM Director Erik Stilling and me, she participated in a conference call with Greg Landry, who manages the database for CINC-Child representation for the Louisiana Bar Foundation to collaborate and develop cross-over data. On Tuesday, April 30, she released a press release relating to the April 29th Supreme Court decision in *Boyer v. State of Louisiana*. An issue of the e-newsletter was released April 28th, and she has helped Executive Assistant Anne Gwin circulate the job posting for the Trial-Level Compliance Officer. Working with Sean Williams in the ITM Division, she developed and analyzed results from the CINC survey, the office-type definitions survey and is getting closer to finalizing an online SOAP invoicing form. Ms. Hall dedicated significant time to revising LPDB's FY 14-19 strategic plan and associated performance indicators. She has dedicated renewed energy to managing the agency's social media sites, and doubled the number of people following our agency online. She developed presentations for Frank Neuner to present to the Spring Judges Conference (on the use of social workers in public defender offices) and the Louisiana State Bar Association (to encourage private attorney investment in public defense reform). Since the last meeting, Ms. Hall completed the LPDB Training Brochure and has overseen the completion of the *Capital Defense Guidelines*, which will be printed next month.

Ms. Hall has applied for MCLE credit/waiver of fees for the SJDC Annual Regional Summit (in Greenville, SC June 7-8, 2013), had ongoing conversations with the Client Services Division at the Orleans Public Defenders (with the ITM Division) and participated as a member of the OPD Symposium Advisory Committee and in support of the OPD Funding Reform grant. To assist in LPDB's effort to increase its capacity, and as part of the request from the LLA Performance Audit, she conducted interviews with 12 other statewide public defender agencies with centralized administrative offices to compare their employees, caseload, programs and budgets.

TRAINING DIVISION

Assistant Training Director Irene Joe continues to work with the four Train-the-Trainer honorees to develop individual district trainings. On May 17, Tracy Davenport held a training session for the 15th Judicial District titled LGBT Youth in the Juvenile Justice System. On the same day, Kay Franks held a training session for the 4th Judicial District discussing recent Louisiana Supreme Court decisions in juvenile law. Necole Williams will conduct a training session about motions practice in delinquency courts. The Assistant Training Director continues to work with Juvenile Justice Project of Louisiana to develop a *Miller v. Alabama* training that will be held on May 23-24 at Tulane Law School in New Orleans, Louisiana. More than 55 public defenders have registered for this training. Ms. Joe also continues to work with Juvenile Regional Services to develop two regional trainings.

The remaining annually recurring trainings for calendar year 2013 are the Investigator Workshop (July 15-16), the Defender Training Institute and Annual Conference (September 8-13, 2013), the Capital Defender Training (October 23-25) and the Legislative Update (December 13).

LEGISLATIVE UPDATE - GENERAL COUNSEL

Only three weeks remain in the fiscal-only, 2013 Regular Session of the Louisiana Legislature. Final adjournment must occur no later than 6:00 pm on Thursday, June 6, 2013. As you know, we are tracking 7 bills this session, including:

1. **SB 113**, by Senator Rick Gallot, which is a Board-requested bill. If passed, SB 113 would:
 - a. Delete the clause that declares personnel employed or who serve under contract in a district office are considered to be local employees of the district.
 - b. Reduce the number of required Board meetings from eight to four times per year.
 - c. Remove the requirement that three board meetings be held in parishes outside East Baton Rouge.
 - d. Modify the experience requirements of the Deputy Public Defender – Director of Juvenile Defender Services and the Juvenile Justice Compliance Officer.
 - e. Allow the Deputy Public Defender – Director of Juvenile Defender Services to assist the State Public Defender in working with other stakeholders.

STATUS AS OF MAY 16th: SB 113 passed unanimously (31-0) on the Senate Floor. It then was reported favorably out of House Committee and now is scheduled for House Floor debate on Tuesday, May 21, 2013.

2. **HB 1** (the General Appropriations Bill), by Rep. Fannin, continues to show a proposed appropriation to the Board in the amount of \$33,612,948.

STATUS AS OF MAY 16th: HB 1 has passed the House and currently is before the Senate Finance Committee.

3. **HB 112**, by Reps. Hill and Danahay, seeks to authorize the mayors for the municipalities of DeQuincy, Iowa, Vinton, and Westlake to increase court costs from \$30 up to \$50 for each offense on any defendant convicted of a violation of a municipal ordinance or traffic

violation, provided one-half of the increase is remitted to the 14th JD's Indigent Defender Fund. Law sunsets on August 1, 2016.

STATUS AS OF MAY 16th: HB 112 passed the House 84-1 and the Senate 37-0. It now goes to the Governor for his action.

4. **HB 385**, by Rep. Hodges, which seeks to revamp Louisiana's post-conviction law, was pared down considerably before it was able to gain traction. This paring down included removing provisions requiring the dismissal of a "shell petition" and the proposed one-year time limitation on application for post-conviction relief.

STATUS AS OF MAY 16th: HB 385 passed the House 88-1 and has been referred to the Senate Committee on Judiciary C.

5. **HB 454**, by Rep. Landry, which seeks to make major changes to the open meetings law, appears to be a dead issue this session.

STATUS AS OF MAY 16th: HB 454 was referred to the Committee on House and Governmental Affairs on April 8, 2013; no action has been taken on that bill since that time.

6. **SB 30**, by Sen. Morrell and Rep. Leger, seeks to create the Orleans Justice and Rehabilitation Reform Commission to analyze, study, and recommend improved methods for managing and coordinating justice services in Orleans Parish. Pursuant to SB 30, the chief district defender of the Orleans Public Defenders Office, or his designee, would be a nonvoting member of the Commission.

STATUS AS OF MAY 16th: SB 30 passed the Senate 34-0 and was reported favorably from the House Committee. It is now ready to be debated on the House Floor although no date has yet been set.

7. **SB 152**, by Sen. Murray, seeks to authorize courts exercising juvenile jurisdiction by local rule to designate one or more divisions as a "gun division" to hear gun and weapons-related offenses and to establish a probation program.

STATUS AS OF MAY 16th: SB 152 passed the Senate 31-0 and was reported favorably from the House Committee. It now goes to the House Floor although no date for debate has yet been scheduled.

INTERIM STATE PUBLIC DEFENDER

Since the last Board meeting, I have conducted site visits in the following districts: 1st, 10th, 17th, 20th, 25th, 26th and 32nd. When possible, I also met with other stakeholders. The site visit for the 1st PDO was made in conjunction with a salary raise request from the District Defender; the site visit in the 25th PDO was made per our protocol to visit a new District Defender in his/her office within 30 days of appointment; the site visit in the 10th PDO was made to respond to notice of financial shortfall.

Additionally, I have worked to support the creation of a District Defender search committee in the 9th Judicial District, to follow up with the audit findings that were presented by contractor

David Greer after his audit of the 3rd Judicial District Public Defenders' Office, kept in contact with OPD staff per their Open Society Fund workplan for statewide funding reform, and maintained the protocol in place in the 30th Judicial District Public Defenders' Office for Jack Sims, who remains both a public defender and a city prosecutor. Additionally, we have been in touch with District Defender David Wallace (36th JDC) about his anticipated shortfalls this fiscal year.

I attended the committee meetings for HB 1 (on April 16th) and SB 113 (on April 16 and May 8) as well as closely tracking HB 112 (additional local appropriation for public defense funding in Calcasieu) and maintaining communication with 14th Judicial District Defender Jay Dixon (this bill has passed both houses and has an anticipated financial impact of an additional \$77,000).

With a sub-group of staff, we revised our 5-year strategic plan for FY 14-19 and created an improved set of performance indicators. Beginning this week, I will be holding meetings with every Project Leader to develop appropriate workplans for major deliverables. This strategy will help maintain the integration of our long-term strategic plan into our everyday work. This process has also informed a set of performance evaluations that I am recommending to the Board to ensure that all executive staff are regularly evaluated in compliance with LPDB's statutory obligations.

On April 8, I presented to the CINC Task Force and have been involved in follow-up since then, with both the Court Improvement Program of the Louisiana Supreme Court and the several districts who have unique CINC-representation plans. Additionally, we have been revisiting the issue of curatorship and are beginning to make recommendations to improve our CINC budgeting and disbursement policies. We anticipate a board meeting being set soon for the Pelican Center for Children and Families. Additionally, along with some of the Executive Staff, we held Matt Robnett's District Defender orientation on April 17th.

Finally I, along with other staff, continue to support the Louisiana Legislative Auditor's Performance Audit of our agency. They are looking closely at our capital programs and have interviewed a number of staff and programs in the field. There is no timeline yet for a release of their findings.

Richard Pittman, our new Deputy Public Defender – Director of Juvenile Defender Services will join LPDB's staff on May 28th, and we have scheduled his orientation for the 29th. John Di Giulio's last day at LPDB will be May 31, 2013. We are excited to welcome Richard and thank John for all his contributions to LPDB.