



LOUISIANA PUBLIC DEFENDER BOARD
MEMO

To: The Board
From: Jean M. Faria
Re: Report of the State Public Defender
Date: October 28, 2009

BUDGET

The staff has worked tirelessly on the two budget forms we are now required to file. Everyone was required to work on some form of the budget narratives and evidence. The Budget for FY 11 was submitted on the Division of Administration's web site on October 5, 2009 due date. The traditional hardcopy documents will be submitted by November 5, 2009. Special Projects Advisor Hall was instrumental in integrating budget figures with the new nomenclature we are required to file.

Behind Tab 6 of the Board book are the latest budget projections of surplus. This surplus hinges upon the reduction made to the expert witness fees contract to CPCPL which reduction was approved during the September Board meeting.

The Budget Committee met on October 16, 2009. The Committee reviewed and approved the FY 11 budget request which totals \$40,500,000.

Staff advised the Committee that it believes there will be four districts that may exhaust their funds by the end of this fiscal year. Staff was instructed to do further verifications before funding for shortfalls will be approved.

Staff discussed several options for New Attorney Training which will occur in September, 2010. The Committee approved staff's recommendation for a 7-day training and food budget at the estimated cost to the Board of \$65,916. The districts will be asked to fund the housing costs at \$303 per attorney. Staff budgeted the training for 50 attorneys.

The Budget Committee reviewed statutorily required rules and policies which have not been completed and discussed concerning the needed research and the type of analysis of the data to be gathered. The salary study and the overhead issues were raised as a part of this discussion. The Budget Committee directed staff to research several items and report back to the Committee before its next meeting.

The State Public Defender Faria provided an example of district court costs and forfeitures collected by the Sheriff in the 6th Judicial District. She discussed her concern that the reporting done by the collecting agencies, district courts, probation and parole, sheriffs' offices, is so inconsistent and in many instances, non-existent, that district defenders have no way of tracking

what should be collected on their behalf and what is distributed to them for the benefit of the locally maintained public defender fund.

Budget Officer Buchanan and the State Public Defender appeared at the Joint Legislative Committee on the Budget Hearing on October 16, 2009, to approve our budget adjustment adding the Capital Case Litigation Initiative grant from the U.S. Department of Justice in the amount of \$250,000. The Budget Office within the Division of Administration recommended approval of the funding only under the condition that LPDB T.O. not be increased and that the grant coordinator position be on contract, i.e., not permanent.

After the State budget has been prepared and submitted, Budget Officer Buchanan will resume participating with other staff in reviewing District Defender and contract program offices in November and December.

Finally, all District Defenders were e-mailed a copy of the Board-approved September 30, 2009 resolution concerning the consequences of failing to report complete, timely and accurate information requested by staff. The requested information includes, but is not limited to, monthly financial reports, and updated caseload numbers in the districtpdo system and the annual survey. One consequence is that the District Assistance Fund disbursement for any offending district will change from semi-annual to monthly.

CAPITAL GUIDELINES

As instructed by the Board, invitations were extended to LDAA and LDJA to attend the October 2009 LPDB meeting. Mr. Pete Adams, Executive Director of LDAA; Ms. Prem Burns and Mr. Dale Lee, of the East Baton Rouge Parish District Attorney's Office; and Mr. Joseph Soignet of Lafourche Parish District Attorney's Office met with Mr. Boren, Trial Compliance Officer Di Giulio, Training Director Kilborn and the State Public Defender Faria to discuss the proposed capital guidelines.

The prosecutors expressed their concern that the ABA standards were not practical but rather, that they set an ideal standard. Further, they were concerned that the creation of guidelines or standards would be used by defenders for continuances and by defendants as a basis for raising ineffective assistance of counsel claims. The State Public Defender pointed to the express provisions of the Public Defender Act (PDA), La.R.S. 15:173, which states that neither the PDA nor any guidelines or standards subsequently promulgated could form the basis of any right, right of action or cause of action. No specific provisions were cited, nor suggestions made.

Mr. Adams stated that the prosecutors would produce more specific opposition to the guidelines and that the representatives from their membership would be present at the October Board meeting in New Orleans.

The comments we have to date are being tabulated and will be included in a brief memorandum.

JUVENILE PROJECTS

In October, there were two juvenile site visits: the 5th and 19th JDCs. On October 13th, Kristy Boxberger began working as the Juvenile Compliance Officer. The contract for Lynette Roberson for the JIDAN Coordinator was cleared by Civil Service and is pending before the Office of Contractual Review. The Legislative Task Force for Child Protection Cases met three

times and agreed on a proposal which should result in the full implementation of the Parent Representation Program statewide in all defender offices in January 2010. The Association of Juvenile and Family Law Judges held a conference in Lafayette on October 8th; the National Juvenile Defender Center's annual summit was held in Denver from October 16th to the 18th. Representing the 2nd District of Louisiana, Congressman Cao convened a meeting of state and local officials regarding Juvenile Justice on October 19th. State staff was in attendance for all these meetings/conferences.

INFORMATION TECHNOLOGY MANAGEMENT

Our application to The Bar Information Program of the American Bar Association was approved and Professor David Newhouse, from the Spangenberg Project at George Mason University came to Louisiana to review our data and visit several offices to view their data entry culture. He and Information Technology Management Officer Stilling went to three large urban offices, Baton Rouge, Metairie, New Orleans; one moderate-sized office, Houma; and one small, rural office, Gonzales. Professor Newhouse provided technical assistance regarding case management programs and data conversion.

FIELD MEETINGS AND SITE VISITS

Orleans: Compliance Officer Di Giulio and the State Public Defender spent two days in New Orleans at the Orleans Public Defenders Office located on the 6th and 7th floors in the Tulane building to meet with leadership and staff attorneys.

5th Judicial District: On October 6, 2009, Budget Officer Buchanan, Trial Compliance Officer Di Giulio, Director of Juvenile Defender Services and the State Public Defender made a site visit to Oak Grove. We met with the District Defender, Mr. James Miller to discuss the structure of his office, court settings, and the practices of the district attorney. Di Giulio met the next day with Judge Stephens, two contract assistant defenders, and observed court.

6th Judicial District: On October 7, 2009, Trial Compliance Officer Di Giulio visited the defender office in Tallulah, gathered information, and met with Judge Lancaster concerning the structure of the public defender office.

14th Judicial District: On October 12 - 14, 2009, State Public Defender Faria, Trial Compliance Officer Di Giulio, Deputy Director Kilborn, Special Projects Advisor Hall, ITM Officer Stilling, Chase May, Sean Williams, Kim Gueho, Anne Gwin and the Executive Director of Louisiana Justice Coalition Celeste Lofton-Bagert and Sarah Hall traveled to Lake Charles to count cases and interview some of the attorneys about the practices and caseloads in Calcasieu.

31st Judicial District: On October 22, 2009, Trial Compliance Officer Di Giulio made a site visit to Jefferson Davis Parish to meet with the District Defender and his two staff members. A detailed report of the documents obtained are forthcoming.

TRAINING

Training Director Kilborn, ITM Officer Stilling, and Data Entry Specialist Williams have completed database training in three quarters of the districts. The remaining districts are scheduled to be completed by December 31, 2009.

The Preliminary Hearing trainings have also been provided by Training Director Kilborn and Trial Compliance Officer Di Giulio for the 4th (Ouachita), 5th (Franklin, Richland, West Carroll), 6th (East Carroll, Madison, Tensas), 16th (Iberia, St. Martin, St. Mary), 18th (Iberville, Pointe Coupee, West Baton Rouge), and 27th (St. Landry). Additional locations scheduled include the 14th (Calcasieu / October 29th); 36th (Beauregard / December 1st); 9th (January 14th); and 13th (January 28th).

With the assistance of Special Projects Advisor Hall, a training for the attorneys in the Orleans Public Defender's Office and the social workers in the OPD Defender Services Program has been scheduled for November 6th. This training will focus on best practices for integrating social work services into public defense delivery, overview of the history, process and protocols of the Defender Services Program at the Orleans Public Defender Office and a discussion of the services that Defender Services Program provides (mitigation, outreach and alternative sentencing/treatment plans).

Training for juvenile defenders has been scheduled for Friday, November 13th in Alexandria. This conference will focus on critical issues such as special education, mental health, and adolescent development with the support of the National Juvenile Defender Center.

Curricula, materials, and faculty manuals for the 19th District Defender Pilot Project trainings are being developed for the annual new attorney skills training. Additionally, the capital defense and prosecution trainings are in the planning stage consistent with the grant received through the Capital Case Litigation Initiative.

Training Director Kilborn participated as faculty in the new attorney training at the annual Litigation Persuasion Institute provided by the Kentucky Department of Public Advocacy in Faubush, Kentucky from October 4 – 6, 2009. She was also a participant in the American Bar Association, Criminal Justice Section, Training Conference held October 15 – 17, 2009 in New Orleans focusing on developing a curriculum for cultural competency training.

SPECIAL PROJECTS

Special Projects Advisor Heather H. Hall continues to upload content on the new Louisiana Public Defender Board website. Content quality notwithstanding, the current site has an approximate architecture of 60 pages, and our new site will host more than 225 pages of comprehensive data, including a complete training and events calendar, interactive site map, up-to-date contact information and substantive information for the public, the field, clients and the Board. We expect the test site to be up and running by Friday, October 30, 2009 and expect a public release by the end of 2009.

The juvenile listserv continues to serve its valuable function of creating a community of juvenile defenders across the state, and sharing relevant information to improve juvenile defense. The National Juvenile Defender Center (the host) reports it is among their top three most active listservs with memberships over 100 members.

A template, distribution list and newsletter content is underway. The Louisiana Public Defender Board is committed to improving its communication with the field, sharing information and celebrating accomplishments. First release is scheduled for November 2009. This e-newsletter is low-cost and intended exclusively for all public defender office staff. It will be released twice a month (second and fourth Fridays) and will be managed by the Special Projects Advisor.

The Plaquemines Community Defense Project has changed its name to the Defender Services Program within the 25th JDC Public Defender's Office. This name change reflects the common ideology, case management systems, data tracking and services provided by the Defender Services Program within the Orleans Public Defenders. LPDB is committed to expanding the Defender Services Program to other offices in the state and presenting across-the-state data to promote the programs' successes.

Draft confidentiality, intake, release and referral forms are in place in the Plaquemines Defender Services Program. Further, a study of available demographic, charge and defense data for every client appointed to the office in the previous 9 months has been conducted and summarized in report. The 'ExtraLegal Needs Assessment' will be implemented for every pre-trial, incarcerated, public-defender-appointed client in the next month. Finally, an attorney and social worker from the Bronx Defenders will be coming to New Orleans November 5-6, 2009 to assist the Orleans Defender Services Program with training, and will spend the previous day in Plaquemines with all PDO staff.

The National Association of Criminal Defense Lawyers' *Champion* magazine published a feature article in its August issue, entitled, "Making the Case: Innovation, Energy and \$5,000 in Louisiana" concerning the development and implementation of the 'Extralegal Needs Assessment'.

Special Projects Advisor Hall has participated in the development and revisions of the Community Oriented Defender Network Core Principles as part of membership on the Advisory Committee for the COD Network, of which LPDB is a member. As we highlight Louisiana, these draft principles, and a series of success stories from around the country are being prepared for circulation to the larger Network.

GENERAL

Two new Assistant Attorneys General, Mr. Billy Belsom and Ms. Catherine Green, from the civil litigation system have been assigned to the Calcasieu litigation. Executive staff met with them on October 23, 2009 to discuss the case.

The LPDB COOP (continuity of operations plan) is nearly complete. The second draft will be sent to the Bureau of Justice Assistance for feedback and finalization. State Public Defender Faria is scheduled for a second meeting with the Chief Justice, Secretary of Corrections, the Sheriff's Association, LDAA representatives to discuss the state's COOP as it pertains to the criminal justice system and the district defender offices.

In December, Mr. Neuner and State Public Defender Faria will meet with the district judges and other interested members of the criminal justice system in Lake Charles.

On November 9, 2009, Mr. Neuner, Mr. Boren, State Public Defender Faria and Trial Compliance Officer Di Giulio are scheduled to address the elected district attorneys at LDAA's fall meeting in New Orleans.

ACCOLADES

On December 4, 2009 at their Annual Tate Awards dinner, The Louisiana Association of Criminal Defense Lawyers has announced that Board Member, Mr. Samuel S. Dalton is to receive the Chief Justice Pascal F. Calogero, Jr. Lifetime Achievement Award in conjunction with the Louisiana Public Defenders Association Awards dinner.

Additionally, LACDL is honoring State Public Defender Faria with the Justice Albert Tate, Jr. award.