



Louisiana Public Defender Board  
Report of the Interim State Public Defender

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To: The Board  
Date: October 25, 2013

**BUDGET DIVISION**

The majority of activity since the last Board meeting has been spent preparing the annual budget for LPDB which was submitted on the due date of October 15, 2013. This year we included each district's "Needs Based Budget" request as part of the package, doubling the volume of our request from 109 to 213 pages. The total request for the Fiscal Year 15 budget which begins July 1, 2014 is \$53,140,820. Last year's budget request for the Fiscal Year 14 budget was \$42,500,000.

Other projects within the Budget Division include the quarterly reporting of the LaPAS performance indicators. Although through our strategic plan we have developed new indicators, the Legislature continued to recognize our old indicators. Therefore, until next fiscal year, we will continue to report on the old indicators. Our new indicators will be implemented beginning July 1, 2014.

The online LaTrac reporting of budget was provided to update figures for the current fiscal year which is available by the public on line at [www.la.gov](http://www.la.gov).

Monthly expenditures and billings to the Louisiana Commission on Law Enforcement for our grant which finances our outside auditor continue to be reviewed. We have experienced some delays and data entry problems with the Office of Finance and Support Services, a part of Division of Administration, which seems to not only affect prompt work flow on this grant, but payments to other vendors and districts. We continue to monitor and follow up on payment delays and coding errors, hoping that the situation improves.

Our contract auditor has begun to focus on the monthly financial statements which are sent to us from the districts. She is finding that the districts seem to have difficulty in preparing the Cash Reconciliations at the bottom of the monthly financial statements. She is working with the districts that are not in balance on those reconciliations. Also, she continues to work on the financial handbook for the district offices, as well as planning upcoming audits at some of the district's offices.

## **INFORMATION TECHNOLOGY & MANAGEMENT DIVISION**

### **Information Management**

The ITM Division, in collaboration with the Budget Division, participated in reviews of the districts' Needs Based Budgets. ITM staff created a spreadsheet of all 42 districts caseloads/personnel needs/FTEs for use in reviewing the district budgets. Staff also created spreadsheets that showed total statewide district needs with and without CINC, as well as a breakdown of various portions of the Needs Based Budgets (IT, training, resource, personnel, overhead). ITM staff followed up with districts regarding questions on their budgets, assisted districts with accessing their caseload reports, and answered questions/provided passwords so districts could access the dashboard website. Staff also compiled and assembled the Needs Based Budgets for printing, as well as created CDs for the Budget Division.

The ITM Division has produced a revenue analysis and maps that show districts with and without lump sums (LASC) in response to a request from the Legislative Auditors. Also in response to a request from the LLA, ITM staff researched and provided total new and pending caseloads for LAP for the FY08-13 time period.

The ITM Division continues to refine the 18-month work plan for a major case weighting study and has participated in several meetings and discussions with staff and with researchers at Texas A&M.

ITM staff is working on DAF calculations for the 2<sup>nd</sup> FY14 disbursement and corresponding solvency projections for the districts. Staff also completed analyses to address the LaPAS performance indicator reporting and identified districts to be investigated for shortages in local revenue.

Staff continues to generate numerous ad hoc and workload reports on various topics such as caseloads and finances (juvenile attorneys and caseloads versus adult). Since the last Board meeting, the ITM Officer participated in weekly staff meetings, Needs Based Budget meetings, case weighting meetings, and the Sentencing Commission Research and Technology meeting.

### **Technology Management**

As the statutorily mandated Annual Report season is approaching, the ITM Division has coordinated and completed the dissemination of Annual Report documents to the districts. Like last year, districts will complete their reporting forms (district narratives, staff directories, and technology surveys) online. Using the online technology will enable districts to view their narrative responses from last year, such that if nothing has changed, district defenders need not re-enter the same data on the new form, thus saving the districts much time and effort. ITM staff prepared the documents by converting all 2012 district narratives into the new 2013 reporting format.

The ITM Division worked with the Juvenile Division regarding development of the juvenile portion of the database. The ITM Officer and Juvenile Division staff hosted a meeting with LACCR Director Josh Perry to discuss progress/changes to the juvenile database.

As a result of our recent exit interview with the Legislative Auditor the ITM Division has implemented some new security protocols when accessing the database. The new security protocols now require all users to update their passwords every 90 days. ITM has completed the SOAP online invoicing procedure and edited, proofed and distributed the LPDB newsletter.

## **JUVENILE DIVISION**

LPDB has submitted a budget request for CINC-Parent representation in the amount of \$3,944,268. This number represents a significant increase over the previous CINC-Parent appropriation of \$989,680, which is wholly inadequate to fully fund CINC-Parent representation. This request is supported by documentation from the districts of their CINC caseloads and the costs of staffing their cases with attorneys and appropriate investigative and administrative assistance.

By completing this project, the Juvenile Division (with the invaluable help and support of Interim SPD Julie Ferris, Heather Hall, Marianne Buchanan, Natasha Carter, other staff members, and all of the District Defenders around the state plus their administrative staff) has successfully developed a process for districts to make separate budget submissions for CINC-Parent representation, which is an element of LPDB's five-year strategic plan.

The Juvenile Division has worked closely with the CINC Task Force to identify opportunities to improve the CINC process. These efforts are focusing on early appointment of attorneys for parents and ensuring that the right to representation is respected by courts, along with other systemic changes designed to protect the rights of the parents and the children and improving efficiency.

The Juvenile Division has continued to work with Ms. Lauren Pettiette to secure a grant to provide special education advocacy to the 19<sup>th</sup> Judicial District. Ms. Pettiette has applied to Equal Justice Works and to the Open Society Foundation for a grant which would allow her to provide expertise and capacity to the 19<sup>th</sup> Judicial District Defender Office to advocate for juvenile clients for appropriate special education intervention. Jack Harrison of the 19<sup>th</sup> Judicial District has committed to working with LPDB and Ms. Pettiette on this project. It is expected that this program will improve education outcomes for children in the juvenile justice system and thereby improve recidivism rates among this population. The Juvenile Division and Ms. Pettiette also hope that this program provides a replicable model for expanding this project statewide so that it benefits all of the defenders and all of their juvenile clients.

Dr. Tiffany Simpson, our recently hired Interim Juvenile Justice Compliance Officer, has compiled a Guide To The Court Process: For Parents and Guardians Involved in Child In Need Of Care Cases. This is a small handout providing basic information to parents and guardians who have had their children removed from their home. This one-page, tri-fold brochure is designed to offer encouragement to clients who are in crisis and do not understand the legal process they need to navigate, and is designed to be available in attorneys' offices. This document will soon be available to all attorneys who represent parents in CINC cases to distribute, and a similar document will be available on the LPDB website.

The Juvenile Division has continued its project to re-design the juvenile case management system to promote client-centered, comprehensive representation. The new case management system will be designed to allow for easy monitoring of multiple cases involving the same client, sharing relevant information about the child's education, home life, and health gathered by different people. This will promote awareness of underlying root causes of anti-social behavior, such as improper educational opportunities or unsafe and unstable living arrangements. The Division is currently exploring ways to fund this re-imagining of the case management system for accused child offenders.

On October 10, 2013, DPD-DJDS Richard M. Pittman and IJCO Simpson conducted a site visit to the 23<sup>rd</sup> Judicial District, where they met with the District Defender Alan Robert, defender Ursalee Unangst, and administrative staff at the PD office in Gonzales. They also observed an Answer docket in Parish Court in Gonzales before Judge Marilyn Lambert.

The Juvenile Division has also been actively involved in attempting to resolve a dispute between the juvenile defenders in the 15<sup>th</sup> district and the juvenile court judge. The Juvenile Division supports and encourages zealous and competent representation of children in the delinquency system. DPD-DJDS Pittman sent a letter to the parties detailing LPDB's commitment to vigorous delinquency defense and defended the right and responsibility of the defenders in the 15<sup>th</sup> Judicial District to provide zealous representation of their clients.

DPD-DJDS Pittman is also working towards re-starting the externship program in which LPDB had previously participated through LSU's Paul M. Hebert School of Law. LPDB hopes to be part of the externship program beginning in the Spring 2014 semester and continuing indefinitely. LPDB further hopes to expand its involvement in externship programs to include other schools and programs around the state in the future. The externship program may include issues particular to juvenile justice, but will likely include projects across a range of issues related to indigent defense.

## **CAPITAL DIVISION**

Currently there are 95 capital cases at the trial court level being handled by either the district defender or a capital contract program. The Expert Witness Fund is now exhausted.

The Capital Division has spent the majority of its time on the expert witness fund, the Capital Case Working Group teleconference, the capital strategic plan and the Capital Defender Training (CDT).

### Capital Case Working Group

The Capital Case Working Group met by teleconference on October 16, 2013 to discuss the short and long-term policy decisions in resolving the expert witness fund shortfall; how to respond to meritorious expert witness applications and funding requests which meet LPDB protocols; what service delivery models best meet the needs of the state and how to finance them. Staff was instructed to resume contract negotiations with Capital Defense Project of Southeast Louisiana and Capital Project of Louisiana regarding short-term funding for the Expert Witness Fund; draft a letter intended for Expert Witness Fund applicants with meritorious funding requests meeting LPDB protocols; and, draft a document which informs the Board of the CCWG's progress. At

least one member of the CCWG has expressed a strong interest in having members of the capital defense community at the table during the discussions regarding service delivery models before binding policy decisions are made. One member of the working group favors face to face meetings for these discussions. As difficult as it will be to schedule such talks, such in-put will be essential in developing the most comprehensive service delivery plan.

Two different versions of the Capital Performance Standards await review by the CCWG prior to vetting them to the field.

### Training

Held in New Orleans, October 23-25, 2013, the Capital Defender Training 2013 trained 79 (out of one hundred) registrants attending one of two tracks. Track A, the “bring your own case” track where core team members had the opportunity to present the facts, theories and issues in their selected case to another team and to faculty. These break-out sessions occurred after plenary sessions for both tracks and focused on brainstorming the information presented in the preceding plenary sessions. Those registrants in Track B attended lecture sessions covering a wide variety of topics.

On Thursday evening, as a gift from the Mitigation Specialists community, the movie “Shell Shocked” was presented at the training. The Louisiana Capital Guidelines published under the LCLE grant were distributed to core capital team members.

### Legislative Auditor Requests

The Capital Division continues to provide information to the Legislative Auditors regarding the districts, capital contracts and capital services throughout the state. Their most recent questions involve provisional certification, the district capital representation plans, performance evaluations and salary ranges.

### Certification and Re-Certification

The capital certification applications are increasing in number and we will be asking the State Public Defender to convene the Advisory Committee once again to review a significantly lower number of certification applications. Currently, there are twelve applications pending for review.

Under the Capital Guidelines, certified counsel is required to apply for re-certification by January 31 of each calendar year following the initial certification under the Guidelines. The State Public Defender is responsible for publishing an application form for re-certification. The application will be drafted in November for circulation to the field in December.

## **SPECIAL PROJECTS**

Since the last meeting of the Board of Directors 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 6 was released in October); 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 reviewing the district budgets and developing the LPDB FY15 budget request; working with prospective Skadden/Open Society Foundation Fellow applicant Lauren Lee Pettiette in her special education advocacy proposal with LPDB and the 19<sup>th</sup> Judicial District; reviewing and preparing the Trial Court Performance Standards for Attorneys Representing Children in Delinquency Proceedings for printing and dissemination; supporting Corlis Green in and the objectives of the 2013 LCLE 2013 grant (including grants reporting and budget adjustments); continuing correspondence with the Legislative Auditor relative to itemized remittances; working with OPD on materials related to their Louisiana Campaign for Equal Justice; developing the online invoicing and expert witness fund protocol for experts in SOAP cases, as well as general SOAP case management; and supporting the Training Division by working with Arc of Louisiana, Spitfire Strategies and the Vera Institute on various upcoming training opportunities. Limited progress has been made on the Louisiana Community Defender Toolkit since the last Board meeting. Additionally, there has been no proactive media work despite a number of opportunities to address factual inaccuracies or policy discussions.

## **TRAINING**

The annual Capital Defender Training was conducted with success on October 23-25<sup>th</sup> in New Orleans. The training was filled to capacity and initial feedback has been very possible. Training Division paralegal Julie Gregory did an excellent job managing the majority of the logistics and deserves acknowledgment.

Julie Gregory and Heather Hall are working with Kelly Serrett at the Arc of Louisiana to provide training modules on representing clients with intellectual disability at the Juvenile Defender Training and to facilitate District Defender access to additional in-district training opportunities through a collaboration with Arc of Louisiana and the Disability Center in Texas. Additionally, Julie Gregory and Heather are also working with Spitfire Strategies to ensure that the November 18-19 make-up session of the Defender Leadership Training is delivered to cover the same topics as the training in March.

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. A Vera-coordinated training on mandatory minimum reform will be hosted by LACDL and LPDB is helping to develop and promote that training.

The Director of Training position remains unfilled (since July), and accordingly the 2013 Defender Training Institute will be held in January and the Juvenile Defender Training has moved to May.

## **INTERIM STATE PUBLIC DEFENDER**

Since the last Board meeting, the Interim State Public Defender has overseen the needs-based budget process – analyzing every district public defender office budget request and submitting the agency’s FY15 LPDB and CINC budget request. The districts should be acknowledged for a

great job developing their budgets under this new process, their responsiveness to staff questions and their support for staff's recommendations. LPDB has encouraged District Defenders to utilize their needs-based budget request as an outreach material for policy-makers between now and the next Legislative Session.

ISPD Ferris has also spearheaded LPDB's response to a number of subpoenas and continues to monitor all pending litigation or inquiry of district public defender offices. She responded to the subpoena in State v. Robertson on October 9<sup>th</sup> in Baton Rouge, and State v. Brown on October 11<sup>th</sup> in the 17<sup>th</sup> Judicial District. Additionally, with support from Anne Gwin, ISPD Ferris has assumed responsibility for the management of the capital expert witness fund and the recommendations for its resolution.

The Louisiana Legislative Auditor has concluded the field portion of their performance audit and we anticipate receiving a draft report soon. As part of a follow-up to the LLA's inquiries about funding streams, ISPD Ferris continued to seek LLA support in receiving itemized remittances of public defender revenue in the 17 districts that are still only submitting lumpsum reports. With Dr. Erik Stilling, they have created a map of revenue projections and remittances now using 12 full months of data since the implementation of Act 578 (2012) (which was projected to produce a 28% increase in local revenues, but has in fact resulted in less than a 13% increase.) With support from Marianne Buchanan, she has used this information to ensure accurate and complete submission of the LPDB performance indicators.

ISPD Ferris has worked more closely with auditor Corlis Ferris to ensure that the expectations of financial management practices of the district public defender offices are not unnecessarily complicated by state rules and to oversee her work conducting thorough analyses of districts' submitted monthly financial reports.

She continues to work on her major strategic initiative, which tackles the cost-efficiency of contract versus full-time programs, in part accelerated and affected by the passage of SCR 99 in the 2012 Legislative Session.

ISPD Ferris continues to work with the Louisiana Sentencing Commission and LSBA's Criminal Justice Committee, and to chair the Indigent Defense Committee of the LSBA Board of Governors.