



Louisiana Public Defender Board
Report of the State Public Defender

To: The Board
Date: May 25, 2012

BUDGET DIVISION

Emergency Funding

Since January, 2012 LPDB has disbursed a total of \$730,233 in emergency funding to the districts. Emergency funds in the amount of \$368,201 were disbursed on March 15, 2012 to the following Districts: 2nd (Bienville, Claiborne, Jackson), 3rd (Lincoln, Union), 5th (Franklin, Richland, West Carroll), 9th (Rapides), 32nd (Terrebonne), and the 39th (Red River). On April 19, 2012, the 7th (Catahoula, Concordia), 28th (LaSalle) and 37th (Caldwell) Public Defender Offices received a total of \$148,400 in emergency funding. Final FY12 emergency funding in the amount of \$213,632 was disbursed on May 16, 2012 to the following districts: 4th (Ouachita, Morehouse), 10th (Natchitoches), 16th (Iberia, St. Martin, St. Mary) and 37th (Caldwell). At this time, LPDB has no FY12 emergency funds remaining.

Additionally, final FY12 DAF totaling \$381,001 was disbursed May 16, 2012 to the 39th (Red River), 2nd (Bienville, Claiborne, Jackson), 5th (Franklin, Richland, West Carroll), and the 11th (Sabine) Public Defender Offices.

LPDB staff has been informed that HB1059 (FY12 supplemental appropriations bill) includes \$197,000 for Angola 5 appellate costs (for defendants Clark and Brown only) incurred and budgeted through June 30, 2012. At the latest, this bill should be approved by June 4, 2012 and payments will be made to CAP and CPCPL shortly thereafter, as soon as contract amendments are approved.

FY13 District Budgets

LPDB Staff is currently reviewing districts' FY13 Pro Forma budgets. Final FY13 budgets are due June 15, 2012.

CAPITAL DIVISION

The Advisory Committee established to review capital defense certification applications is in the midst of its review. The Committee has voted on a number of applications. However, notice of certification will not go out until we receive and review the Office of Disciplinary Counsel records of the applicants.

The Capital Division continues to ensure that all attorneys with capital cases are certified or provisionally certified. The Capital Division also continues to ensure that all certification applicants fulfill the capital training requirements. The Capital Division has begun to use its new expert fee schedule which is ensuring greater uniformity and accountability in expert funding expenditures. The schedule has already resulted in significant cost savings. The Capital Division is working on the state capital representation plan and continues to review the district capital representations plans.

The Capital Division continues to develop attorney compensation rates that will also ensure greater uniformity in attorney compensation and should improve the quality of representation in some districts. The Capital Division is developing a capital trial case review form (as required by the Guidelines) in order to gather information about capital cases in the state after their resolution. The Capital Division continues to develop a new database case tracking system, which will permit more efficient and effective case tracking and monitoring of capital cases. The Capital Division continues to work on alterations in the nonprofit program contracts to ensure compliance with the Louisiana Capital Defense Guidelines and other requirements.

Acting Capital Case Coordinator John Holdridge and Trial Level Compliance Officer John Di Giulio continue to review expert funding requests, assign capital cases to counsel and oversee capital litigation generally. Mr. Di Giulio continues to work on the issue of funding appeals in the Angola 5 case. The Capital Division continues to ensure that the nonprofit programs have adequate client complaints policies.

COMPLIANCE DIVISION

Trial Level Compliance Officer John Di Giulio spent the weeks of April 9-12 and May 7-11 assisting the intensive site visit and evaluation and assessment of the Orleans Public Defenders' Office. Ernie Lewis and Dan Goyette, pursuant to a contract with the Board, talked to most of the Criminal Court judges, District Attorney Leon Cannizzaro, representatives of the Orleans business community, the Judicial Administrator at the Criminal District Court, new Municipal Court Chief Judge Charbonnet and her staff, as well as many of the supervisors and line defenders at OPD, and their financial administrative staff. They also spent the day on May 15 doing a follow up visit to the 22nd Public Defenders' Office in Covington, as well as some time in the courthouse there.

Mr. DiGiulio also attended Sentencing Commission and subcommittee meetings on April 19 where issues were discussed concerning possible legislative proposals and research projects for the 2013 session. He also attended a number of information sharing meetings at the Capitol with legislators concerning HB 325. There were also meetings with DAs and their lobbyist on issues involved in that bill. Along with Deputy Public Defender Kilborn, he also attended a meeting at

the Louisiana Municipal Association offices with representatives of small town Mayors' Courts and Chiefs of Police lobbyists to discuss their amendment to 325, which was ultimately revised in the second Senate Committee hearing.

He made two trips to Alexandria concerning possible restriction of services plans there, the first with DPD Kilborn and Juvenile Compliance Officer Jack Harrison where they met with the District Defender and staff, then with Chief Criminal Judge Tom Yeager. The second meeting was with Chairman Neuner and Ms. Kilborn to answer questions from the local bar association officers about the potential restriction plan.

Compliance Officer Di Giulio also attended a meeting with Orleans Traffic Court judges and personnel, along with Chairman Neuner, DPD Kilborn, 41st District Defender Derwyn Bunton, and retained auditors on the issue of the failure of the court to collect and remit mandatory statutory funds for OPD.

He also attended in the District Defender Advisory Council meeting on May 22. Other duties included continuing to assist John Holdridge on capital issues, including expert witness funding and certification issues.

INFORMATION TECHNOLOGY & MANAGEMENT DIVISION

Information Management

The ITM Division researched and created a chart which showed from CY10 to CY11 the districts that had staff reductions and the number of staff reduced, as well as districts that increased their staff and the number of staff increased. The results showed the net reduction in personnel represents a 4% overall decrease in public defender personnel statewide from CY10 to CY11. The Division also provided a report that categorized district employees, contract attorneys, and non-attorney employees who receive a W-2 and contractors who receive a 1099. The Division assisted with compiling a financial audit report of District Attorney Offices in comparison to District Public Defender offices statewide (revenues, expenditures, assets, and liabilities).

The ITM Division has completed several analyses which show the FY13 fiscal impact on district local revenues if the 15:168 fees were increased due to several changes in legislation of HB325. The Division produced district insolvency projections which showed the revenue impact if there was no increase, \$20, \$15, and \$10 increase (with and without Mayor's Court revenues, and with no increase from Mayor's Courts fees). The ITM Division assisted with determining district emergency funding amounts and projected FY13 DAF/CINC distribution amounts. ITM staff prepared for and attended the Budget Committee as well as various staff budget group meetings.

Technology Management

The ITM Division conducted seven district database trainings throughout the state in Baton Rouge, Orleans, Alexandria, Natchitoches, Shreveport, Monroe, and Lafayette. ITM staff provided training on new database functions as well as new database rules and definitions of results, statuses, dispositions, and revocations. Training attendees participated in focus groups

which provided an opportunity for ITM staff to obtain ideas for improvements to the system from the field. A CMS User Manual, which highlights the changes to the database, was distributed to all participants as well. Through the Byrne-JAG technology grant, the ITM Division distributed laptops and software to eligible districts during the database training tour.

The ITM Division has been preparing to implement a few additional data fields on the database to track various criminal justice system trends across the state. ITM staff has been fine tuning the district dashboard report gauges that will be available on the database in FY13: Caseload Reports, Jail List, Capital Cases in District, Last Month Arrest Activity, DA Filings, 12-Month Financial Retrospective, and Most Recent Local Revenues & Expenditures. These will assist district office management and LPDB in data-driven decision-making.

In conjunction with the Capital Case Coordinator, the ITM Office has developed a Capital reporting form which is in the process of being managed on the CMS database, as well as an automatically generated Indigence Assessment tab in the database which will also automatically generate a new case when indigence has been affirmed. Also, staff has nearly completed migrating all district monthly financial reports into the database to further assist district-level management.

The ITM Division interviewed candidates for the Technical Support Analyst position and has hired Mr. Edward Wilson, who joined LPDB on May 21, 2012. ITM staff attended a Research and Technology meeting at the Louisiana Commission on Law Enforcement which has produced a uniform charge code table which will be acceptable for use by the Clerks, Courts, DAs and Public Defenders' Offices. Staff also edited, proofed, and distributed the LPDB newsletter.

JUVENILE DIVISION

Since the last Board meeting, Juvenile Justice Compliance Officer Jack Harrison has continued reaching out to juvenile defenders and juvenile stakeholders across the state. He has engaged in visits to a number of jurisdictions, including two visits to the 15th Judicial District (Abbeville and Crowley), the 16th Judicial District, the 14th Judicial District, the 23rd Judicial District, as well as East Baton Rouge Juvenile Court. He also made a site visit to the 9th Judicial District with Deputy Public Defender Kilborn and Compliance Officer Di Giulio.

The Juvenile Defender Advisory Council met for the second time this year, at which time several issues relevant for juvenile advocates were discussed by leading juvenile defenders from around the state. The next meeting of the JDAC is set for August 24, 2012 in Opelousas.

Mr. Harrison and Assistant Training Director Irene Joe participated in the LPDB/JIDAN juvenile litigation skills training program in Houma, the first of three to be held this year.

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, events and information; drafting and disseminating press statements as appropriate (two statements released during since the last Board meeting, both created in conjunction with other

staff); managing the media archive; 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 launched the LPDB FaceBook and Twitter pages; submitted a \$350,000.00 proposal to the Bureau of Justice Assistance under its 'Answering Gideon's Call' FY 12 solicitation; worked with Spitfire Strategies to successfully submit a grant proposal to provide 40 hours of technical assistance/training opportunities for LPDB and the districts from Spitfire Strategies (Louisiana was selected for this assistance along with defender organizations in New Mexico, Pennsylvania and Michigan); worked with Deputy Public Defender Kilborn to draft a 'Guide for Developing Service Restriction Plans' for the districts; prepared required reports for the LCLE Audit (required of all agencies receiving LCLE grants); developed a more robust JDAC concept memo with the juvenile division for presentation to executive staff; conducted research on LCLE funding distribution between prosecutors, sheriffs, the courts and public defenders between 2009-2012; assisted staff in the collection and compilation of salary and other data requested by policy-makers; and supported staff through the process of projecting the fiscal impact of HB 325 upon the districts.

TRAINING DIVISION

The Training Division completed a 3-day training in collaboration with the Juvenile Indigent Defender Action Network (JIDAN) called "Litigation Skills & Strategies in Juvenile Cases" in Houma, Louisiana on May 17 – May 19, 2012. The focus of the training was the improvement of motions practice in delinquency representation. Participants expressed enthusiasm for the topics discussed and the format of the training stating that the training was "very informative" and provided "good ideas for new ways to approach issues." This was the first of three similar juvenile defender regional trainings set to occur this year. The remaining two trainings are to be held in West Monroe (July 26 – 28) and Shreveport (September 27 – 29).

Assistant Training Director Irene Joe participated as a trainer in a capital defense training with the South Carolina Office of Indigent Defense in Myrtle Beach, South Carolina from April 29 – May 1, 2012. This training, funded by the Bureau of Justice Assistance, focused on helping attorneys, investigators and mitigation specialists with a pending capital case develop communication skills and representation plans consistent with best practices in the field of capital defense.

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

Additional trainings for 2012 include: the Investigator Workshop (July 16 – 18, 2012); the Forensics Training "Debunking the Myth: Effective Criminal Defense in the Forensics Age" in collaboration with the Louisiana Association of Criminal Defense Lawyers (August 10, 2012); the Defender Training Institute (September 9 – 14, 2012); the DTI Annual Conference (September 13 – 14, 2012); and the Capital Defender Training (October 24 – 26, 2012).

DEPUTY PUBLIC DEFENDER

Deputy Public Defender has been very involved in producing and providing information to legislators, the Legislative Auditor, and other stakeholders related to HB 325, specifically the effects of an increased special cost and the number of various district public defender offices that will not remain solvent in FY13 given the amendment to the bill.

In addition to continuing to work with the Orleans Public Defenders' Office in their service restriction, DPD Kilborn has worked with Mr. Di Giulio and Chairman Neuner, along with the District Defender in the 9th District (Rapides), to prepare for a restriction of services in that district in early FY13. A meeting is scheduled for June 1st with the criminal court judges and district attorney in that district to discuss potential resolutions to the district's funding shortfall and imminent caseload crisis.

DPD Kilborn has also been working with the LaPorte CPA auditor in completing the 2011 audit of Orleans Traffic Court. Likewise, she has been working with the Board's forensic auditor, David Greer, in completing FY12 financial audits of some of the district and program offices.

Pursuant to the Board's directive, staff has developed a protocol for monitoring the 30th district public defenders' office which has been given limited board approval to maintain a public defender who is also a City Court prosecutor in the district. The protocol, which became effective May 1, 2012, has been provided to the district public defender and monitoring is underway.

DPD Kilborn continues to participate in meetings of the Louisiana Sentencing Commission and LSBA Criminal Justice Committee. She has also been appointed to a 3-year at large position on the LSBA Board of Governors.

LPDB is proud to welcome Edward Wilson, IT Analyst Support Tech, to its staffing team. Mr. Wilson will work with the IT Division to provide technical support officewide.