



LOUISIANA PUBLIC DEFENDER BOARD  
MEMO

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To: The Board  
From: Jean M. Faria  
Re: Report of the State Public Defender  
Date: October 4, 2010

### **BUDGET DIVISION**

With LPDB's new Budget Officer Laurie Durnin's arrival, we are starting the state budget cycle. Our budget is due the first Monday of November. At the last Board meeting the Board approved the position descriptions for a Development Director and an Auditor and told staff to fill the positions. We are asking for the Board's vote to add to the staff T.O. or table of organization, these two positions. Our review of financial information from the districts and the Supreme Court's 2009 Annual Report indicates that there is substantial revenue not being provided to the district indigent defender funds throughout the state. Both of these positions will easily pay for themselves within a year.

We believe that many courts are either not assessing the mandatory \$35 special cost or waiving it; not collecting it or not disbursing it as required by law. Chair of the Budget Committee noted that all of these actions; failure to assess the special cost or waiver of the special cost, failure to collect and/or disburse the cost, are independent and beyond the control of the public defenders and that each Board member must communicate this predicament as broadly as possible. Staff approximates that 11 million dollars should have been assessed, collected and disbursed to the district indigent defender funds statewide, but was not. The Board will have before it a proposed Resolution authorizing staff to take the steps necessary to see that the mandatory \$35 is assessed, collected and disbursed as required by law. Should every judge on every bench begin imposing the mandatory special cost in every case where appropriate, the districts would not realize these funds immediately. This eleven million dollars is an estimate, which will not solve the indigent defense funding crisis.

Staff is aware that there are innumerable cases in which the right to counsel is not being advised, let alone afforded. There are hundreds and likely thousands of defendants charged with misdemeanors or probation revocations in which the courts are not advising or providing access to counsel.

### **Second District Assistance Fund Distribution**

The Board's budget documents contain the DAF 2<sup>nd</sup> disbursement calculations of the remaining roughly 3.3 million dollars in district assistance funding. The Budget Committee met on September 29, 2010 and approved this next disbursement for October. This distribution leaves the Board with 1.4 million dollars in contingency funding. We have already received emergency

funding requests from three districts, one of which the Budget Committee is recommending action, two of which were deferred.

## **CAPITAL DIVISION**

John Craft has started as the Capital Case Coordinator. He comes at a time when the capital panels are at capacity and several districts without certified counsel are in need of representation. The Budget Committee asked staff to gather the data on the capital cases and the numbers of cases being handled by each of the panels and those districts which have cases without attorneys or which have counsel but the district cannot afford to pay for counsel.

## **JUVENILE DIVISION**

The Juvenile Division did a site visit to the 1<sup>st</sup> Judicial District on September 3, 2010. Staff also participated in the following meetings and conference calls: Equal Justice Works, Right to Counsel, Children's Code Committee, School Discipline Task Force, Expungement Subcommittee, School-to-Prison Reform Subcommittee, LACDL, DPS&C Regional Criminal Justice Meeting at David Wade Correctional Center (Homer), DPS&C Regional Criminal Justice Meeting at Forcht Wade Correctional Center (Keithville), CINC Task Force, NJDC, Louisiana Bar Foundation, Juvenile Justice Summit, and MacArthur Foundation meeting regarding juvenile justice reforms in Louisiana.

Juvenile staff prepared the *Trial Court Performance Standards for Attorneys Representing Children in Delinquency Proceedings* for final consideration and feedback from the Juvenile Defender Advisory Council. Staff extensively surveyed available delinquency standards and guidelines from other states, the ABA, NLADA, and NJDC for potential inclusion in the LPDB standards.

Staff created and presented a training session on juvenile justice in Louisiana to defenders at the Defender Training Institute. Staff is actively developing the curriculum for the Juvenile Defender Training scheduled for January, 2011. In the meantime, staff drafted a memo to be disseminated to juvenile defenders summarizing juvenile-related laws enacted during the 2010 Legislative Session. In anticipation of a statewide examination of the Missouri Model of juvenile justice, staff assisted the Children's Code Committee in compiling Missouri Model statutes. Staff also drafted a multiple needs adjudication statute for possible consideration by the Children's Code Committee and subsequent recommendation to the Louisiana Law Institute.

Staff has worked cooperatively with the Juvenile Justice Project of Louisiana to obtain appellate court records for juveniles affected by the *Graham v. Florida* decision, to be used to advocate for modified dispositions/sentences for these juveniles. Staff reviewed an information sharing Memorandum of Understanding for the 24<sup>th</sup> Judicial District, to ensure that constitutional rights of juvenile clients would be protected. Staff assisted the State Public Defender in determining whether local funding was provided for certain cases involving juveniles and created a budget of expected expenditures for juvenile related-matters for fiscal year 2011-2012. Staff assisted NJDC in arranging a visit to the Bridge City Center for Youth for the JIDAN annual meeting. Staff created deliverables for fiscal year 2010-2011 for the JIDAN Coordinator. Finally, staff wrote articles for the LPDB newsletter.

## **TRAINING**

The first annual Defender Training Institute was held September 12 – 18, 2010. Forty-five new public defender attorneys from fifteen District Defender Offices and one program office attended. The seven days, intense training consisted of skills work covering the life of a case, from initial client interview through sentencing and collateral consequences of convictions. Participants worked either a mock case or a real public defender case throughout the week. Faculty consisted of seasoned criminal defenders from Louisiana as well as public defender trainers from across the country including Maryland, Minnesota, Washington, Texas, Arizona, New York and Ohio.

The DTI graduates are scheduled to attend the DTI Annual Conference set for August 11-12, 2011. The Annual Conference will provide gradually advanced skills training as the participants become more experienced in their practices.

The Training Division is also developing and preparing for additional trainings, including the Capital Certification Seminar (October 21-22, 2010; Lafayette); Daubert Workshop (November 18-19, 2010; Pineville); Voir Dire Academy (January 7-8, 2011; Baton Rouge); Juvenile Defender Training (January 6-8, 2011; Baton Rouge); and Defender Leadership Training (February 25, 2011; Baton Rouge).

The Training Division has a new paralegal / training coordinator! We were excited to bring Julie Gregory onto the LPDB team. Julie Gregory started in her new position on August 30, 2010. She has several years experience as a paralegal in the private arena and brings a lot of organization and talent to the office.

## **Committee Work**

The group working on reclassification of misdemeanors met on September 21, 2010 to examine the impact of reclassification of certain misdemeanors on the criminal justice system as a whole. The judges were represented by Judge Anthony Marabella from the 19<sup>th</sup> Judicial District Court, who was sitting in for Judge William Morvant, current co-chair of the Louisiana State Bar Association's Criminal Justice Committee (formerly the Right to Counsel Committee). Judge Marabella has asked to be included in the working group's future meetings. The district attorneys were represented by Pete Adams, Executive Director for the Louisiana District Attorneys' Association and Marty Maley, Assistant District Attorney in the 18<sup>th</sup> Judicial District. The defender members are Anthony Tillman from the 30<sup>th</sup> Judicial District and David Marcantel from the 31<sup>st</sup> Judicial District. Frank Holthaus is participating on behalf of the Board. John Di Giulio, Julie Kilburn and the state public defender are staffing this important work.

The Sentencing Commission continues to meet, nearly weekly.