



Louisiana Public Defender Board
Report of the State Public Defender

To: The Board
Date: November 7, 2012

BUDGET DIVISION

Fiscal Year 2014 Budget Request

On November 1, 2012, we submitted our FY 2014 budget request in the amount of \$42.5M. This is an overall \$9.2M increase from LPDB's FY 2013 appropriated budget. A request to increase current T.O positions from 16 to 19 was also included.

Sex Offender Appointment Panels (SOAP)

On September 27, 2012, LPDB submitted a request for seed capital to Commissioner Paul W. Rainwater to fund counsel for legal representation in Sex Offender Appointment Panels (SOAP) hearings. On October 11, 2011, LPDB received a letter of approval, signed by Commissioner Paul W. Rainwater for the requested seed funding in the amount of \$250,000. Per the letter of approval, LPDB's FY13 budget was increased by this amount on October 18, 2011.

The Division of Administration has stated its commitment to funding these expenditures and will submit a supplemental bill to the legislature during the upcoming session starting April 8, 2013. The LPDB will repay the seed capital of \$250,000 upon the legislature's approval of the 2013 supplemental bill.

LCLE Grant (January 1, 2013 – December 31, 2013)

On October 20, 2012, the award letter for the new LCLE grant which begins on January 1, 2013 was received. LCLE has awarded LPDB \$103,573 to be used to fund a part-time ("WAE") auditor to review and identify anomalies within the monthly financial report, evaluate trends in income and expenditures, identify opportunities for increased office efficiency, and develop a financial handbook to be distributed to the districts. Ideally, we would like to have this position advertised and filled by January 1, 2013.

Although the award letter has been received, a request to increase our current budget authority must be submitted to the Office of Planning and Budget (OPB) to be reviewed and approved by the Joint Legislative Committee on the Budget (JLCB). The BA-7 requesting increased budget

authority must be submitted to OPB no later than November 29, 2012 to be added to the JLCB agenda for the December 21, 2012 meeting.

CAPITAL DIVISION

The annual Capital Defender Training was held in Baton Rouge, with teams of lawyers, mitigation specialists and investigators attending. Renowned faculty led brainstorming sessions with individual defense teams and later gathered to identify systemic problems and individuals who require ongoing supervision. We will work with program directors and district defenders to address the problems that were identified.

A statewide group of mitigation specialists has been formed and the first meeting was held during the capital training event. The meeting was attended by 15 local mitigation specialists, District Defender Paul Marx and Capital Case Coordinator Juliet Yackel. The next meeting will be held December 3, 2012 in New Orleans. Over 40 specialists have expressed an interest in attending this event.

A procedure for overseeing the seven provisionally certified counsel has been developed and implementation is underway. Only four of those who were provisionally certified are presently handling capital cases. Of those who are actively handling capital cases, two are employed by program offices, one is employed by a district office and one is a district defender.

Three lawyers have appealed the denial of their applications for capital certification. An appeals process is in development, with a proposal pending for this Board's consideration.

COMPLIANCE DIVISION

Several site visits were conducted, including a number in Orleans as the monitoring of the service restriction and response to the Lewis-Goyette report were on the agenda there. Site visits involving the 21st and 1st Judicial Districts were also conducted. Compliance Officer John Di Giulio attended two Sentencing Commission meetings and numerous meetings of committees and working groups of the Sentencing Commission, involving Re-entry, Parole, Good Time, Drug Courts, etc. He also attended two meetings of the Law Institute Council as the representative of the State Public Defender. In addition, he attended meetings of the Louisiana Supreme Court Rules Committee. He appeared along with General Counsel Roger Harris and Budget Officer Angel Williams before the Joint Legislative Committee on the Budget to testify concerning funding for representation of persons assessed as possible sex predators under the SOAP statute.

He also attended the criminal justice working group of the Law Institute dealing with expungement and other issues. In addition, he continued to assist in the capital area by working with other staff and with District Defenders and the programs doing capital representation to obtain counsel for defendants facing the death penalty. He responded on behalf of the Board, along with State Public Defender Faria, to subpoenas from Criminal District Court in Orleans, to address funding and caseload issues. He has also appeared before judges in Baton Rouge and Shreveport to assist in finding counsel in capital cases.

INFORMATION TECHNOLOGY & MANAGEMENT DIVISION

Information Management

As the statutorily mandated Annual Report season is approaching, the ITM Division has coordinated the dissemination of Annual Report documents to the districts. Districts will again be able to complete their reporting forms (District Narratives, District Staff Directories, Technology Surveys and Personnel Expenditure Reports) 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 districts' much time and effort. ITM staff prepared the documents by updating questions for the 2012 district narrative, technology survey, and personnel expenditure report, as well as converting all 2011 district narratives into the new 2012 reporting format. Staff also disseminated online surveys on file retention among the districts and on curatorship activities and expenditures. Staff in the ITM Division generated numerous ad hoc caseload and workload reports on various topics.

The ITM Division also conducted numerous analyses on the Impact of Act 578 and the impact on districts of a potential \$4.7M DAF cut. In addition, an ROS map and bar charts were produced and significant progress was made on a draft uniform salary increase protocol/checklist.

Technology Management

ITM staff continues to monitor the online district Monthly Financial Report as well as the online district Monthly Compensation Report (hosted on the database defenderData). Technical assistance has been provided to the districts on an as-needed basis. ITM staff has been working with Justice Works on finalizing the improvements to the Monthly Financial Report. Staff has participated in conference call discussions, as well as research and testing of the website, to ensure accuracy of the changes requested.

The ITM Division has been working on changes to the Capital and Juvenile CMS fields and menus redesign and has uploaded numerous Juvenile Motions from the Juvenile Motions Bank for use by all public defenders across the state.

The ITM officer participated in numerous meetings this reporting period: LCLE; Research and Technology Committee of the Sentencing Commission; Budget Committee, DDAC, LPDB Strategic Planning and several staff meetings on various topics..

JUVENILE DIVISION

Over the past month, the Juvenile Working Group of the Board met by teleconference to discuss a survey of priorities previously circulated. Hiring qualified and effective juvenile staff as provided in the statute was among the group's top priorities. To that end, among the legislative changes recommended by staff is to change the requirement of "five years of specific experience in the defense of juveniles in delinquency proceedings has recommended" to "five years of criminal defense" in order to broaden the pool of eligible lawyers for the Deputy Public Defender-Director of Juvenile Defender Services position.

During the Juvenile Working Group teleconference, we discussed the impact of *Miller v. Alabama*, wherein the United States Supreme Court held that the Eighth Amendment prohibits a sentencing scheme that requires life in prison without the possibility of parole for juvenile homicide offenders. Over 300 *Miller* eligible offenders have been identified. This creates a capacity problem for the juvenile defenders, as the Louisiana Supreme Court has recently held that these offenders are entitled to a hearing for relief.

Staff juvenile strategic planning is scheduled for November 7, 2012, with Patricia Puritz from the National Juvenile Defender Center. The State Public Defender, First Assistant Public Defender and Special Projects Advisor will participate from staff, building upon the 2011 Vision Meeting held with juvenile defenders from around the state. This November 7 staff strategic planning first step in strategic planning is in anticipation of the strategic planning suggested by the Joint Working Group to be held in conjunction with the juvenile defenders.

The State Public Defender will be attending the Models for Change Cross Action Network Meeting in Arlington, Virginia on November 14-15, 2012. At the meeting, the Juvenile Indigent Defense Action Network (JIDAN), the Mental Health Network and the Disproportionate Minority Contact Network will all meet and discuss national developments within each Network and cross train.

On December 3, 2012, LPDB will sponsor its first Train the Trainers for juvenile defenders. It is our hope to grow in state training capacity through this by-invitation-only event for six carefully selected Louisiana juvenile defenders. Separate and apart from the Train the Trainers event, LPDB's annual Juvenile Defender Training is scheduled for January 16-18, 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 (one statement and three LTEs released since the last Board meeting); managing the media archive and social media outlets (FaceBook and Twitter); 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 worked closely with the Orleans Public Defenders in the creation of their media protocols, outreach plan and media submissions; helped to develop the agencies' strategic planning sessions; successfully completed all grant reporting from the 2012 LCLE grant reporting (through three quarters) and prepared for implementation of the 2013 LCLE grant award; assisted in various juvenile projects including the Train-the-Trainers event (scheduled for December 3, 2012), motion bank upload and CMS modifications; submitted a Letter of Inquiry to the Criminal Justice Fund of the Open Society Fund for media and communications work related to districts in service restriction; provided assistance to public defender offices in the 7th (Catahoula/Concordia), 8th (Winn), 14th (Calcasieu) and 37th (Caldwell) judicial districts who have provided notice of service restriction; supported the LPDB proposal for SOAP representation; supported the Capital Division at LPDB with assistance related to media communications; drafted (with ITM Director Erik Stilling) the Salary Raise Request review policy for the Budget Committee's feedback; conducted extern interviews and developed draft projects (with Assistant Training Director Irene Joe); and, made continued outreach with the Department of Veterans Affairs for future collaboration.

The grant application under the “Answering Gideon’s Call” solicitation from the Bureau of Justice Assistance at the U.S. Department of Justice was not funded. Four awards were made; none of them in Louisiana. Reviewer feedback on the application was provided to assist in future applications.

TRAINING DIVISION

The Training Division held the annual 6-day Defender Training Institute for public defenders with three years or less experience from September 9-14, 2012 in Baton Rouge. Participants of the Defender Training Institute worked closely with faculty on an active or mock case from the initial case assignment to sentencing. The Training Division also held the DTI Annual Conference, an interactive, working training open to defenders who have graduated from the Defender Training Institute. During the DTI Annual Conference, participants worked an active or mock case to hone and further develop their trial skills with regards to a particular type of defense – (1) homicide, (2) sex offense or (3) DWI/DUI defense. Participant evaluations for both trainings were overwhelmingly positive with one participant stating in an anonymous evaluation “[t]his program was the first time I’ve felt good as a public defender...I really, really needed this experience and I am extremely appreciative for the opportunity.”

The Training Division completed a three day training in collaboration with the Juvenile Indigent Defender Action Network (JIDAN) called “Litigation Skills & Strategies in Juvenile Cases” in Shreveport, Louisiana on September 27 – September 29, 2012. The focus of the training was the improvement of motions practice in delinquency representation. Participants consistently stated that the training was well organized and included information that was “very helpful.”

The Training Division also recently completed the annual three-day Capital Defender Training entitled “Communicating for Life.” Public defenders, investigators and mitigation specialists with active cases gathered in Baton Rouge to work on their cases with nationally renowned faculty. More than 60 defenders attended the training and evaluations were overwhelmingly positive.

Assistant Training Director Irene 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. Additional trainings for 2012 include: Legislative Update (December 14, 2012) and the Juvenile Delinquency Train-the-Trainers conference which is being provided by invitation only on December 3, 2012.

FIRST ASSISTANT STATE PUBLIC DEFENDER

Since the last Board meeting, First Assistant State Public Defender Julie Kilborn has continued to monitor and assist with district service restriction projections, correspondence, budget review and related activities. A grant request has been submitted to the Louisiana State Bar Association to assist with funding shortfalls in the 7th (Concordia/Catahoula), 8th (Winn) and 37th (Caldwell) Public Defender Offices. A motion seeking subpoenas duces tecum has been filed by the District Attorney in the 14th JDC (Calcasieu), requesting financial information in two consolidated private cases seeking expert witness funds from the Calcasieu Public Defenders’ Office.

Our FY14 budget request was submitted on November 1, 2014, requesting \$42,500,000 and an increase in our Table of Organization from 16 to 19. Since funds have now been received for SOAP representation in FY13, staff is in the process of contracting with four attorneys across the state to handle the SOAP cases set for hearing.

Executive staff met for strategic planning on October 9, 2012. Through collaboration and a shared vision, staff is fine-tuning the strategic plan for the remainder of FY13 and preparing for a November 27, 2012 meeting to finalize the FY13 plan. Staff continues to develop the District Defender Salary Increase Protocol pursuant to directives provided by the Budget Committee. The File Retention Policy is still under development and staff has circulated a survey requesting additional information from District Defenders.

FASPD Kilborn continues to work with the Pelican State Center for Children and Families to improve the juvenile justice system in connection with Child in Need of Care proceedings. The Louisiana Court Improvement Program and DCFS are implementing a Program Improvement Plan and, as part of that plan, have scheduled a strategic planning session for November 9, 2012. Ms. Kilborn will represent LPDB at this planning session.

LPDB has received notice of approval for a \$103,573 grant from LCLE. The grant period is January 1, 2013 – December 31, 2012. Through this grant, we hope to enhance our financial review capacity in-house and make more support available to the field. LPDB was not awarded the \$350,000 BJA grant to fund a case weighting analysis (over 24 months).

The First Assistant State Public Defender has represented LPDB at meetings of the Sentencing Commission, including co-chairing a Team of the Front End Committee which is charged with reviewing the effectiveness of court costs and fees; Criminal Attorney Accountability Working Group, including serving as a facilitator at the training held October 12 – 13, 2012; the Louisiana Commission on Law Enforcement; and the LSBA Criminal Justice Committee. Staff met with the District Defender Advisory Council on October 29, 2012.

With other staff, FASPD Kilborn continues to manage the various litigation in which LPDB is involved, including *OPD and LPDB v. Jones et al*; *Stanley v. Casanave*; and *Thomas v. Orleans*.

We welcome Beth Perry, paralegal, who will be working for the Legal and Compliance Division at LPDB. Beth obtained her paralegal certification in 2001 and comes to LPDB with 16 years of experience in the Middle District of Louisiana Clerk of Court's office. She assisted with the development and implementation of the Courts' paperless, electronic filing system (PACER).

Additionally, we are currently advertising for an administrative assistant to support the Juvenile and Compliance Divisions. Our search for the Director of Juvenile Defender Services and Juvenile Justice Compliance Officer continues.

STATE PUBLIC DEFENDER

There has been a second re-alignment of work and projects between the First Assistant Public Defender and the State Public Defender. Day to day operations are being handled by Julie. This will allow me to work on the statutory deliverables, such as drafting appellate and assigned counsel standards and guidelines, finalizing capital standards; completing the community defender tool box; establishing a process for the case weighting study; drafting a model intake form; drafting a performance evaluation protocol to assess service quality, to be compared

against the evaluation form currently in use; developing a plan to create and maintain a repository for resources relating to the practice of criminal and juvenile law in Louisiana.

Nationally, I will continue to represent Louisiana on the American Council of Chief Defenders (ACCD); the Indigent Defense Advisory Group (IDAG) of the ABA's Standing Committee on Legal Aid and Indigent Defendants; and the ABA Task Force on Comprehensive Representation. In state, I will remain on the LSBA Criminal Justice Committee, the Sentencing Commission, emphasizing reclassification of misdemeanors, and the Language Access Coalition working in conjunction with the Louisiana Supreme Court.

Staff Update

We want to extend our best wishes to Angel Williams on her marriage to Spencer Gillespie on October 27, 2012. We wish you a long, happy and prosperous union.