



Louisiana Public Defender Board Report of the State Public Defender

To: The Board
Date: February 18, 2013

BUDGET DIVISION

To date, LPDB has disbursed 93.1% of DAF funds, or \$14,900,455 and 99.3% of CINC funds, or \$973,082. The 41st PDO (Orleans) continues to receive monthly disbursements of \$221,375.

Our FY 2013 budget was increased by \$70,361 to account for the LCLE grant expenditures from January 1, 2013 through June 30, 2013. These funds will be used to contract with an accountant/auditor to assist in reviewing and evaluating district monthly financial reports, local revenue remittances, and performing audit field work as needed. Additionally, funds will be used to cover costs associated with printing and distribution of performance standards (Delinquency, Child in Need of Care, and General Trial Court), Capital Guidelines, and LPDB's protocols and policies.

Final approval has been received from the Office of Contractual Review for the following S.O.A.P contracts, effective November 1, 2012 through June 30, 2013: CBE Law, LLC - \$84,000; The Blaize Law Firm, LLC - \$72,000; and, Joseph W. Grassi - 24,000.

On February 8, 2013, LPDB reported on FY2013 performance indicators for the period July 1, 2012 through December 31, 2012. We were not on track to meet our performance standards for the number of Budget and Policy Committee and Board meetings. Therefore, we adjusted our FY13 target reducing the number Board and Policy Committee meetings from eight to four. Additionally, the target for Budget Committee meetings was reduced from seven to five.

We have exceeded our standard for number of site visits. The FY2013 number of site visits standard was ten. However, as of December 31, 2012, we have had 11 site visits.

Also, it is likely that we will also exceed the standard number of statewide and local/regional trainings offered. The FY2013 standard was eight. However, as of December 31, 2012, we have held six statewide and one local/regional training. The Training Division anticipates two (possibly three) more statewide trainings and three more local/regional trainings before the end of the fiscal year.

There were no changes made to the standard number of districts identified in which data analysis indicates potential shortage in local revenues. Therefore, we reported that we have identified

four districts in or facing Restriction of Services (ROS) and anticipate that by the end of the year there will be a total of seven districts in service restriction. We will continue to monitor local revenues and, if necessary, make adjustments to our targets during the LaPAS third quarter reporting period.

We are slightly below our standard for the number of districts investigated by LPDB ensuring local Indigent Defender Funds are being received properly -- our standard is three. However, as of December 31, 2012 we have not been able to investigate any district. We are in the process of reviewing the district monthly local revenue remittance forms and upon completion of this task we will be able to determine which districts, if any, are not (at a minimum) receiving a breakdown of local revenues.

Finally, we are on target to meet our standard for the number of districts in which negotiation or other action was taken to ensure local Indigent Defender Funds are being received properly. Our standard is three, and so far, we are able to report that action has been taken in two districts -- the 41st PDO (New Orleans Traffic Court lawsuit) and the 34th PDO (St. Bernard Parish Sheriff's Office).

CAPITAL DIVISION

Collection and assessment of preliminary data for the Capital Working Group has been conducted by Capital Case Coordinator Juliet Yackel with special emphasis on evaluating the most efficient method of service delivery.

Pending trial level capital cases have been assessed for CORE team compliance. The Capital Division is determining the cause of the non-compliance by some district offices. Potential contributing factors under consideration are the combined lack of training, financial resources, and competent experts in the field of capital mitigation.

In order to achieve 100% CORE team compliance, the Capital Case Coordinator is taking steps to recruit and foster the professional development of mitigation specialists and investigators throughout the state. Specifically, a training component has been added to the statewide meeting of mitigation specialists with an eye towards developing a recommended curriculum for those who deliver mitigation services throughout the State of Louisiana. The next meeting, scheduled to take place on March 25 from 11 a.m. to 1 p.m. in New Orleans, will include a one-hour presentation which has been delivered at training events nationwide.

Additional efforts to ensure CORE team compliance include continued outreach to the field and development of a budget needed to staff the pending cases in a manner consistent with the guidelines.

Oversight of provisionally certified counsel is ongoing. Three additional lawyers were granted provisional oversight in order to staff the Beverly Arthur case in the 1st JDC (Caddo Parish). Resource counsel and the Capital Case Coordinator are providing intensive oversight to this team.

CAPOLA is in the process of rebuilding its team of experts and CORE team members after the loss of several staff members. Collaboration with the Capital Case Coordinator has resulted in the hiring of an experienced expert who will provide ongoing training and oversight in addition to direct services to this program office.

COMPLIANCE DIVISION

The Compliance Division continued participation in Sentencing Commission meetings and Committee work, including Reentry and Evidence Based and Release Mechanism Committees. Compliance Officer John Di Giulio attended and participated in Committee and full meetings of the Louisiana Law Institute on February 15-16, 2013 and represented the Board in meetings of the Criminal Justice Committee of the Louisiana State Bar Association.

Mr. Di Giulio conducted a site visit in the 7th Judicial District (Catahoula/Concordia) to discuss potential service restriction and sources for additional local revenue and assisted in resolving the representation issue in *State v. Tony Banks* in that district. Mr. Di Giulio conducted a site visit in the 26th Judicial District (Bossier/Webster) to discuss their new initiative to institute vertical representation in misdemeanor cases. Compliance Officer Di Giulio, with General Counsel Roger Harris, Capital Case Coordinator Juliet Yackel, and I, attended a court hearing in the 1st Judicial District (Caddo) in *State v. Beverly Arthur* regarding capital representation issues. Mr. Di Giulio traveled to New Orleans to assess OPD's progress and pending issues for a report to the Board. He also conducted site visits to the 36th (Beauregard) and 14th (Calcasieu) Judicial Districts to address concerns about funding shortfalls and possible need for restriction of services.

The Compliance Division continued to assist the capital area, attending meetings concerning cases needing representation. He also maintained 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 spearheaded and coordinated the production and dissemination of the 700+ page LPDB 2012 Annual Report compiling over 120 individual reports from the 42 districts offices in just over two weeks. Staff in the ITM Division has generated numerous ad hoc caseload and workload reports on various topics such as caseloads and finances, and suggested salary scales for assistant public defenders. ITM staff also has examined district court remittances for compliance with ACT 366 in collaboration with the Budget Office.

Technology Management

The ITM Office has developed a second-level analysis of financial data in the Dashboard reports, and designed numerous substantive changes on the Juvenile and Capital tabs of the Case Management System (CMS). Also, the office has initiated transition of the Personnel Compensation Report from simple non-relational excel spreadsheets onto the database.

ITM staff continues to monitor the online district Monthly Financial Report. Technical assistance has been provided to the districts on an as-needed basis on a variety of data-related and technology-related topics. ITM staff also edited, proofed, and distributed the LPDB newsletter.

JUVENILE DIVISION

Special Projects Advisor Heather Hall continues to participate in the monthly meetings of the Southern Juvenile Defender Center Advisory Committee, monitor LPDB's stated deliverables per its posted 5-year Strategic Plan, and develop funding concepts/requests for future applications. Julie Kilborn, Irene Joe and Heather Hall planned and conducted a juvenile orientation for new juvenile staff Michele Burbank on January 29, 2013, and appreciate Michele's enthusiasm for contributing to all juvenile projects.

Staff continues to work with contractors to develop the improvements of the Case Management System's functionality for juvenile defenders. LPDB is collaborating with Juvenile Regional Services to shape the improvements into a larger concept that will have a greater statewide impact. This concept was preliminarily discussed with Irma Gonzales, a consultant with ZOEN Resources (affiliated with the Wellspring Foundation) at a meeting at the LPDB office on January 30, 2013.

On January 31, 2013, DPD Kilborn participated in the Juvenile Justice Conference hosted by LSU's Institute for Public Health and Justice. Some defenders from across the state also participated as well as board members. Board Chairman Frank Neuner presented as part of a panel discussion on the need for continued collaboration among all system stakeholders to continue the reform efforts of the juvenile justice system. The Executive Summary from LSU's Institute for Public Health and Justice receipt report to the Juvenile Justice Implementation Commission (a progress report on juvenile justice reform, released in late January) was shared with the Juvenile Working Group of the Board.

The Juvenile Working Group will meet again on February 18, 2013. As part of the agenda for that meeting, the group is reviewing two promising applications for open juvenile positions before recommending staff to pursue interviews.

DPD Kilborn is also collaborating with the Court Improvement Program of the Louisiana Supreme Court to develop a comprehensive training curriculum for parent attorneys in CINC cases. A second statewide training is being scheduled for later in 2013.

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; updating the website with relevant announcements, employment opportunities, events and information; drafting and disseminating press statements as appropriate (none since last Board meeting); managing the media archive and social media outlets; 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.

In addition, since the last meeting, the Special Projects Advisor has completed comprehensive revisions to the draft LPDB District Assessment Protocol; circulated an External Communication Proposal for Executive Staff review; participated in several communications trainings to take advantage of the Gideon anniversary, submitted all programmatic reports to close out the 2012 LCLE grant; supported progress implementing the 2013 LCLE grant (including the management of all applicants for the Auditor position and preparing the Trial Court Performance Standards

for printing and dissemination); continued to contribute to the development of the agenda and training to be delivered at the Defender Leadership Training in March; and, completed the design of the Capital Defense Guidelines.

TRAINING DIVISION

The annual Juvenile Defender Training was held January 16 - 18, 2013 in Baton Rouge and provided separate sessions for attorneys representing children in delinquency cases and attorneys representing parents in Child in Need of Care (CINC) cases. The program focused on skills training for new and experienced defenders and provided updates on new statutes and caselaw pertinent to the juvenile justice system. LPDB's four train-the-trainer trainees participated as faculty for the juvenile training and led sessions on Families in Need of Services (FINS) findings and procedures, as well as recent developments in delinquency caselaw.

Assistant Training Director Irene Joe attended "Gideon's Promise", a leadership training session, held in Montgomery, AL on January 24 - 27. As a result of attending "Gideon's Promise", Ms. Joe learned additional information about adult leadership models and the challenges facing leaders in indigent defense systems throughout the nation.

Ms. Joe continues to work with Heather Hall, Special Projects Advisor, to reevaluate and implement the juvenile strategic plan set forth by the Board in 2010.

The remaining training for the first quarter of calendar year 2013 is the Defender Leadership Training (March 7 - 8, 2013) for district defenders, program directors and office supervisors. Additional trainings for 2013 include: the Investigator Workshop (July 17 - 19), the Defender Training Institute (September 8 - 13), the Capital Defender Training (October 23 - 25) and the Legislative Update (December 13).

STATE PUBLIC DEFENDER

On January 23, 2013 several staff members attended a hearing in State v. Beverly Arthur, in Shreveport. The Arthur case is a pending death penalty case. At the hearing I was relieved as counsel of record after other counsel enrolled in the case.

The District Defender Selection Committee for the 25th Judicial District provided the names of five candidates to review. Interviews for the Plaquemines Parish District Defender are being scheduled. LPDB must make its selection by March 9, 2013. My thanks go to Judge Burns, Prof. Pam Metzger and Mr. Richie Tompson for their willingness to serve on the interview committee.

Last week I attended the Eighth Indigent Defense Summit at the ABA Mid-Year Meeting in Dallas, Texas. Of particular interest was the panel entitled "Developing Data for Your Defender Program" which spent some time discussing the case weighting study in Missouri and related lawsuit. Stephen Bright spoke on the unfulfilled promise of Gideon, "Right to Counsel and the Cost of Injustice." A distinguished panel discussed "What is Unethical About People Pleading Guilty Without Lawyers and What To Do About It," and Buck Files, President of the State Bar of Texas, spoke on "The Role of [the] State Bar in Improving Indigent Defense."

Last week, the Governor held a press conference on February 15, 2013 where he unveiled his agenda regarding sentencing and juvenile justice reforms. Board member Ms. Gina Womack and I attended the detailed press conference. Various members of the juvenile justice community and the Sentencing Commission (of which I am a statutory member) were present, as well as legislators involved in these issues.

In the process of reworking LPDB's strategic plan, we have been provided with the added challenge of drafting LPDB's strategic plan for the Office of Planning and Budget within the Division of Administration. Staff is scheduled to meet on February 26, 2013 to discuss merging these two strategic planning formats to the extent possible.

Several staff members met with the Capital Appeals Project to discuss proposed changes to the FY 14 contract.

On February 28, 2013, I will be part of a panel on eyewitness identification at Judicial College in New Orleans. The panel will focus on suggestions for how to handle the admissibility of expert witness testimony on eyewitness identification given the current state of the law in Louisiana.

Staff has been invited to attend the Public Interest Law Society (PILS) Job Fair on March 2, 2013 at the LSU Law Center. Through this opportunity we are able to attract interns and externs. Summer interns may be offered fellowships from PILS.

I participated in numerous meetings and teleconferences such as the Sentencing Commission; the Criminal Justice Committee of the LSBA; the American Council of Chief Defenders Executive Committee teleconference; LSBA Diversity Panel teleconference in preparation for a panel entitled "Leveraging Diversity Through Inclusion: Insights for Action" scheduled for March 8, 2013 at the LSBA's Sixth Annual State-Wide Conclave on Diversity in the Legal Profession. Board member Ms. Rebecca Hudsmith also will participate on the panel.