



Louisiana Public Defender Board
Report of the Interim State Public Defender

To: The Board
Date: September 13, 2013

BUDGET DIVISION

Since the July board meeting, the Budget Division has been busy finalizing fiscal year-end financial matters. The Seed that was used to fund the Sexual Offender Assessment Panels (SOAP) for FY 2013 in the amount of \$250,000 had to be paid back to the State Treasurer's office. In addition, staff learned that the Office of Planning and Budget (OPB) erred in preparing the cash needed to fully fund our last Fiscal Year 2013 budget by \$119,372. The resulting consequence was that we were unable to carry forward the cash and budget to cover some contracts which will expire later in Fiscal Year 2014. Luckily, we had set aside new money in FY 2014 to cover the annual cost of those contracts.

We have discovered another error and are working with OPB to obtain additional funding in the new Fiscal Year 2014. The data leading up to this discovery was our review of the breakdown of the total expenditure line item described as Interagency Transfer. We found that our OPB analyst overlooked fully funding us in our transfer funds to other state agencies, namely the Office of Finance and Support Services for their Payroll, HR and Accounting services they provide in the total amount of \$58,309. OPB has advised us in writing that they will do their best to take care of the shortfall through a BA-7 on the supplementary agenda. The Supplemental Appropriations Bill is usually voted on in the second half of the fiscal year by the legislature.

Our contract auditor, Corlis Green has completed all audits assigned to her to date and she has begun preparing a financial analysis of the monthly budget reports which the Districts send to us. The Office of Contractual Review (OCR) had an issue with the Professional Services contract format which we originally entered into with Ms. Green and we are awaiting the full approval of her new contract which had to be reduced from \$47,126 to \$37,418, including travel. Ms. Green's contract will expire December 31, 2013.

The Budget Division prepared follow up letters for the capital contract program audits wherein Mr. David Greer had reported findings and recommendations. We are awaiting responses from five of the program offices as to whether the recommendations have been implemented. The Budget Division is working to develop and implement a standardized procedure for more effectively analyzing monthly revenues and expenditures by district and program offices.

The Court Improvement Program from the Louisiana State Supreme Court has provided us with a \$10,000 grant. The first deliverable, a curriculum for training Juvenile Defenders was achieved, netting us an \$8,500 check receipt. The second and final deliverable is due by September 30, 2013, after which we will receive the final \$1,500 of funding. The funding is being used to cover the travel and training costs associated with the deliverables.

Lastly, Budget Division is ready to begin preparation of the Fiscal Year 2015 Budget Request. New for this year, is inclusion of Districts' "Needs Based" budget requests which will be combined with our contract programs and administrative requests. The due date has been pushed forward to October 15, 2013, a change from the historical due date of November 1. .

CAPITAL DIVISION

As of September 12, 2013 there are 90 open capital cases: 44 are pre-indictment and 46 are indicted.

With the creation and analysis of several spreadsheets, staff has been able to identify stale funds, un-invoiced approvals, and pending requests for approval. The Expert Witness Fund analysis on all open cases was performed. We want to create a data base from these spread sheets that will provide the information and notices as required by recently drafted protocols. A portion of one of the protocols is still being vetted by the field. Should the Board approve the protocols, the Capital Division is prepared to implement them immediately. The initial disbursement of \$250,000 in expert witness bills occurred in August.

Kerry Cuccia has offered to assist in closing the funding gap in the Expert Witness Fund by reducing his contract amount by \$331,000, which savings would be applied to the Expert Witness Fund. We are very grateful for his leadership and willingness to take a reduction to his program.

Staff has suggested a pilot program placing mitigation specialists, paid for by the state, in two separate offices: in the 15th Judicial District Defender's Office and in the Capital Defense Project of Southeast Louisiana. The mitigation specialist in the CDPSL would not provide services to the program. Rather, the mitigation specialist would provide services directly to needy districts. Because CDPSL has on staff mitigation specialists there exists a support structure and mentoring for the mitigation specialist. The districts would receive the services of the mitigation specialist and bear the costs of travel, records collection, and copying, for example. The power point presentation at the Budget Committee meeting held September 11, 2013 provided further details of the workings and costs associated with the pilot program.

The speakers and agenda for the Capital Defender Training have been finalized. The registration form was sent out last month. All capital attorneys unaffiliated with a capital contract program or district defender office were notified of the training earlier this month.

With the assistance of our capital consultant, John Holdridge, we have designed a two track training: Bring Your Own Case (Track A) and Building Blocks for Trial Strategy (Track B). The training will be held in New Orleans from October 23-25, 2013. We have an excellent set of

local and national presenters as well as several well respected death penalty lawyers, mitigation specialists and investigators who will be staffing the small breakout groups for the Bring Your Own Case Track. We expect 70-75 participants at the training.

INFORMATION TECHNOLOGY & MANAGEMENT DIVISION

Information Management

The ITM Officer designed and delivered a presentation to DDAC and later to all District Defenders in Baton Rouge regarding the calculations, methodologies and units of measure that comprise the DAF formula, as well as facilitated conversations with both groups regarding refinements of the measurements and refinement of the methodology.

The ITM Division also developed an 18-month work plan for a major case weighting study and initiated the first steps, a critical analysis of previous studies; and, subsequently, a refinement of the methodologies used in these studies.

In collaboration with the Deputy Director of Juvenile Services, ITM staff developed a tentative District Defender graduated salary scale based on years of experience as an attorney, as a public defender and as a district defender. This project is close to completion for presentation to the Budget Committee and board.

Staff also contrasted CY12 district court-cost revenue reports against the recently released 2012 Supreme Court's Annual Report case filings to identify districts' differing degrees of success in receiving the court fees predicted by the Supreme Court case filing reports.

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, Strategic Planning meeting, DDAC meeting, and DAF and district salary meetings.

Technology Management

The ITM Division continues the process of improving the database through a number of CMS changes including a major initiative involving modification of the nature of data collected as well as major Graphical User Interface changes to the Juvenile database in collaboration with LCCR (formerly JRS); modifications and minor but very meaningful changes to the capital data collection such that the stage of the case is also tracked. This enables LPDB to count cases as they affect PDO resources (pre-indictment, after arrest) while still tracking the counts per the DA figures (which would be at or near indictment), as well as in the trial, sentencing, MNT and appellate stages.

ITM is nearing completion of the SOAP online invoicing procedure and has produced a caseload report tutorial/screenshots for the districts' Needs-Based Budget Guide. Staff arranged and disseminated the LPDB newsletter and conducted a survey of district offices regarding courts that appoint cases which are restitution-only.

JUVENILE DIVISION

On August 5, 2013, the Juvenile Division added Dr. Tiffany Simpson as the Interim Juvenile Justice Compliance Officer.

Dr. Simpson immediately contributed to the effectiveness of the staff by accompanying DJDS Richard M. Pittman in meetings in the New Orleans area to discuss the CIP Parent Representation Project with Richie Tompson in the 24th, Thomas Gernhauser in the 34th, and Derwyn Bunton with Orleans Public Defenders. LPDB is collaborating with the Court Improvement Project director, Mark Harris, to start a pilot program to implement a new CINC representation model designed to promote faster family reunification.

Dr. Simpson also accompanied Mr. Pittman to the 15th District to meet with the court and the District Defender to discuss an ongoing conflict between the judge's office and public defenders relating to representation of juveniles in court. Following the meeting, both the Judge and District Defender reported that the parties had resolved some of their differences, and singled out Dr. Simpson as a particularly valuable addition to LPDB's staff. The Juvenile Division is continuing to work with the parties and is supporting the District Defender in his efforts to ensure high quality representation of children in court.

DPD-DJDS Pittman has continued to focus on making the juvenile defense listserv a more dynamic resource for defenders to communicate with other defenders to share strategy and information, as well as a tool for defenders to communicate with LPDB. Between May 28, 2013, and September 6, 2013, there have been 139 messages posted on the listserv.

On August 15, 2013, DPD-DJDS Pittman conducted a site visit to the 21st district and observed juvenile proceedings in Tangipahoa Parish. On August 30, 2013 DPD-DJDS Pittman and IJCO Simpson conducted a site visit to the 33rd district and observed juvenile proceedings, including a delinquency trial, in Oakdale City Court. On September 4, 2013, DPD-DJDS Pittman observed juvenile proceedings in Lafayette Parish District Court. The Juvenile Division is currently attempting to schedule other site visits and is committed to observing juvenile court proceedings in districts throughout the state.

On September 4, 2013, DPD-DJDS Pittman attended the first meeting of the Domestic Violence Study Group, created in response to House Resolution 76 and Senate Resolution 95. This Study Group includes representatives from various state organizations, including the Louisiana District Attorneys Association, Louisiana Supreme Court, the District Judges Association, the Louisiana Council of Juvenile and Family Court Judges, the Louisiana Chapter of the National Association of Social Workers, and other relevant organizations, plus domestic violence survivors. The purpose of the group is to study and develop a comprehensive statewide plan for domestic violence services. At the meeting, DPD-DJDS Pittman joined the Needs Assessment and Data Collection Work Group and the Law Enforcement and Judicial Training Work Group.

On September 9, 2013, DPD-DJDS Pittman delivered a presentation to a group of CINC stakeholders in New Iberia about Concurrent Permanency Planning for Parents' Attorneys. He gave an hour-long presentation and answered questions from the audience. Later that day, DPD-DJDS Pittman attended the meeting of the legislative CINC Task Force. This task force will meet monthly and develop a plan to recommend changes to the Children's Code.

SPECIAL PROJECTS

Since the last meeting of the Board for LPDB, the Special Projects Advisor has continued to work on the following projects: writing, editing and facilitating the dissemination of the LPDB e-newsletter to 900+ subscribers (Volume 3, Issue 5 was released August 31, 2013); updating the website with relevant announcements, employment opportunities, events and information; and, participating in staff meetings and other discussions/projects as a member of the executive team.

Additionally, the Special Projects Advisor devoted significant energy toward developing the “Guide for Developing a Needs-Based Budget Request,” developing the structure and content for a password-protected District Defender Resources section of the website, working with prospective Equal Justice Works fellow Lauren Lee Pettiette in her special education advocacy proposal with LPDB and the 19th Judicial District, creating a workplan and completing preliminary work of the Community Defender Toolkit, completing the Trial Court Performance Standards for CINC Representation for printing (being printed as of September 10, 2013), supporting Corlis Green in the objectives of the 2013 LCLE 2013 grant, continuing to develop the online invoicing and expert witness fund protocol for experts in SOAP cases, and completing the 2014 LCLE grant proposal (due September 30, 2013). She assisted the ITM, Capital and Juvenile Divisions in projects relating to District Defender salary ranges, juvenile CMS enhancements, CINC improvements, and management of the expert witness fund.

TRAINING DIVISION

Despite staff limitations, we continue to plan for upcoming trainings. Since a Director of Training will not be hired before October 1, a few trainings have been adjusted for later in the year, but work continues to ensure that training location is procured, faculty is identified and agenda development is underway.

The annual Capital Defender Training has been confirmed for October 23 – 25, 2013 in New Orleans. Capital Case Coordinator Jean Faria is assisting with this training development. We have set the 2013 annual Legislative Update for December 13, 2013 and are working with Greg Riley to develop the training agenda. We are also pursuing an additional training on *Miller* cases (with JJPL) since the training held in late-May was so well received and registration interest well exceeded capacity.

INTERIM STATE PUBLIC DEFENDER

On August 19, Erik Stilling and I presented the existing DAF formula to 22 District Defenders from around the state (all District Defenders were invited), and suggested a range of adjustments for feedback. The District Defender Advisory Council should be commended for its leadership on this project, meeting in Baton Rouge on August 16 to support staff’s efforts. Executive Staff also continues to work to develop salary ranges and improved protocols for setting salaries for District Defenders. Three District Defenders (Golden, Miller, Tillman) have pending salary raise requests. Staff continues to move these projects forward, with October target deadlines.

With Board support, LPDB is asking each district to create a “needs-based budget request” due to LPDB by October 1. From these requests, LPDB will generate its recommended budget request for FY 15. Staff was notified late in August that the usual budget deadline of November 1 has been moved up to October 15, so this will really compress staff – who must review (with follow-up as necessary) all incoming district budgets and create the agency request in just two weeks. In order to assist in this process, Heather Hall, Richard Pittman and I took the lead on creating a “Guide to Developing a Needs-Based Budget Request” which will be available to the districts once approved by the Budget Committee.

We have worked to develop Capital Expert Witness Fund Protocols (internal and external) and have identified funds by which to settle the outstanding approvals and invoices and develop strategies to release some of the pressure on the fund for the future. The proposed Capital Expert Witness Fund protocols were reviewed by the Budget Committee on September 11, along with a proposed reduction in expert witness hourly rate-caps and a multi-year plan to build mitigation capacity cost-effectively in the programs and districts and remove their services from the Capital Expert Witness Fund.

On August 5-6, all Executive Staff participated in an offsite leadership training dedicated to implementing skills and strategies to become a healthier leadership team to allow us to cohesively implement the Board’s 5-year strategic plan. As a result, I have revamped the internal meeting structure to conform to our strategic plan objectives and have prioritized a major project in each division. These projects include development of the state capital representation plan (Capital Division); a strategy to conduct the cost-effectiveness study required by SCR 99 (State Public Defender); a case weighting evaluation (ITM Division); completion of a community defender toolkit (Special Projects Division); assessing performance in delinquency and CINC cases per promulgated standards (Compliance Division); development of materials relating to parity in criminal justice agencies (Director of Juvenile Defender Services/Juvenile Division); statewide outreach to policy-makers (Executive Assistant to the SPD/State Public Defender); development of procedure to timely evaluate monthly revenue-expenditure reports (Budget Division); and continual improvement of the LPDB Training Program (State Public Defender). I have also initiated a new protocol for quarterly reporting of performance indicators that encourages greater staff investment and accountability in the reporting/achieving process.

Auditor Corlis Green has conducted two more district audits (in the 8th and 18th Judicial Districts). I am working with Corlis and the districts to clarify the extent to which state policies and guidelines apply to the district offices, and overseeing implementation of other financial management improvement recommendations.

Staff continues to work with the Louisiana Coalition for Equal Justice (a project of OPD) to ensure appropriate and effective media outreach and policy recommendations. We are also working with Josh Perry at the Louisiana Center for Children’s Rights (formerly known as JRS) related to a range of data, programmatic and resource initiatives there. The password-protected ‘District Defender Resources’ section of the website (requested by members of DDAC on behalf of statewide public defender leadership) launched on September 10, 2013.

Finally, in late-August the American Inns of Court announced its 2013 award winners. Among legal programs all over the country, the program “Money Talk\$...So Nobody Walks: The Persistent Funding Crisis in Indigent Defense” (performed September 13, 2013 at Abacus in Lafayette) received the first place designation. LPDB Chairman Frank Neuner developed the concept (and performed in the program) and LPDB staff members Heather Hall and I contributed to the script. Through a series of short vignettes, the program addressed the fictional case of Clarence Gideon who struggles to prove his innocence with the weary assistance of an overworked, underfunded indigent defender. The program paused after each vignette to discuss the foundations, strengths, and weaknesses of Louisiana's system of public defense.