



Capital Certification Appellate Process

*Last Revised
January 15, 2013*

Composition of the Appeal Panel

The Board will create an appellate panel to hear all capital certification appeals by selecting three Board members other than those who served on the certification advisory panel.

Executive Session

As this is a personnel issue, the appeal hearing will be conducted in executive session, unless the appellant chooses to have the hearing held in public.

Conduct of the Hearing and Standard of Review

At the hearing, the State Public Defender, or designated representative, such as the Capital Case Coordinator, shall present the basis for the certification decision. The appellant will then be given an opportunity to be heard and to present evidence.

The State Public Defender shall have the burden of coming forward. The applicant shall have the burden of proving the State Public Defender's decision was incorrect by a preponderance of the evidence. The standard of review shall be abuse of discretion. The Capital Certification Appeal Panel shall not be bound by the rules of evidence, including the hearsay rule, except those with respect to privileges. *Cf.* La. Code Evid. Ann. art. 104. The decision of the Capital Certification Appeal Panel shall be final.



LOUISIANA PUBLIC DEFENDER BOARD

Effective: _____, 2013
Last Updated: April 1, 2013

Policy and Procedures For Assessing District Public Defender Office Performance

1. Protocol

- 1.1 The Louisiana Public Defender Board (“LPDB”) requires staff to follow consistent application of stated procedures to assess District Defender performance through site visits and remote contact.

2. Purpose

- 2.1 LPDB is committed to demonstrating accountability and transparency in its supervision, regulation and improvement of Louisiana’s public defender program. A set of limited and uniform rules should govern LPDB’s assessment of district office performance through both initiated and responsive site visits; documentation of district communication by any/all LPDB staff; record of district achievements and issues; effective mechanisms to support and monitor corrective action plans as needed; and, recommendation for contract renewal and/or District Defender salary adjustments.
- 2.2 Further, this protocol ensures that district leadership is aware of the protocol and both the expectations and obligations of LPDB as they relate to making recommendations concerning district public defender office programs and staffing.

3. Site Selection:

- i. When a district reports an issue causing concern and/or requests on-site assistance, LPDB staff will schedule a site visit. When possible, staff will combine such visit with a site visit to a neighboring district(s).
- ii. In any district where a new District Defender is appointed by the Board, staff will conduct a site visit within three months of the appointment.
- iii. Every effort will be made to let no more than 24 months lapse between site visits to each district by LPDB staff.

Performance should be evaluated on a scale of 1-3

(1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)

Criteria that is either “Not Observed” or “Not Discussed” should be marked “N/O” or “N/D”, respectively.

4. Evaluation and Documentation

- i. LPDB staff conducting a site visit should make every effort to evaluate/record the following:
 - a. The district public defender office (professional and appropriate appearance, sufficient space and resources, client-centered culture)
 - b. Court proceedings and quality of practice (including professional supervision, case files, motion practice; client contact; District Defender evaluations of staff as required by LPDB contract, etc.)
 - c. Resource Allocation (including legal research tools; secretaries, paralegals, investigators and other defender staff; availability and age of office technology; caseload/case distribution; training opportunities; etc.)
 - d. Visits/Communication with district stakeholders (including members of the local criminal justice system, clients, community leaders and media outlets/staff)
- ii. Supporting documents to be reviewed in advance of a site visit include, but are not necessarily limited to:
 - a. District Defender Contract for Public Defense Services
 - b. Any prior field reports from the previous 24 months
 - c. District's approved budget for the current fiscal year
 - d. Most recent CMS dashboard data (includes revenues and expenditures, caseload, case distribution, etc.)
 - e. Most recent personnel expenditure report
 - f. Most recent annual report summary

5. Reporting Requirements

- i. Within 2 business days of any site visit, LPDB staff will save the site visit preparatory data (see above) and Standardized Site Visit Checklist (see below) in the appropriate file accessible to all LPDB Executive staff members.

Performance should be evaluated on a scale of 1-3
(1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)
Criteria that is either "Not Observed" or "Not Discussed" should be marked "N/O" or "N/D", respectively.

- ii. If LPDB staff assesses any of the assessment criteria with a rating of “3” or higher, this item will be identified in writing by staff and sent to the District Defender, with a copy sent to the State Public Defender.
- iii. If any criteria on the Site Visit Checklist is rated with a “4” or a “5,” the notice in writing must also give a deadline for the District Defender to submit a corrective action plan.
- iv. In the event that the site visit requires additional follow-up, LPDB staff will make additional entries to the *original* field report, logging new information with a new date and then the update. All staff who work on the project related to the site visit will likewise record the information where appropriate.
- v. It is the responsibility of the visiting staff to ensure that field reports are kept accurate and up to date and other Executive Staff members are timely and duly informed of issues arising pursuant to any site visit.

6. Integrating Remote District/Contact Information to the Performance and Compensation Protocol

- i. Anytime that any staff member has substantive contact with a district, the staff member will record any relevant information in the appropriate section of the District Contacts Checklist (per issue, not necessarily per contact). This Checklist is identical to the Site Visit Checklist, except that information is generated through off-site communications.
- ii. It is understood that in many instances, the substance of this interaction will be most effectively recorded as notes in addition to ratings on the District Contacts Checklist.
- iii. These recordings should be saved on the in the appropriate file accessible to all LPDB Executive staff members.

7. Contract Renewal/Performance Review

- i. District Defender Contracts for Public Defender Services are offered annually, in advance of the start of the upcoming fiscal year.
- ii. Prior to recommending to the Board the renewal of any District Defender Contract, staff will review all field reports and the accompanying Site Visit Checklist, as well as evaluations from each District Contact Checklist for every District Defender whose contract is up for renewal.

Performance should be evaluated on a scale of 1-3
(1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)
Criteria that is either “Not Observed” or “Not Discussed” should be marked “N/O” or “N/D”, respectively.

- iii. If there is insufficient information in the district's Site Visit file and/or there has not been a site visit within the last 24 months, staff will conduct a site visit before recommending a contract renewal of that District Defender to the Board.
- iv. The staff recommendation relating to a District Defender's contract renewal will be made by the entire Executive Staff.

8. Contract Renewal/Salary Increase Request

- i. Salary reviews will occur annually, in the Spring prior to the beginning of the new fiscal year.
- ii. Staff will review any/all field reports and the accompanying Site Visit Checklist, as well as evaluations from each District Contact Checklist, to determine whether a requested salary increase is recommended. Additionally, staff must determine whether the request falls within the salary range per LPDB analyses and whether the district has sufficient local funding to provide for the increase before making a recommendation.
- iii. In some cases, additional data/information will be needed before making a recommendation to the Board. If there is insufficient information in the district's Site Visit file and/or there has not been a site visit within the last 24 months, staff will conduct a site visit before making a recommendation to the Board.
- iv. The staff recommendation relating to a District Defender's raise request will be made by the entire Executive Staff.

9. Contract Programs

- i. Insofar as practicable, this protocol shall also be applied to staff's performance review of any contract program.



LOUISIANA PUBLIC DEFENDER BOARD SITE VISIT CHECKLIST

Effort should be made to comment on as many criteria as possible.

Compliance Division

- _____ The District Defender provides equitable distributions of caseloads considering practice levels of attorneys when relevant
- _____ Caseloads fall within the monthly variance permitted by the Contract for Public Defense Services
- _____ The District Defender provides sufficient legal resources such as investigators and expert witnesses as requested by attorneys
- _____ The District Defender provides sufficient administrative/clerical support for attorneys
- _____ The District Defender encourages and supports compliance with all LPDB performance standards
- _____ The District Defender ensures conflict-free representation for all appointed clients
- _____ The District Defender has a written Private Practice Policy
- _____ The District Defender regularly reviews attorney case files to ensure that they are appropriately maintained
- _____ The District Defender encourages and monitors client contact such that it is appropriate (jail visits, in-office appointments, school visits, etc.)
- _____ The District Defender presides over the resolution of client complaints effectively and impartially
- _____ The District Defender is actively involved with other local criminal justice agencies as regards funding, criminal procedure decisions
- _____ The District Defender is actively involved with local political entities as regards funding and criminal / juvenile justice decisions
- _____ The District Defender proactively identifies, develops and maintains relationships among all local and state stakeholders

Performance should be evaluated on a scale of 1-3

(1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)

Criteria that is either "Not Observed" or "Not Discussed" should be marked "N/O" or "N/D", respectively.

- _____ The District Defender maintains work plans and timekeeping files in a format approved by the State Public Defender
- _____ The District Defender conducts performance achievement reviews and/or evaluation protocol of attorneys and staff
- _____ The district public defender office is professional, client-friendly and provides appropriate areas for clients to meet with their defenders
- _____ The District Defender and/or Office Supervisors communicates promptly and effectively with LPDB on issues relevant to the Division

Capital Division

- _____ The District Defender provides access to and requires compliance with the Capital Defense Guidelines
- _____ The District Defender punctually submits properly completed Monthly Capital Case Reports
- _____ The District Defender ensures access to the appropriate capital defense team members, and team members are sufficiently equipped (both in resources and training) to provide effective advocacy
- _____ The District Defender appropriately procures experts through the Expert Witness Fund Request Protocol
- _____ The District Defender and/or Office Supervisors communicates promptly and effectively with LPDB on issues relevant to the Division

Juvenile Division

- _____ The District Defender demonstrates a commitment to juvenile defense by providing resource parity with criminal cases
- _____ Juvenile defenders are provided professional development opportunities to competently represent clients in this specialized area of law
- _____ Juvenile defenders are supported in promoting and protecting the client's expressed interests, including taking cases to trial, as appropriate, and are provided the resources to achieve successful outcomes

Performance should be evaluated on a scale of 1-3
 (1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)
 Criteria that is either "Not Observed" or "Not Discussed" should be marked "N/O" or "N/D", respectively.

_____ The District Defender is familiar with current case law, representational best-practices and national developments in both the local and national juvenile justice movements

_____ The District Defender and/or Office Supervisors communicates promptly and effectively with LPDB on issues relevant to the Division

Budget Division

_____ The District Defender submits the District's pro forma budget timely and sufficiently

_____ The District Defender submits the District's formal budget request timely and sufficiently

_____ The District Defender submits the District's completed Monthly Financial Reports timely and sufficiently

_____ The District Defender submits the District's completed Monthly Compensation Reports timely and sufficiently

_____ The District Defender is aggressively pursuing all due local revenues, or is in formal dispute if not (this includes the collection of the \$40 application fee for appointed defendants)

_____ The District Defender is balancing revenues and expenses effectively

_____ The District Defender has a written policy on reimbursements (office supplies, travel, overhead, etc.) consistent with the State of Louisiana travel regulations that apply to district PDO's

_____ The District Defender and/or Office Supervisors communicate promptly and effectively with LPDB on issues relevant to the Division

Special Projects Division

_____ The District Defender is actively involved with community, non-profit and human services agencies

_____ The District Defender appropriately engages the media to present a positive image of public defense programs

_____ The District Defender leverages pro bono support or other innovations to provide supplemental services to district clients

Performance should be evaluated on a scale of 1-3
(1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)
Criteria that is either "Not Observed" or "Not Discussed" should be marked "N/O" or "N/D", respectively.

- _____ The District Defender or appropriate staff pursues funding outside of the statutorily dedicated funding for special projects, technology or other appropriate programmatic improvements
- _____ The District Defender and/or Office Supervisors communicates promptly and effectively with LPDB on issues relevant to the Division

Training Division

- _____ The District Defender promotes and supports staff participation in LPDB training, including dedicating funds for attendance as appropriate
- _____ The District Defender/Office Supervisors pursue personal leadership training outside of LPDB training programs
- _____ The District Defender/Office Supervisors provide either in-house training programs for their staff, or encourage and provide for other training opportunities on issues specific to the district
- _____ The District Defender and/or Office Supervisors communicate promptly and effectively with LPDB on issues relevant to the Division

Information Technology & Management Division

- _____ Attorney salaries are within reasonable range in relation to District Defender salary
- _____ The District Defender has written contracts with non-staff attorneys
- _____ The District Defender requires and maintains timekeeping files of all personnel and contractors
- _____ The district's defenderData (CMS) entries are indicative of a district that effectively acts in the best interest of clients
- _____ The District Defender requires hardcopy/scanned documentation of case files
- _____ The District Defender ensures that hardcopy/CMS case files are sufficiently documented
- _____ The District Defender requires and maintains up-to-date data entry in the CMS for all cases

Performance should be evaluated on a scale of 1-3
 (1 = Exceptional; 2 = Successful; 3 = Needs Improvement/Unsuccessful)
 Criteria that is either "Not Observed" or "Not Discussed" should be marked "N/O" or "N/D", respectively.



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Tuesday, April 2, 2013
LSU Law Center, Tucker Room
Baton Rouge, LA
2:00 pm.

MINUTES

1. Call to Order. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Tuesday, April 2, 2013, at the LSU Law Center in Baton Rouge, Louisiana.

2. Roll Call.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Addison Goff
Leo Hamilton
Dan Krutz
Luceia LeDoux
Tom Lorenzi
Herschel Richard
Majeeda Snead

The following Board Members were absent:

Frank Holthaus
Jacqueline Nash
Gina Womack
Pam Metzger

The following *ex officio* Board Members were absent:

Robert Brinkman
Rebecca Hudsmith

The following members of the Board's staff were present:

Julie Kilborn, Interim State Public Defender
John Di Giulio, Trial-Level Compliance Officer
Jean M. Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Irene Joe, Assistant Training Director
Erik Stilling, Information Technology and Management Officer
Angel Williams, Budget Officer

3. **Remarks of the Chairman.** Chairman Neuner welcomed incoming Board Member Mr. Robert E. Lancaster and announced that Jean Faria has accepted the position of Capital Case Coordinator. He thanked Special Projects Advisor Heather Hall for her help in getting *Gideon* letters published recently in the Shreveport and Lafayette newspapers. Mr. Neuner brought to the Board's attention the recent Orleans Public Defender Office's annual report and the new annotated agenda format for future Board meetings. He reminded all Board members of the May 15 deadline to submit their personal financial reports to the Board of Ethics and finally he welcomed guests Mr. Tim Mathis, Ms. Irina Zheludkova and Ms. Emily Wilson from the Louisiana Legislative Auditors Office. Mr. Neuner explained that LPDB will be going through a performance audit over the next six to 12 months.
4. **Review and Approval of the Agenda.** There being no changes, the agenda was approved as presented.
5. **Review and Approval of the Minutes of the Meeting.** There were no changes to the proposed Minutes from the February 20, 2013, meeting and upon motion of Mr. Lorenzi, seconded by Mr. Richard, the Minutes were adopted.
6. **Election of Vice-Chair:** Reverend Krutz moved to nominate Judge Robert Burns as Board Vice-Chairman, in compliance with R.S. 15:151(C). Mr. Hamilton seconded the motion which passed unopposed.
7. **District Defender, 25TH Judicial District.** Compliance Officer John Di Giulio reported that five people were interviewed for the 25th Judicial District, District Defender position and that Staff is recommending Mr. Matthew Robnett for the position. Judge Burns moved to accept staff recommendation which was seconded by Mr. Hamilton and passed unopposed. Mr. Neuner thanked Mr. Richard Tompson, Interim District Defender, for his assistance with the 25th District Defender duties since July of 2012.
8. **Budget Committee Report.**
 - a. **Financial Report, March 27, 2013*.** Budget Officer Angel Williams gave a brief financial update based on available information as of March 26, 2013. Ms. Williams reported that 92% of the 2013 budget has been spent or encumbered and estimates \$2.3M to be expended or encumbered by June 30, 2013. Of the \$13.3M funds allocated for the contract programs, \$9.3M has been expended to date with an expected \$3.8M to be

expended by June 30. Upon recommendation of the Budget Committee to approve the financial report, seconded by Ms. Ledoux, the financial report was approved unopposed.

b. 501c3 Contracts, FY 14*. Ms. Williams reported that the Budget Committee accepted staff recommendation that FY14 funding to the contract programs be the same as FY 13 and that the contract terms be for six months (through Dec. 31, 2013). Ms. LeDoux seconded the Budget Committee recommendation which passed unopposed.

c. Consulting and Professional Contracts, FY 14*. Ms. Williams reported that the Budget Committee recommended staff's requests to approve eight professional services contracts for the following amounts/services: Mr. David Greer, Auditor, \$47,500; Mr. John Holdridge, to continue assistance in the Capital Division, up to \$50,000; collectively, \$200,000 divided among four S.O.A.P. attorneys for legal services with \$50,000 reserved for expert witnesses; and, an extension to December 31, 2013, of the current FY 13 contracts with CPCPL and CAP for legal services on the Angola 5 appellate cases.

Additionally, the Budget Committee recommended approval of five contracts for Consulting Services: Baby Mogul – two separate contracts for website hosting and designer services in the amounts of \$1,800 and \$10,000 respectively; Don Dovie, for I.T. emergency back-up services in the amount of \$10,000; for Justice Works for on-going upgrades and customizations to the CMS database in the amount of \$46,000 and to David Newhouse, for work in conjunction with Justice Works for further development and data compilation in the amount of \$47,500.

Mr. Lorenzi seconded the Budget Committee recommendation which passed unopposed.

d. Out of State Travel Exception, July 25-26, 2013, COD NY Conference*. Ms. Kilborn requested that the Board consider an exception to its out-of-state travel restriction policy allowing five or six executive staff members to attend the Community Oriented Defense Conference in New York in July, 2013, at a cost not to exceed \$9,500. Judge Burns asked for a clarification on the value of the trip. Ms. Kilborn explained that LPDB is a member of the COD network and the annual conference serves to educate attendees on holistic representation. Ms. Kilborn reported that the Budget Committee passed a motion to present the issue to the full Board for approval. Mr. Hamilton seconded the recommendation. Upon a full vote of the Board, the recommendation passed seven to one, with Judge Burns dissenting and Mr. Neuner abstaining.

e. DAF Disbursement – 14th Judicial District (Calcasieu)*. Ms. Williams reported that based on staff projections, District 14 faces a shortfall of \$116,109 for FY 2013. She further reported that the Budget Committee, pursuant to staff's projections, recommends an immediate DAF disbursement to the district for \$116,109. Ms. LeDoux seconded the committee recommendation which passed unopposed.

f. CINC-Partnership for Training and Strategic Planning*. Ms. Kilborn explained that the Louisiana Supreme Court, Court Improvement Program will pay for expenses for one staff member and four additional juvenile defenders to attend a ABA Parent Attorney conference in Washington D. C. in return for those five then working with the Supreme Court to develop trainings and a 12-month strategic plan for the

delivery of parent representation. Mr. Richard moved to approve the collaborative partnership which was seconded by Mr. Lorenzi and passed unopposed.

g. Budget Updates.

i. DAF and Pro forma Budgets. Ms. Williams reported that the pro forma budget templates have been sent electronically to the districts and all pro forma budgets were due from the districts to LPDB on April 1, 2013, and that staff will begin reviewing them next week. She explained that until updated projections can be provided, the districts have been advised to use their FY13 DAF amounts to prepare their FY14 pro forma budget submittals.

ii. Contract Auditor Position. Ms. Williams reported that interviews for the contract auditor position have been held, a candidate has been chosen, and the contract for services has been submitted to the Office of Contractual Review for approval. The auditor, being funded by an LCLE grant, will be responsible for compiling a uniform financial handbook and reviewing district financial reports.

iii. HB -1, 2013. Ms. Kilborn reported that Mr. Neuner, Rev. Krutz, General Counsel Roger Harris, Budget Officer Angel Williams and she attended the hearing for HB 1 in the House Committee on Appropriations on March 12, 2013, and were asked no questions regarding LPDB's budget request for FY 14. The proposed allocation to LPDB is \$33,612,948.

9. Policy Committee Report.

a. Performance & Compensation Protocol. Ms. Kilborn informed the Board that this issue was originally presented to the Budget Committee in October, 2012, as a tool for assessing and/or considering district defender salary increases. Staff, as directed by the Budget Committee in October, has made some changes to the original protocol and presents it to the Board as a protocol for assessing district and district defender performance and for maintaining a historical record of districts' progress. Ms. Kilborn explained that the protocol being presented contains changes to the evaluation scale to correspond with the State's Performance Evaluation System (PES) in an effort to be uniform and fair. Ms. Kilborn indicated that the Policy Committee recommends approval of the protocol as amended. Upon a second to the recommendation by Ms. LeDoux, the motion to accept the protocol as amended passed unanimously.

b. Capital Case Timekeeping*. Capital Case Coordinator Jean Faria reported that Staff recommended to the Policy Committee the adoption of a policy that districts be required to log all time spent on capital cases. Ms. Faria clarified that district offices do not currently keep record of time spent on capital cases and this information is critical to maintaining and obtaining funding and resources. Ms. Faria explained that the contract programs do have timekeeping mechanisms, but they are not uniform. The Policy Committee is recommending adoption of a uniform capital time keeping policy. Mr. Lorenzi seconded the recommendation which passed unopposed.

c. Whistleblower Policy*. Mr. Di Giulio reported that the Policy Committee has recommended for Board consideration the proposed Whistleblower Policy which protects any public defense employees and contractors who report wrongdoing from retaliation or threat of retaliation by an employer or contractor. Mr. Lorenzi seconded the recommendation which passed unopposed.

d. Public Records Request, Expert Funding*. Mr. Neuner reported that LPDB staff received a Public Records Request for information regarding expert assistance in a capital case, specifically, Barry Edge, an Angola 5 defendant. Mr. Neuner reminded the Board that they have already developed policy on funding Department of Corrections cases. Judge Burns requested that staff provide the Board's policy to defense counsel. No further action was taken.

e. Policy Updates

i. District Assistance Fund Formula Adjustment. Mr. Di Giulio reported that staff is considering making adjustments to the current 5-year old DAF formula to determine equitable distribution of limited state funds taking into account additional criteria. Ms. LeDoux suggested a presentation to the Board on the formula and the formation of a working group of Board members to address the current working formula and modifications.

ii. Delivery Definitions. Ms. Kilborn reported that the Service Delivery definitions - one part of the DAF formula adjustment discussion - have been sent out to the districts for input and that staff will report the findings back to the Board.

10. Juvenile Update. Deputy Defender-Director of Juvenile Services Position*. Ms. Kilborn reported that staff has conducted interviews and recommends Mr. Richard Pittman for the position of Deputy Defender Director of Juvenile Services position. Rev. Krutz moved to accept staff recommendation which, seconded by Addison Goff, passed unopposed.

11. Board Duties and Responsibilities. General Counsel Roger Harris reported that pursuant to the Board's directive on February 20, 2013, he prepared a summary of Act 307 outlining the Board's statutory duties and responsibilities.

12. LLA Performance Audit. Mr. Neuner explained that the Louisiana Legislative Auditor's office is conducting a performance audit of LPDB as required of all agencies every seven years.

13. District Issues.

a. District 3 (Lincoln/Union) – IRS Issue Update. Mr. Harris reported that an initial report from the IRS on an issue in District 3 whether staff attorneys are employees or contractors resulted in the IRS requesting that the district office change a form and the IRS's subsequent acceptance of that change. Mr. Hamilton moved that the agenda be amended to make this issue an action item. Ms. LeDoux seconded the motion which passed. Mr. Harris further reported that he was not aware if attorney Ralph Stephens, who handled the issue pro bono for District 3, was aware of the IRS's recent communications with District 3, indicating their acceptance of the change. Mr. Hamilton moved that staff forward the IRS's most recent correspondence to Mr. Stephens and request his formal opinion as to whether the issue is resolved by the actual form change or if there is further action required by the District. Ms. LeDoux seconded the motion.

b. District 14 (Calcasieu) – ROS Update. Mr. Di Giulio reported that District 14 continues in service restriction.

c. District 15 (Lafayette). Mr. Di Giulio indicated that while local revenues are up and the District Defender has implemented numerous reduction steps, District 15 is still facing a shortfall.

d. District 41 (Orleans) – Open Society Grant. Ms. Kilborn reported that OPD is working on a 15-month grant awarded by the Soros Foundation. Ms. LeDoux expressed concern that the language in the grant is not Orleans Parish specific but rather is a statewide campaign. She indicated that the Board should review any campaign material before it is available for public view to be clear in the Board's role and any future involvement expectations. Professor Snead made a motion that staff work with District Defender Derwyn Bunton to include in the project proposal a budget as well as specifics on how the funds are to be spent. Rev. Krutz moved to amend the agenda to make this an action item, which was seconded by Mr. Goff and passed unopposed. Professor Snead moved that District Defender Bunton and staff work together and propose a plan for Board review and recommendation that better defines the District-Board partnership. Mr. Goff seconded which passed unopposed.

14. Capital Update. Capital Case Coordinator Jean Faria reported that the Capital Working Group will begin meeting to discuss expert witness funding and invoicing policy and protocols and how to handle staffing capital cases.

15. Legislative Update. Mr. Harris discussed a variety of bills including SB 113 filed by Senator Rick Gallot on behalf of LPDB on March 28, 2013, which, if passed, will amend R.S. 15:147(E), 149.2(B)(1) and (D), 154(A)(2) and (B)(1), and 158(A)(3)); and HB 1 which provides for LPDB's general funds for FY 14 in the amount of \$33,612,00.

16. Staff Updates. Ms. Kilborn stated that the ISPD report and media logs are included in each board book.

17. Other Business. There was no further business brought for discussion.

18. Next Meetings(s). The next Board meeting date is scheduled for Tuesday, May 21, 2013, at a location to be determined.

19. Executive Session¹. Upon motion of Mr. Richard, seconded by Mr. Goff, the Board went into executive session. Upon motion of Ms. LeDoux, seconded by Professor Snead, the Board left executive session.

Upon returning to regular session, Mr. Richard moved to formally object to the Attorney General's dismissal in *Stanley v. Casanave* (Calcasieu Parish/District 14) unless all costs are paid by someone other than the Board. Mr. Goff seconded the motion which passed unopposed. Staff was instructed to convey the Board's decision to the AG's office.

20. Adjournment*. Upon motion of Ms. LeDoux, seconded by Prof. Snead, the meeting adjourned.

¹ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: New Orleans Traffic Court lawsuit (LPDB, et al v. Jones, et al, Docket: 614262, 19th JDC, EBR Parish), litigation in Calcasieu (Stanley v. Casanave, Docket: C613472, Section 23, 14th JDC), and State v. Barbara Vincent, Docket 24292-10, 14th JDC).

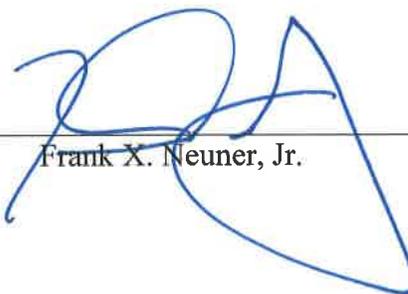
Guests:

Kathryn Sheely
Chris St. Julien
Irina Zheludkova
Bruce Unangst
Richie Tompson
Herman Castete
Robert Lancaster

Michael A. Mitchell
G. Paul Marx
Tim Mathis
Mike Courteau
Vic Bradley
Derwyn Bunton

Jay Dixon
Emily Wilson
Bradley Dausat
Tony Champagne
Reggie McIntyre
Matthew Robnett

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 2nd day of April, 2013, as approved by the Board on the 21st day of May, 2013, at Baton Rouge, Louisiana.



Frank X. Neuner, Jr.



STATE OF LOUISIANA
PUBLIC DEFENDER BOARD

RESOLUTION

On the 2nd day of April 2013, at a meeting of the Louisiana Public Defender Board, held in Baton Rouge, Louisiana, with a quorum of members present, the following business was conducted:

A discussion was had concerning the need for a Whistleblower Policy designed to provide a mechanism for public defense employees and contractors to raise good faith concerns regarding suspected violations of law or Board policy and to protect persons who take such action from retaliation or any threat of retaliation by any other employee or contractor.

After discussion, it was duly moved and seconded that the following resolution be adopted:

WHEREAS, the Louisiana Public Defender Board (the Board) is charged with supervisory authority over all entities providing representation to indigents in criminal cases in the state;

WHEREAS, the Board and its staff require open and transparent communication from all agencies, their subcontractors and employees concerning the delivery of services as well as any violations of law, ethics, or Board policies.

BE IT RESOLVED that it is the policy of the Board that:

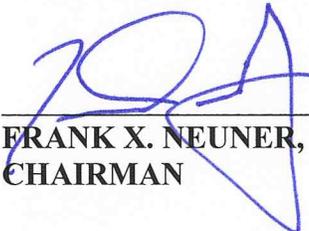
1. No individual, whether employee or subcontractor, shall be threatened, harassed, or discriminated against in any manner in the terms and conditions of his or her employment or contractual arrangement for reporting in good faith any action by any employer, contractor, employee, subcontractor which is unlawful, unethical, or in violation of policies promulgated by the Board.
2. An individual making such a report may do so to a superior, or to the staff of the Board, orally or in writing, and can request confidentiality to the extent reasonable if it does not interfere with actions necessary to correcting the

problem. Reporting may also be anonymous although anonymity is generally discouraged.

3. Any employer, contractor, supervisor or other individual who threatens, harasses, or discriminates against a reporting individual, whether before or after the report, is subject to disciplinary action which may include termination of employment or contract.

The above resolution was passed unanimously by those Board members present and voting at the meeting.

I CERTIFY THAT the above and foregoing constitutes a true and correct copy of the resolution resulting from a meeting of the Louisiana Public Defender Board held on the 2nd day of April 2013.



FRANK X. NEUNER, JR.
CHAIRMAN

Emergency Meeting Protocol

Emergency Defined: An “emergency meeting” is a meeting called as a result of circumstances that were not foreseen, but which may require immediate attention and possible action by the Budget Committee.

Calling an Emergency Meeting: An emergency meeting of the Budget Committee may be called by the Chairperson or at the request of a majority of the Budget Committee members. Email may be used to determine committee members’ availability for the meeting, as well as the date, time, and place of the meeting.

- **Notice of Meeting** – Pursuant to La. R.S 42:14(A)(1)(b)(i), the Budget Committee shall give written public notice of an emergency meeting no later than twenty-four hours before the meeting, except in cases of “extraordinary emergency.”¹ In cases of extraordinary emergency, the Budget Committee shall give such notice of the meeting as it deems appropriate and circumstances permit.
- **Agenda** – Pursuant to La. R.S. 42:19(A)(1)(ii)(aa), the Budget Committee’s written public notice of the meeting that includes “the agenda, date, time, and place of the meeting” which “shall not be changed less than twenty-four hours prior to the meeting.”

Form of Meeting:

- **In Person** – The physical presence of a majority of the committee members is required to establish a quorum and for the Budget Committee to take action.
- **Telephone – Video Conference** – Although a committee member not physically present can listen to and/or watch the meeting by teleconference or video conference, that committee member will be unable to participate in discussions and/or vote on matters before the committee until such time as that member is physically present at the meeting.

Voting: Members voting at an emergency meeting must be physically present.

Meeting Minutes: When it is necessary to hold an emergency meeting, the nature of the emergency shall be stated in the Budget Committee minutes and any formal action taken in such meeting shall pertain only to the emergency. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meetings shall be made available to the public within a reasonable time after the meeting.

¹ La. R.S. 42:16 states that “extraordinary emergency shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.”



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

May 21, 2013

LSU Law Center, Tucker Room

Baton Rouge, Louisiana

2:00 pm.

MINUTES

1. Call to Order and Remarks of the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Tuesday, May 21, 2013, at 2:18 p.m. the LSU Law Center in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Rebecca Hudsmith
Dan Krutz
Luceia LeDoux
Hector Linares
Tom Lorenzi
Pam Metzger
Herschel Richard
Majeeda Snead
Gina Womack

The following Board Members were absent:

Addison Goff
Leo Hamilton
Frank Holthaus
Robert Lancaster
Jacqueline Nash

The following members of the Board's staff were present:

Julie Kilborn, Interim State Public Defender
John Di Giulio, Trial-Level Compliance Officer
Jean M. Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Roger Harris, General Counsel
Irene Joe, Assistant Training Director
Erik Stilling, Information Technology and Management Officer
Angel Williams, Budget Officer

Chairman Neuner welcomed new Board Member Hector Linares and commended Trial Level Compliance Officer John Di Giulio for his work at LPDB.

2. **Review of the Agenda.** There were no changes made to the agenda as presented.
3. **Call for Public Comments.** There were no requests to address the Board.
4. **Review and Approval of the Minutes of the April 2, 2013 Meeting.** There were no changes to the proposed Minutes from the April 2, 2013, meeting and upon motion of Mr. Lorenzi, seconded by Ms. Womack, the Minutes were adopted.
5. **Budget Committee Report.**
 - a. **Financial Report*, May 17, 2013.** Budget Officer Angel Williams gave a brief financial update based on available information as of May 17, 2013. Ms. Williams reported that 96% of the 2013 budget has been spent or encumbered (\$32.4M). Ms. Williams also reported that \$328,074 is available for reallocation to the districts. Upon recommendation of the Budget Committee to approve the financial report, seconded by Mr. Richard, the financial report was approved unopposed.
 - b. **FY 13 DAF**
 - i. **Disbursement Amounts*.** ITM Director Erik Stilling provided a brief summary of the method on which staff based their recommendation for FY 13 DAF final distributions. The DAF distribution to the following districts for the following amounts totaling \$328,074 came as a recommendation by the Budget Committee which was seconded by Prof. Metzger and passed unopposed.

District 1	\$126,915
District 10	\$ 12,132
District 14	\$ 6,998
District 15	\$164,543
District 33	\$ 13,181
District 36	\$ 4,305
 - ii. **Board Approval for Committee Authorization to Approve Final FY13 DAF Disbursements by Staff*.** Interim State Public Defender Julie Kilborn informed the Board that there would be subsequent final DAF disbursements to the districts as the end of the fiscal year nears. Because the Board may or may not be able to meet again before June 30th, Ms. Kilborn presented to the Board for

consideration the Budget Committee's recommendation that the Board give the Budget Committee approval to authorize staff to distribute final FY13 DAF in June based on districts' needs, negating the necessity for a Board meeting. Prof. Linares seconded the recommendation which passed unopposed.

- c. **FY 14 DAF***. Budget Committee Chairman Dan Krutz requested that the Board approve Committee authorization to approve staff's distribution of the initial FY14 DAF to districts in amounts equal to the initial FY 13 DAF disbursements. After a brief review and comments by several district defenders in attendance, Ms. LeDoux clarified that the stand-still disbursement was decided pending more complete data on the funds generated by the Act 578 fee increase. Dr. Stilling reported that some districts have in fact experienced a significant decrease in their local revenues since the increase and that a full year's data was needed. Mr. Lorenzi seconded Rev. Krutz's motion which passed unopposed.
- d. **25th District Defender – Salary Approval – Pursuant to La.R. S. 161(H)(2)***. Ms. Kilborn requested the Board's ratification of the salary for the new District Defender in District 25 (Plaquemines Parish), as recommended by the Budget Committee. Judge Burns seconded the recommendation which passed unopposed.

6. Policy Committee Report

- a. **Expert Witness Funds***. Capital Case Coordinator Jean Faria reported that there needs to be a tighter process in place for the management of limited expert witness funds. More specifically, the use of experts has increased significantly since the introduction of the expert witness fund. In addition, the fund, which is managed by LAP, is allocated in monthly increments of \$50,000 resulting in payment of invoices being backlogged through October, 2013. Ms. Faria requested Board guidance in addressing the current pending case funding requests as well as payment request backlogs. Mr. Richard Bourke, Executive Director the Louisiana Capital Assistance Center (LCAC) and Mr. Kerry Cuccia, Executive Director of the Capital Defense Project of Southeast Louisiana (CDPSLA) addressed the Board and provided information on more cost effective ways of providing expert services.

After a brief discussion, Mr. Lorenzi moved to adjust the fund distribution to LAP for FY 14 by providing one initial payment in July, 2013 in the amount of \$250,000 to cover the outstanding payment requests due and thereafter provide the balance of the fund in monthly installments of \$50,000 until the annual allotment is expended, resulting in bringing the expert witness fund current.

Ms. LeDoux seconded the motion but clarified that the fund had to be made current and that staff has to determine what revenue will be remaining after the outstanding payments are made. She emphasized that no funding should be approved or expended beyond the FY 14 allocation.

Prof. Metzger moved that Ms. Faria as the Capital Case Coordinator draft guidelines to be presented to the Board at the next meeting that recommend what expenses should and should not be paid out of the expert witness fund, including whether the cost of

mitigation specialists should be paid from the fund. Mr. Richard seconded Prof. Metzger's motion which passed unopposed.

b. Emergency Meeting Protocol*. Ms. Williams reported that the emergency meeting protocol is being brought for consideration on the recommendation of Budget and Policy Committees. Ms. LeDoux seconded the recommendation which passed unopposed.

c. Executive Staff Evaluation*. Mr. Neuner recommended on behalf of the Policy Committee that Executive Staff evaluations be completed on an annual basis. Mr. Neuner appointed Mr. Hamilton, Prof. Metzger, Rev. Krutz and Judge Burns to a Working Group to assist in annual executive staff evaluations. Ms. LeDoux seconded the recommendation which passed unopposed.

d. CAP FY14 contract*. Mr. Harris reported the FY 14 CAP contract contained a change which was not reported to the Board at the last meeting. The Policy Committee has recommended ratification of the FY 14 CAP contract with the changes as submitted. Professor Snead seconded the recommendation which passed unopposed.

7. Strategic Plan, FY 2014-2019*. Ms. Kilborn presented the Strategic Plan for FYs 14 - 19 that lays out goals and objectives for LDPB for the next five years and the strategies for reaching those goals. Mr. Lorenzi moved to adopt the Strategic Plan as presented. Ms. LeDoux seconded the motion which passed unopposed.

8. State Public Defender

a. Search for Permanent SPD*. Mr. Neuner reported that a search for a permanent State Public Defender is necessary. He appointed Judge Burns, Rev. Krutz, Professor Snead and Ms. Womack to a working group. Judge Burns moved to begin the search for a permanent State Public Defender and to approve the appointments to the Working Group. Rev. Krutz seconded the motion which passed unopposed.

b. ISPD Report. Ms. Kilborn stated that other items of interest to the Board are and will continue to be included in the ISPD report in staff's efforts to keep meetings within reasonable time limits.

9. Other Business. Mr. Neuner reported that the Selection Committee for a new District Defender in the 9th District (Rapides) to replace current, retiring District Defender Kenneth Rodenbeck, has been formed. The members of the Committee are attorneys Jonathan Goins, Ellis Saybe and Phil Hunter, all of Alexandria.

Mr. Lorenzi reported that a recent arrest was made by the Calcasieu Sheriff and District Attorney on a second degree murder from 1962, which predates *Gideon*. The Public Defender's Office has been appointed.

10. Next Meetings(s). The next Board meeting date is scheduled for July 31, 2013, at a location to be determined.

11. Executive Session¹. Upon motion of Prof. Metzger, seconded by Prof. Snead, the Board went into executive session. Upon motion of Ms. LeDoux, seconded by Prof. Metzger, the Board left executive session.

12. Adjournment*. Upon motion of Ms. LeDoux, seconded by Prof. Snead, the meeting adjourned.

Guests:

Alan J. Robert	Steven R. Thomas	Mike Courteau
Tony Tillman	Jay Dixon	Derwyn Bunton
Alan Golden	Julie Betz	Irina Zheludkova
Tim Mathis	Kerry Cuccia	David Rubin
G. Paul Marx	Matt Robnett	John Burkhart
David E. Marcantel	Richard M. Tompson	Tony Champagne
Brian C. McRae	Vic Bradley	John Lindner
J. Clay Carroll	Reggie McIntyre	Bruce Unangst
Kathryn Sheely	Kyla Romanach	Alan Golden

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 21st day of May, 2013, as approved by the Board on the 31st day of July, 2013, at Baton Rouge, Louisiana.

Frank X. Neuner, Jr.

¹ The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: New Orleans Traffic Court lawsuit (LPDB, et al v. Jones, et al, Docket: 614262, 19th JDC, EBR Parish), litigation in Calcasieu (Stanley v. Casanave, Docket: C613472, Section 23, 14th JDC), and State v. Barbara Vincent, Docket 24292-10, 14th JDC).



Louisiana Public Defender Board Strategic Plan FY14-19

Mission:

In pursuit of equal justice, the Louisiana Public Defender Board advocates for clients, supports practitioners and protects the public by continually improving the services guaranteed by the constitutional right to counsel.

Through its commitment to performance standards, ethical excellence, data-driven practices and client-centered advocacy, the Louisiana Public Defender Board oversees the delivery of high quality legal services affecting adults, children and families, and supports community well-being across Louisiana.

(adopted by the LPDB Board of Directors on April 24, 2010)

Statement of Goals:

- 1) LPDB will attain adequate budgetary and other resources that are essential for the delivery and supervision of high quality, ethical legal defense representation services on behalf of LPDB's indigent adult and juvenile clients throughout the State of Louisiana.
- 2) LPDB will cultivate a technology proficient defender community that utilizes up-to-date, data driven practices in its case management and systemic advocacy.
- 3) LPDB will create a statewide training system that develops, promotes, and supports the delivery of effective, high quality services.
- 4) LPDB will develop, cultivate and support leaders in each district office that share and promote LPDB's vision of standards-based, community oriented, data driven and client-centered legal representation, while respecting local variances in defense delivery mechanism.

Objectives and Strategies:

Goal #1: LPDB will attain adequate budgetary and other resources that are essential for the delivery and supervision of high quality, ethical legal defense representation services on behalf of LPDB’s indigent adult and juvenile clients throughout the State of Louisiana.

Objective 1-1: Develop an accurate assessment of the resources required to ethically and professionally fund the public defense function in Louisiana.

Strategy	Timeline
Identify the caseload baseline for all districts.	FY 14
Identify and submit a budget request that adequately funds services for CINC-Parent representation.	FY 14
Pursue federal, state and private funds, to double the capacity (either staff or contract) in the state office in order to provide one-on-one financial and case data support, conduct audits, facilitate training, supervise defender performance and improve communication between LPDB and the field. R.S. 15:152(B)(6) and 15:152(B)(10).	FY 14-19
Establish a case-weighting analysis that assesses the needed resources (both human and financial) to ethically provide the right to counsel. R.S. 15:156(B)(2).	FY 14-15
Actively monitor caseload/workload of all district public defender offices and contract programs. R.S. 15:156(B)(2).	FY 14-19
Actively monitor juvenile caseload/workload within all district public defender offices and contract programs. R.S. 15:156(B)(2).	FY 14-19
Regularly convene an engaged “Budget Committee” within the LPDB Board of Directors to recommend (for full Board approval) budget policies/decisions that fairly distribute funds, assess deficiencies and promote the efficiency of public defense delivery.	FY 14-19
Collect and analyze data regarding staff, salary, experts, and ancillary services on an annual basis. R.S. 15:148 (B)(12) and 15:148(B)(16).	FY 14-19
Develop, implement and improve a procedure for the districts to submit appropriate annual budgets.	FY 14-19
Develop and implement a procedure for analyzing monthly revenues and expenditures by district and program office.	FY 14-19
Each year, document public defender caseloads/workloads by district against best national and/or local performance standards as they relate to caseload/workload. R.S. 15:152 (B)(3).	FY 16

Objective 1-2: Implement reforms to improve the efficiency of the delivery of public defender services and maximize allocated resources.

Strategy	Timeline
Develop and implement a standard indigency determination application for all district offices in Louisiana. R.S.15:174	FY 14
Develop a state plan for the method of delivery of capital defense services at the trial level to pursue cost-efficiency and improve quality of services, and ensure that all district capital plans conform to the state plan. R.S. 15:169(A).	FY 14-15
Provide the Louisiana Sentencing Commission with regular, accurate data that supports the reclassification of offenses that clog the criminal justice process, accelerate community deterioration and do not pose public safety threats.	FY 14-15
Regularly convene an engaged “Policy Committee” within the LPDB Board of Directors to recommend policies (for full Board approval) that promote the efficiency of public defense delivery.	FY 14-19
Ensure appropriate workload in each of the capital contract programs.	FY 14-19
Leverage the resources of the private bar in Louisiana to assist in the delivery of effective, high-quality public defender services through outreach and training.	FY 14-19
Create a diverse network of public defender allies across the criminal justice and social service systems in Louisiana to emphasize the need for collaboration and innovation for specific criminal justice reforms. R.S. 15:147(C)(2).	FY 14-19
Definitively evaluate the cost-effectiveness of contract v. staff delivery systems on a district-by-district basis, with full consideration of appropriate salary ranges and pursue the most effective delivery mechanism. R.S.15:147(B)(16).	FY 15
Participate in criminal justice association, society, task force and commission meetings.	FY 14

Objective 1-3: Effectively maintain and expand the LPDB budget to ensure incremental budget increases until adequate resources exist to achieve ethical and professional caseload/workload compliance.

Strategy	Timeline
Proactively monitor and respond to media related to public defense in Louisiana and systemic issues in the criminal justice system.	FY 14-19
Annually, facilitate meetings between the State Public Defender and state-level legislators to promote an identified plan.	FY 14-19
Support local district’s efforts to generate increased local revenue to support the delivery of public defense services.	FY 14-19

Develop and submit an annual LPDB budget request to Division of Administration that reflects data-supported resource needs for defense services.	FY 14-19
Develop a process for districts to make separate budget submissions for CINC-Parent representation	FY 15-19

Objective 1-4: Improve the quality of public defense services for clients.

Strategy	Timeline
Develop and promulgate Investigator Performance Standards.	FY 19
Provide job descriptions and practice procedures and other support for mitigation specialists working or contracting with public defender offices/programs.	FY 14
Develop meaningful performance review for 50% of all District Defenders prior to contract renewal.	FY 15
Utilize the Louisiana Justice Coalition to procure funding for innovative direct and indirect services for clients.	FY 14
Develop and promulgate Louisiana performance standards for representation in appellate cases (excluding post-conviction), and support the ongoing evaluation of the utilization of these standards in the field.	FY 14-15
Develop and promulgate Louisiana performance standards for capital representation, and support the ongoing evaluation of the utilization of these standards in the field.	FY 14-15
Develop the CMS to incrementally assess district 'quality-of-service' performance.	FY 14-19
Develop, circulate and provide training on advocacy related to collateral consequences of a criminal conviction in Louisiana.	FY 14-19
Evaluate utilization of Louisiana Trial Court Performance Standards for representation in the field.	FY 14-19
Evaluate utilization of Louisiana performance standards for representation in Child in Need of Care (CINC) cases in the field.	FY 14-19
Evaluate utilization of Louisiana performance standards for representation in delinquency cases in the field.	FY 14-19
Create and maintain an appropriate online resource for LPDB staff and defenders in the field that allows them to access materials (practice advisories, recent rulings, etc.) and model documents (writs, motions, etc.) on a range of relevant legal issues.	FY 14-19
Annually, develop a Contract for Public Defender Services that sets salaries within Board-approved ranges for all District Defenders and which considers prior year job performance providing client-centered representation. R.S. 15:161(A).	FY 14-19
Develop annual contracts between LPDB and Program Directors to provide client-centered representation, and provide for other responsibilities.	FY 14-19

Develop and promulgate Louisiana performance standards for representation in Families in Need of Services (FINS) cases, and support the ongoing evaluation of the utilization of these standards in the field.	FY 15-16
Undertake regular site visits in districts/programs across Louisiana to evaluate office functionality and attorney performance per a formal staff protocol, including follow-up visits as needed.	FY 14-19
In actual or threatened litigation, take appropriate steps to appropriately fulfill the state's obligation to provide the right to counsel.	FY 14-19

Goal #2: LPDB will cultivate a technologically proficient defender community that utilizes up-to-date, data-driven practices in its case management and systemic advocacy.

Objective 2-1: Provide ongoing training to all data entry personnel in public defender offices in Louisiana.

Strategy	Timeline
Develop a mechanism for data entry personnel to make requests, provide feedback or solicit support.	FY 14-19
Provide regional trainings for data entry personnel on a regular basis.	FY 14-19
Update materials/tutorials on the Case Management System, database management, excel documents and other relevant/requested software.	FY 14-19
Solicit evaluations of the Case Management System and Case Management System support from data entry personnel in public defender offices in Louisiana.	FY 14-19

Objective 2-2: Continuously supervise district/program compliance with data collection policies to improve the accuracy and depth of data collected through the Case Management System.

Strategy	Timeline
Develop a protocol to uniformly evaluate a district public defender office/program's case reporting accuracy, and take corrective action.	FY 14-19
Develop protocol for notifying defenders of CMS changes.	FY14

Objective 2-3: Provide technical assessments, recommendations and support for defenders, investigators, mitigation specialists and other staff in Louisiana.

Strategy	Timeline
Improve, maintain and monitor usage of a secure, password protected, web-based writ, motion and training resource repository for defenders, investigators mitigation specialists and other staff.	FY 14-19
Maintain an office library that archives relevant materials and a video-archive of mandatory trainings for use by the defender community to utilize the resources at the LPDB office.	FY 14-19

Objective 2-4: Identify and procure enabling technology (hardware and software) for the LPDB board members and staff in compliance with state regulations.

Strategy	Timeline
Create a file retention policy for the management of casefiles and identify the required technology/capacity for districts to comply.	FY 14
Maintain familiarity with new technology, state procurement laws, and professional development opportunities to continuously maximize LPDB's technological capacity.	FY 14-19
Raise awareness of technology deficiencies through state annual reports and budget submissions.	FY 14-18

Objective 2-5: Facilitate, maintain and improve communication between the field and LPDB.

Strategy	Timeline
Maintain a relevant, timely, attractive and accessible website for practitioners and members of the LPDB Board of Directors.	FY 14-19
Manage a juvenile defender listserv to maximize cross-district learning and foster professional relationships among the defender community.	FY 14-19
Manage an investigator/mitigation specialist defender listserv to maximize cross-district learning and foster professional relationships among the defender community.	FY 14-19
Produce a monthly electronic newsletter to all public defender staff in Louisiana with relevant case law updates, defender features, policy changes and other information.	FY 14-19
Hold office hours for, line defenders and defender staff in district offices throughout the state.	FY 14-19
Maintain and improve relevant information in the LPDB Continuity of Operations Plan (COOP).	FY 14-19

Goal #3: LPDB will create a statewide training system that develops, promotes, and supports the delivery of effective, high quality services.

Objective 3-1: Deliver trainings for all public defender personnel that promote the core agency values, engage highly qualified and compelling faculty, address relevant issues in the field, continually respond to the needs of practitioners, and are well attended.

Strategy	Timeline
Continue to implement a standard, mandatory evaluation protocol from all participants, and utilize evaluations to improve future trainings.	FY 14-19
Continually improve an annually recurring, best-practices, week-long training for new defenders.	FY 14-19
Continually improve an annually recurring skills training on a recent development in case law or an identified deficiency in Louisiana defender practice.	FY 14-19
Continually improve an annually recurring training for capital defenders and encourage attendance from all team members with active cases.	FY 14-19
Continually improve a recurring training program to support investigator's delivery of legal defense services.	FY 14-19
Continually improve a recurring training specifically dedicated to improving the Leadership and Management skills of defender-leaders.	FY 14-19
Continually improve an annually recurring training dedicated to skills needed for delinquency representation.	FY 14-19
Continually improve an annually recurring training dedicated to skills needed for CINC-Parent representation.	FY 14-19
Partner with other criminal justice and social service stakeholders to provide training to address systemic reforms for criminal justice issues.	FY 14-19
Develop training requirements for defenders as appropriate.	FY 15-19
Create and continually improve an annually recurring training dedicated to skills needed for FINS representation.	FY 15-19
Create and continually improve an annually recurring training focusing specifically on interdisciplinary sentencing advocacy skills development.	FY 15-19

Objective 3-2: Facilitate every region or local district's development and implementation of a regular training program for local staff (with appropriate attention paid to juvenile defender training).

Strategy	Timeline
Annually, conduct a train-the-trainers program for a specific area of representation.	FY 14
Dedicate LPDB staff resources to supporting District Defender or Assistant Defender-initiated training programs.	FY 14-19

Objective 3-3: Increase annual recruitment of both local and non-local law students into the public defender workforce in Louisiana, with special attention to recruitment of minority lawyers.

Strategy	Timeline
Create a well-run, prestigious and mutually satisfying internship and/or externship program that utilizes local law student talent from some/all of the four local law schools.	FY 14-19
Develop a LPDB fact sheet and other materials to promote the benefits of employment in the Louisiana public defender system.	FY 14-19
Attend local/national job fairs and outreach events at the four Louisiana law schools, universities with criminal justice programs, national career fairs and other opportunities.	FY 14-19
Support OSFA to administer Louisiana’s John R. Justice Grant Program to provide loan forgiveness to eligible public defenders per federal and state regulations.	FY 14-19
Create and maintain a catalog of LPDB trainings for public dissemination.	FY 15-19
Expand the LPDB Internship Program to include at least two investigator internships.	FY 16-19
Further expand the LPDB Internship Program to include at least two social work internships and two internships for students from law schools outside of Louisiana.	FY 17-19

Objective 3-4: Provide training on the changes to defense delivery and LPDB expectations when performance standards become effective through promulgation.

Strategy	Timeline
Provide training upon promulgation of the Trial Court Performance Standards for Appellate Representation.	FY 14-15
Provide training upon promulgation of the Trial Court Performance Standards for Capital Representation.	FY 15-16
Provide training upon promulgation of the Trial Court Performance Standards for FINS Representation.	FY 16-17
Provide training upon promulgation of the Trial Court Performance Standards for public defense investigation.	FY 18-19

Goal #4: LPDB will develop, cultivate and support leaders in each district office that share and promote LPDB’s vision of standards-based, community oriented, data driven and client-centered legal representation, while respecting local variances in defense delivery mechanism.

Objective 4-1: Consistently train defender staff to deliver a model of defense services to indigent clients that complies with the mission and values of LPDB as well as national best-practices.

Strategy	Timeline
Provide and resource professional development opportunities to LPDB staff.	FY 14-19
Support the development and district adoption of a formal, local orientation program that orients defenders to local policies, as well as LPDB training, CMS information, standards and other requirements.	FY 14-19
Utilize clients as faculty members to promote client-centered relationships.	FY 14-19
Cultivate a geographically diverse cadre of defender trainers to enhance the LPDB training program by promoting local commitment to shared values.	FY 14-19
Provide recurring, evolving cultural competency training to defender staff.	FY 15-18

Objective 4-2: Provide resources (financial, human and technical) to defenders and defender leaders to support the transformation to client-centered public defense service delivery.

Strategy	Timeline
Create a “community defender toolkit’ to encourage district offices/programs to improve their model of practice.	FY 14
Procure funds, develop and maintain an online, statewide social service directory/database for public defenders in Louisiana.	FY 14
Replace all retiring/resigning District Defenders with persons who articulate and can demonstrate a commitment to the LPDB vision of defense delivery, and provide supportive professional development opportunities (i.e. training, mentoring, etc.).	FY 14-19
Fully implement the board-adopted client complaint policy that encourages client feedback of public defense delivery.	FY 14-19
Coordinate Advisory Councils that are responsive to local needs in the field and promote cross-district learning.	FY 14-19
Ensure that all district public defender offices adopt appropriate anti-discrimination statements.	FY 14-19
Create an LPDB event to recognize and celebrate defender leadership that admirably represents the values of LPDB.	FY 15-19

Objective 4-3: Uniformly, all staff members at LPDB reflect and demonstrate through their work product the values expected of the district public defender offices/programs.

Strategy	Timeline
The State Public Defender will regularly evaluate all staff on an annual basis, with appropriate involvement of the Public Defender Board or its working group.	FY 14-19
The State Public Defender will be regularly evaluated by all staff on an annual basis, and by the Public Defender Board or its working group.	FY 14-19
LPDB will recruit, empower and sustain a community advisory board.	FY 15-18

DRAFT



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

July 31, 2013

LSU Law Center, Tucker Room

Baton Rouge, Louisiana

2:00 pm.

MINUTES

1. **Call to Order and Remarks of the Chairman.** A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Wednesday, July 31, 2013, at 2:30 p.m. the LSU Law Center in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Leo Hamilton
Frank Holthaus
Rebecca Hudsmith
Dan Krutz
Robert Lancaster
Luceia LeDoux
Hector Linares
Tom Lorenzi
Pam Metzger
Majeeda Snead

The following Board Members were absent:

Addison Goff
Jacqueline Nash
Gina Womack

The following members of the Board's staff were present:

Julie Ferris, Interim State Public Defender
Jean M. Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Richard Pittman, Deputy Public Defender, Dir. Of Juvenile Defender Services
Erik Stilling, Information Technology and Management Officer

Chairman Neuner affirmed that the State Public Defender Search Working Group has selected four candidates to interview for the SPD position and that further discussions will be had during Executive Session.

Mr. Neuner welcomed Mr. Richard Pittman as LPDB's Deputy Public Defender, Director of Juvenile Defender Services and advised that Dr. Tiffany Simpson, Interim Juvenile Justice Compliance Officer (JJCO) is scheduled to commence work on August 5.

Mr. Neuner explained that Dr. Simpson has been hired as the Interim JJCO because she does not hold the specific degrees outlined in La. R.S. 15:158. Mr. Neuner indicated that the statutory language for the JJCO position would need to be amended in the 2014 legislative session. Mr. Hamilton expressed concern that, absent full Board approval, there could be trouble with the hiring of Dr. Simpson under the circumstances. Ms. Ferris clarified that the Juvenile Working Group (JWG) interviewed Dr. Simpson and found her unquestionably qualified for the position as she holds two Master's Degrees and a Ph.D. Further, Ms. Ferris clarified that it was a unanimous decision by the JWG to hire Dr. Simpson. Reverend Krutz moved to amend the agenda to make this issue an action item. Ms. LeDoux seconded the motion which passed unopposed. A discussion followed as to whether Dr. Simpson should be employed alternatively by contract. Prof. Snead moved to extend a contract to Dr. Simpson to perform the functions of the JJCO until such time as the statute can be amended. Mr. Neuner called for a vote on Professor Snead's motion which failed six to three. Reverend Krutz clarified that Dr. Simpson has the qualifications that the JWG have been searching for and the changes to be requested be made to the statute, technical in nature, should be relatively easy. Rev. Krutz then moved to hire Dr. Simpson as the Interim Juvenile Justice Compliance Officer. The motion passed favorably with Prof. Snead and Mr. Hamilton opposing.

2. **Review of the Agenda.** There were no changes made to the agenda as presented.
3. **Review and Approval of the Minutes of the May 21, 2012 Meeting.** There were no changes to the proposed Minutes from the May 21, 2013 meeting and upon motion of Professor Metzger, seconded by Ms. LeDoux, the Minutes were adopted.
4. **Call for Public Comments.** Mr. Richie Tompson, District Defender for the 24th Judicial District inquired when the State Public Defender interviews were going to be held. Mr. Neuner confirmed August 20, 2013, in Baton Rouge at Mr. Holthaus' law firm with a recommendation to be brought to the full board at the next scheduled meeting. Mr. Neuner confirmed that Ms. Julie Ferris, Mr. Remy Starns, Mr. Jay Dixon, and Ms. Joyce Akhahenda have been selected to be interviewed.

5. Budget Committee Report.

a. Financial Reports*. Interim State Public Defender Julie Ferris reported that LPDB ended FY 13 with \$13,462 in unspent monies and that to date there is approximately \$165,502 available in FY 14 funds for reallocation. Ms. Ferris reported that the General Appropriations Bill (HB1- Act 14 of 2014) has allocated \$33,612,948 to LPDB. Mr. Lorenzi moved to approve the financial report as presented. Professor Snead seconded the motion which passed unopposed.

b. FY 13 DAF

i. Final Disbursement Amounts. Ms. Ferris reported that a total of \$601,149 was distributed in final DAF to the districts. Staff was given authority to distribute unspent, available monies by the Budget Committee at its last meeting on June 17, 2013.

c. Soileau Contract. Mr. Neuner requested Board ratification of a FY14 contract for legal representation of LPDB by Rudie R. Soileau, Jr. to continue his work in District 14. The contract approval was presented as a recommendation from the Budget Committee. Mr. Lorenzi seconded the recommendation which passed unopposed.

d. Districts' Needs Budget Requests, FY 15 – October 1 Deadline*. Ms. Ferris requested Board consideration of the Budget Committee's recommendation to require Needs Budget Requests from each District Defender to be submitted by October 1, annually. Ms. Ferris clarified that these budgets would include the districts' defensible financial needs. Mr. Hamilton seconded the recommendation which passed unopposed.

6. Policy Committee Report

a. Policy Development Working Group*. Mr. Neuner reported that the Policy Committee is recommending the creation of a *Policy Development Working Group* to develop policies required by La. R.S. 15:148(B). The creation of the working group was presented as a recommendation by the Policy Committee. Judge Burns seconded the recommendation which passed unopposed. Mr. Neuner indicated he would choose its members.

b. Expert Witness Funds Status. Capital Case Coordinator Jean Faria gave a brief synopsis of the current fund situation and presented several options for Board consideration and requested Board guidance on current funding requests pending Board decisions. Mr. Neuner indicated that the Policy Committee does not have a recommendation at this time and that staff needs to expend more time on the issues in order to present a concrete proposal. Rev. Krutz indicated the issues need to be referred to the Budget Committee. Mr. Hamilton stressed the need for a sound policy which identifies spending priorities.

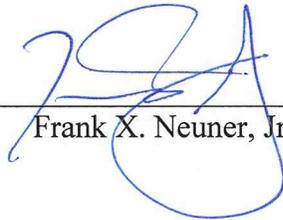
Ms. LeDoux moved that staff is to respond to all requests for funding that until further notice all Expert Witness Fund monies are fully encumbered for Fiscal Year 2014 and requests are summarily denied. Further, that the Budget Committee is to work with Staff and the 501c3 programs on internal controls and policies concerning the process for the administration of the expert witness fund monies. Mr. Holthaus seconded the motion which passed unanimously.

c. Efficiency Study Update. Ms. Faria gave a brief summary of the study on the efficiency of placing full time mitigation specialists in offices versus contracting with them. The Policy Committee had no recommendation at this time.

7. District 9 – District Defender*. Ms. Ferris reported that five applications were submitted by the Selection Committee for the new District Defender in the 9th Judicial District. Of those five, four were interviewed. Ms. Ferris stated that the final two applicants both presented favorably at their interviews and requested that the Board consider scheduling second interviews in order to make a final decision. Additionally, Ms. Ferris requested ratification of the retention of Mr. Tony Tillman (District Defender/Vernon Parish) as Interim District Defender inasmuch as Mr. Tillman has agreed to facilitate the transition of the position. Mr. Lorenzi moved to conduct second interviews and ratify the hiring of Mr. Tillman as Interim District Defender pending the placement of the new District Defender. Mr. Holthaus seconded the motion which passed unopposed.
8. LCLE Grant CY2014*. Ms. Ferris reported on staffs’ recommendation to submit a grant proposal to Louisiana Commission on Law Enforcement for CY 2014 to be used to continue funding the auditor position with any extra funds to be used toward an LPDB outreach campaign addressing public defense education and funding deficiencies. Rev. Krutz moved to approve the submittal. Ms. LeDoux seconded the motion which passed unopposed.
9. Post-Conviction Relief Appointments. Mr. Ferris gave a brief update on the impact of post-conviction relief representation appointments of the district offices. Mr. Alan Robert, District Defender/District 23, expressed concern about situations in which his office is appointed by the court to handle a PCR and the claim is ineffective assistance of counsel against one of his attorneys.
10. La. R.S. 15:868 Orders. Ms. Ferris reported on the increase in public defender appointments to handle charges against inmates who are in DOC custody. Specifically, in Concordia Parish the public defenders’ office is being appointed to a large number of cases where the charge is introduction of contraband into penal institution. Ms. Ferris reported that it is the Department of Corrections’ position that they are not responsible for the representation of these cases because the inmates are not being physically housed in a DOC facility, but rather are in the custody of private facilities.
11. Interim State Public Defender Report. Ms. Ferris have a brief update on the Legislative Auditors’ on-going audit of LPDB, the status of the proposals from consultants to assist staff in fulfilling SCR 99, recent executive staff evaluations completed by the Board and the scheduled meeting for all District Defenders being held August 19, 2013 in Baton Rouge on how the DAF works and proposed changes. Ms. Ferris extended an invitation to the DAF meeting to all Board members.
12. Other Business. Professor Metzger moved that staff organize a Board retreat to address governance and the Board’s strategic plan process. Professor Snead seconded the motion.

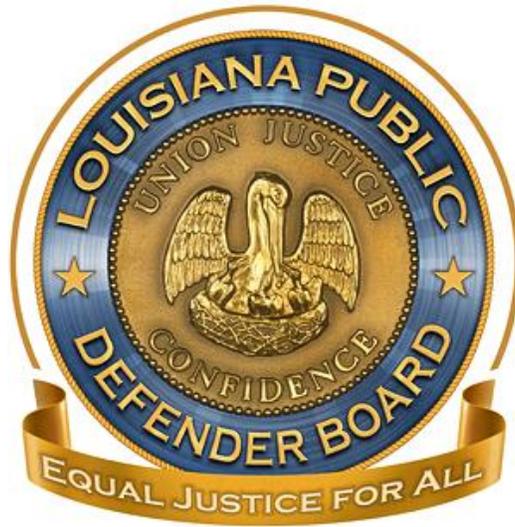
13. Next Meeting(s)*. The next meeting is scheduled for Monday, September 16, 2013. The location will be announced.
14. Executive Session. Professor Metzger moved to go into executive session. Ms. LeDoux seconded the motion. Ms. LeDoux moved to leave executive session. Mr. Holthaus seconded the motion.
15. Adjournment*. Professor Snead moved to adjourn which was seconded by Ms. LeDoux. The meeting adjourned at 4:40 p.m.

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 31st day of July, 2013, as approved by the Board on the 16th day of September, 2013, at Baton Rouge, Louisiana.



Frank X. Neuner, Jr.

Louisiana Public Defender Board
&
District Public Defenders' Offices



Guide for Developing a
Needs-Based Budget Request

Due to LPDB October 1, 2013

September X, 2013

Dear District Defenders,

Thank you for your support and encouragement of this new budget process! I am very gratified that there is such solidarity toward this process of quantifying the fundamental needs of Louisiana's public defense system. By using some common measures in this budget process we can – for the first time ever - effectively document the funding shortfall in individual districts and the system. Armed with this information, we can more effectively highlight the consequences of insufficient funding to the Legislature and our justice allies to grow our budget and provide our clients equal access to justice.

This Guide was developed by staff as a resource to articulate what LPDB deems as legitimate needs of Louisiana's public defense system. When possible, we have cited the relevant standard for your reference. This is by no means an exhaustive list. With 42 districts, there is enormous diversity among your projects, local justice policies, challenges, delivery mechanism, and costs of doing business. Please accept this merely as a guide, and not as a recommendation that you abandon any budget line item not specifically covered here. However, please bear in mind that every budget request that LPDB submits must be reasonable and defensible. We hope to use the needs-based budget requests that you compile as the foundation for our annual budget request to the Legislature, and we will be called upon to explain and justify our projected expenditures.

Along with this Guide, we are including electronic versions of the spreadsheet that you should use for this year's budget request. You will note the opportunity to leave notes, and we encourage you to use these to explain the method by which you arrived at your projected expenditure, or as an explanation of why this number deviates from last year's (either in excess or reduction). Upon receipt of your budgets, staff has developed an internal protocol that will allow all staff to review your projected revenue and expenditures. We may be in touch with questions about your budget, so any documentation that you can include on the front-end would be welcome assistance in this process.

I want to emphasize our hope that these budgets serve as an advocacy tool to achieve the resources we need. Additionally, it will give LPDB a deeper understanding of the vision you have for your district public defender office and make our contact and collaborations more fruitful.

I hope that this guide is useful, and that it moves us closer to resolving the funding crisis that threatens the right to counsel in Louisiana. Your Needs-Based Budget Request is due annually no later than October 1st. If you have any questions, suggestions or concerns, please be in touch.

Sincerely,

Julie H. Ferris
Interim State Public Defender

Section 1: Information & Technology

Each district public defender office should consider its equipment and technology needs both to assist in direct practice, and to promote long-term, data-driven programs and policies. In some offices, this capacity may be specifically required of contract attorneys, but if it is not, or if it creates a burden handled more cost-effectively by the district public defender office, please consider line item expenses that ensure:

- Appropriate number of printers for office-wide use
- Appropriate number of scanners for office-wide use
- Appropriate number of digital cameras for office-wide use
- Appropriate number of audio recorders for office-wide use
- Appropriate number of copiers/color copiers for office-wide use
- Appropriate number of projectors for office-wide use
- Software upgrades/licenses for personnel
- Equipment upgrades (hardware)/equipment for personnel
- Funds for exhibits/evidence presentation

Note: please ensure that your information and technology needs are adjusted to accommodate any additional needed staff.

Depending on policy initiatives or client needs that are unique to your district, you may require unique build-out to the Case Management System (CMS). LPDB has a limited contract that is reserved for state-wide enhancements, so if appropriate, your budget should include funds to adjust the CMS to fit needs that are supplemental to the minimum reporting requirements and case management tools that LPDB has developed. Several districts are pursuing such enhancements and seeking supplemental funding to make it possible. If this is a need for your district's success, please consider a line item expense for:

- Case Management System (CMS) district-specific enhancements

Section 2: Training

Training is fundamental to the delivery of effective, efficient, and ethical public defense services.¹ While LPDB strives to provide high quality trainings for a range of relevant skills, and recurring trainings for new defenders, juvenile defenders, capital defenders, defender supervisors and investigators, this training is most likely insufficient to ensure that your personnel are adequately trained for local needs. As such, please consider reasonable line item expenses that allow for:

- Funds for internal (district or regional) training programs/program development
- Funds for travel to LPDB trainings
- Professional development for non-attorney staff
- Funds for training/orientation of new staff

¹ American Bar Association *Ten Principles of a Public Defense Delivery System*, Principle 9 (February 2002)

Section 3: Resources

In our review of district budgets we have seen the line items under this section take the first and most significant reductions. Please include line item expenditures to provide for the following expenses, unless you have developed contracts with attorneys that accommodate and ensure access to these resources:

- WestLaw/LexisNexis (or other) legal research engines
- Professional memberships (LSBA, LACDL, NACDL, NLADA, Martinet Society, etc)
- Code Books
- Resource guides, training manuals, etc.
- Subscriptions
- Curatorship expenses

Section 4: Staffing & Personnel

Since personnel expenditures comprise the single largest line item in every district budget, notes appropriate to each category are included below. Be mindful that if you need additional attorneys, administrative staff, or investigators you will likely need to re-visit your needs for computers, printers, training funds, resources, and other expenses to ensure they reflect the need to properly equip and train the additional staff.

Attorneys: While LPDB has yet to embrace specific caseload standards, we encourage you to tabulate the number of full-time attorneys needed per the caseload standards developed by LIDAB.² The LIDAB standards recommend that caseload not exceed the following ranges: Capital (3-5); Cases Carrying Automatic Life (15-25); Non-Capital Felonies (150-200); Misdemeanors (400-450); Traffic (400-450); Juvenile (200-250); Mental Health (200-250); Other Trial Cases (200-250); Capital Appeals (3-5); Non-Capital Felony Appeals (40-50). Important note: Under the Children's Code, counsel's obligation to their juvenile client only ends at the completion of sentence, so please factor this into caseload evaluation.

Appendix A at the end of the Guide includes detailed, step-by-step instructions (with screen shots) on how to generate your caseload report as you prepare this budget request. Please ensure that you follow these instructions precisely so that every district's budget request is based on the same reporting period.

Investigators³: Standards require that every three (3) full-time attorneys have access to at least

² The LIDAB caseload standards are slightly more generous than the National Advisory Commission (NAC) caseload standards.² NAC Standard 13.12 on Courts states that the caseload of a public defender attorney should not exceed the following: felonies per attorney per year: not more than 150; misdemeanors (excluding traffic) per attorney per year: not more than 400; juvenile court cases per attorney per year: not more than 200; Mental Health Act cases per attorney per year: not more than 200; and appeals per attorney per year: not more than 25.

³ NSC, supra note 2, Guideline 3.4; ABA, supra note 2, Standards 5-4.1, 5-4.3; Contracting, supra note 2, Guideline III-10; Assigned Counsel, supra note 2, Standard 4.7.1; Appellate, supra note 20 (Performance); ABA Counsel for

one (1) full-time investigator. Budgets should reflect compliance with this standard. The 3:1 attorney-investigator ration implies that all case types must have equal access to investigative assistance.

Administrative Support: *If contract arrangements do not provide specifically for appropriate administrative support, please consider the appropriate number of administrative support required to assist the attorneys, manage the office, and comply with the reporting requirements mandated by LPDB.*

Finance/Budget Support⁴: *The current public defense funding structure requires constant vigilance to ensure appropriate remittances of local agencies on a monthly basis. Additionally, some offices have significant and daily operating expenses that must be managed, and all offices must provide for the collection and accounting of client fees (Application and/or partial indigence). Finally, LPDB recognizes that the financial reporting requirements can be intensive. Ensure that your office not only has appropriate staff to manage these administrative functions, but also to provide financial management that complies with best practices for political subdivisions in Louisiana.*

Data Support: *Data input into the Case Management System is a critical feature of the regulation and advancement of the public defense system. If case-specific data entry is not managed by attorneys through specific language in their contract/terms of employment, ensure that there is a budget line item to provide for data entry personnel. Consider that caseload limits may be affected if attorneys are required to do all case entry without support.*

Supervisors⁵: *Standards dictate that supervisory structure is essential to ensure the effectiveness of counsel. Please include appropriate expenditures and caseload adjustments for supervising attorneys in your offices. Contract programs are not exempt from this standard though the structure by which supervision takes place is flexible. Standards suggest that there must be one full-time supervisor for every 10 full-time attorneys, or one part-time supervisor for every 5 full-time attorneys. A supervisor's caseload must be adjusted to allow for effective supervision and delivery of public defense services.*

Interpreters⁶: *Language access services, through professional interpretation of spoken communication and translation of documents, as well as the use of bilingual and multilingual court personnel, lawyers, and others integral to court operations and services, are an essential component of a functional and fair justice system. Insofar as your client community requires the services of an interpreter at each stage of the proceeding, please include this as a line item expense.*

Private Parties, supra note 2, Standard 2.1 (B) (iv). See NSC, supra note 2, Guideline 4.1 (there must be one investigator for every three attorneys, and at least one investigator in every defender office).

⁴ LPDB is currently working on a Financial Management Guide (as provided through our CY 13 LCLE funding); until it is published the 2004 resource from the Legislative Auditor may lend some assistance:

<http://www.la.state.la.us/userfiles/file/oppaga.pdf>

⁵ See NSC, supra note 2, Guideline 4.1 (includes numerical staffing ratios, e.g., there must be one supervisor for every 10 attorneys, or one part-time supervisor for every 5 attorneys).

⁶ See the American Bar Association Standards for Language Access in Courts,

http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf (February 2012)

CINC-Dedicated Staff⁷: LPDB is part of a statewide CINC reform effort facilitated by the Louisiana Supreme Court Improvement Project (CIP). Per our involvement in that process, CINC expenditures (beginning in FY 15) must be tracked separately. Accordingly, please create a budget line item that provides for all CINC-related personnel, keeping in mind that CINC cases may require significant conflict counsel and/or social worker resources, as well as administrative, investigative and data entry personnel. Other expenses related to CINC cases (such as curatorship and travel) should be considered in a CINC-specific line item in another section of the budget

Mitigation Specialists⁸: The LPDB Capital Defense Guidelines define a capital defense team as consisting of capitally certified lead counsel, capitally certified associate counsel, a capital investigator and a mitigation specialist. Based on the existing/anticipated capital caseload in your district, funds should be quantified to provide for all team members on every capital case. Cost-efficiency may be achieved by retaining a full-time/staff mitigation specialist rather than a specialist(s) retained by hourly contract.

Conflict Capacity: Conflict attorneys must be compensated at a reasonable rate, supervised, and afforded accommodation for overhead support, investigative resources, training and other resource assistance. In the absence of a conflict panel, contract conflict attorney fees must be mindful of these obligations to ensure that clients represented by conflict counsel are afforded the same quality of representation as clients represented by the district public defender office.

Capacity to Represent Juveniles in Transfer Cases: Per *Miller v. Alabama* (June 2012), all juveniles transferred to adult court facing the potential for a sentence of life without parole are entitled to separate sentencing hearing and unique consideration of sentence. While many juvenile transfer cases ultimately result in less than the maximum sentence, ensure that you budget adequate resources to comply with the possibility that this sentence will be pursued. The *Miller* ruling suggests that the complexity of juvenile transfer cases usually require additional lawyer skills and mitigation advocacy for every juvenile client transferred to adult court. Depending on the frequency of juvenile transfer in your district, ensure that your budget includes personnel expenses, including investigators and mitigation specialists, to comply with the additional legal obligation that exists for juvenile transfer clients.

Expert Witnesses (for all case types: capital, non-capital, juvenile transfer, juvenile, CINC): An alarming number of districts budgeted no expert witness funds in last year's budget request. LPDB assumes that this represents the financial reality of insufficient funding, and does not reflect an absence of need for expert witnesses. Across all case types, please budget appropriate expert witness funds. Note: the Capital Expert Witness Fund has been forced to make cuts in order to address a backlog of expenditures. If possible, we encourage you to budget for anticipated capital expert witness funds in your district budget because the Capital Expert Witness Fund may have reduced capacity this coming fiscal year.

⁷ LPDB has promulgated Trial Court Performance Standards for Representation of Parents in Child in Need of Care and Termination of Parental Rights Cases (January 2011), online at: <http://lpdb.la.gov/Supporting%20Practitioners/Standards/LPDB%20Trial%20Court%20Performance%20Standards%20for%20CINC%20Representation.php>

⁸ LPDB has promulgated *Capital Defense Guidelines* (May 2010), online at: <http://lpdb.la.gov/Supporting%20Practitioners/Capital%20Defense/LPDB%20Guidelines%20for%20Capital%20Defense.php>

Section 5: Overhead Expenses

While this is perhaps the most straightforward part of the budget thus far, please ensure that overhead expenses are adjusted to accommodate all budgeted personnel (including their technology, training and work environment needs). Major items to consider in this section are:

- Appropriate (quality) and Sufficient (square footage) Office Space
- Adequate Confidential Meeting Space⁹
- Electricity
- Other Utilities
- Appropriate File Retention Expenses (may include equipment and/or space rental)
- Insurances (malpractice, liability, vehicular, etc.)
- Postage
- Copying
- Travel (to jail, to court, to client/client's family, for investigation, training, etc.)
- Office phone lines and long-distance
- Cellular phones (if needed)
- Collect call-incurred expenses (from local jail or other)
- Office Internet access
- Mobile Internet access (if needed)

Section 6: For “Transitioning” Offices

During LPDB’s recent survey that asked districts to self-identify the districts’ defense delivery model (full-time, decentralized full-time, centralized contract, decentralized contract, hybrid or transitioning) a number of districts indicated a desire to transition from either centralized or decentralized contract offices to full-time offices. If there is either a cost-efficiency or a service-effectiveness benefit to making this transition, please include a supplemental section in your budget that adjusts any expenses that are affected by this transition.

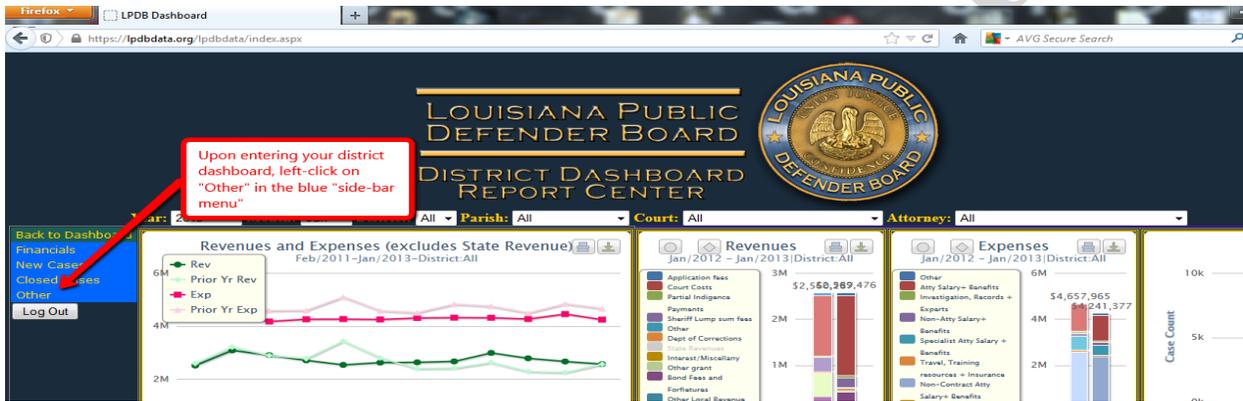
⁹ American Bar Association *Ten Principles of a Public Defense Delivery System*, Principle 4 (February 2002)

Appendix A: Caseload Report Generation Graphical Tutorial

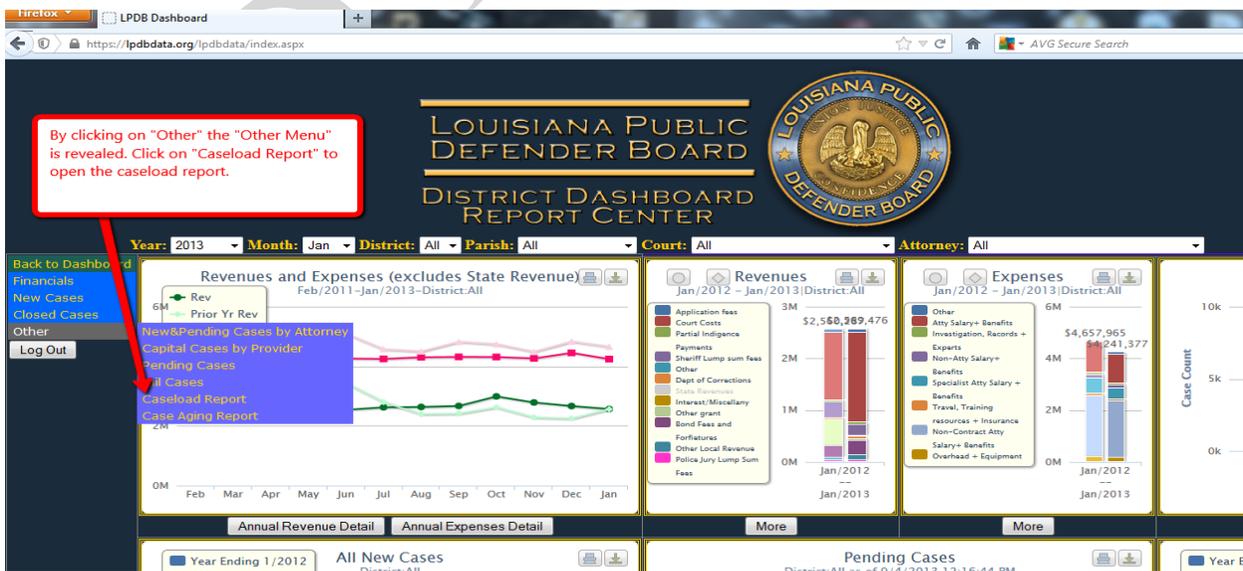
Using your Mozilla-Firefox or Google Chrome browser, log onto the dashboard report for your district by entering this link into the browser URL window: <https://lpdbdata.org/lpdbdata/index.aspx> and enter your username and password.

(Note: Using Internet Explorer can result in display errors, so these other browsers are recommended. Downloads are free and we have sent download instructions to all Districts in the past.)

As the database contains millions of case files and years of monthly financial data, it can take a few seconds for your dashboard reports to appear on the screen. Once they do, select (left-click) "Other" from the blue sidebar report menu per the illustration below.



Next, select "Caseload Report" as shown below.



After a few seconds, the caseload report will appear. Select the appropriate time-period for your analysis by clicking on the “Year” pull-down menu arrow, and highlight the appropriate time-period. For your Needs-Based Budget Request, your caseload time period should be FY13, the most recent time-period.

Because the software must sift through hundreds of millions of data-points, it could take several seconds for the Caseload Report to appear.

Once it appears, select the desired time-period and wait a few more seconds for your report.

Case Type	New	Closed	Pending on 12/31/2012	Dismissed Charges	Deferred Charges	Jury Not Guilty	Jury Guilty	Judge Not Guilty	Judge Guilty					
Child Support	18	38	76	1	N/A	N/A	N/A	N/A	N/A					
CINC-Child	1	101	10	0	N/A	N/A	N/A	N/A	N/A					
CINC-Parent	157	534	69	5	N/A	N/A	N/A	N/A	N/A					
Termination	2	9	23	0	N/A	N/A	N/A	N/A	N/A					
FINS	371	211	478	849	N/A	N/A	0	1	60	2	N/A	N/A	N/A	N/A
Delinquency Misdemeanor	878	662	988	1866	N/A	N/A	49	2	295	7	N/A	N/A	5	2
Delinquency Felony	270	269	538	808	N/A	N/A	21	8	62	7	N/A	N/A	3	0

In a few seconds, the data in the report will change to reflect the records from the time-period selected. This report is hosted on the web and cannot be manipulated, only viewed. Next, click on the “Download this table to Excel” button as illustrated below.

After the caseload report for the desired time period appears, click on "Download this table to Excel" to convert the file to Excel for manipulation on your local computer.

Case Type	New Cases	Closed Cases	Pending on 12/31/2013	Dismissed Charges	Deferred Charges	Jury Not Guilty	Jury Guilty	Judge Not Guilty	Judge Guilty					
Child Support	8	62	67	1	N/A	N/A	N/A	N/A	N/A					
CINC-Child	4	90	96	100	0	0	N/A	N/A	N/A					
CINC-Parent	123	479	576	699	0	28	N/A	N/A	N/A					
Termination	1	13	16	17	0	0	N/A	N/A	N/A					
FINS	281	363	462	743	N/A	N/A	1	0	38	0	N/A	N/A	N/A	N/A

In a moment, an Excel file will appear as shown below to be stored and used on your local computer. The fourth column of numbers (fifth column including row headings “Case Type”) contains counts of all cases received in the relevant time-period plus case received in previous years yet which were still open at the beginning of the time-period under analysis.

Caseload Report for Calendar Year 2013-Month:All-District:X-Attorney:All

Although the dates selected may not match the dates of interest to you, the column entitled "cases pending plus new cases received" is the most important for analysis of caseloads. These figures can be used to determine attorney FTE's needed.

Case Type	New Cases 1/1/2013-12/31/2013	Closed Cases 1/1/2013-12/31/2013	Pending Cases (# of Cases pending on 12/31/2012)	# of Cases pending on 12/31/2012 plus New Cases Received 1/1/2013-12/31/2013	# Cases Resulting in Termination of Parental Rights	# Cases Resulting in Reunification	# Charges with Admit/Guiltily Plea to Current Offense	# Charges with Plea of Guilty to Lesser Charge	# Charges Resulting in Dismissal	# Charges Resulting in Diversion or Deferred Disposition	# Jury Trials: Found Not Guilty	# Jury Trials: Found Guilty	# Judge Trials: Found Not Guilty	# Judge Trials: Found Guilty
Child Support	8	62	67	75	N/A	N/A	N/A	N/A	1	N/A	N/A	N/A	N/A	N/A
CINC-Child	4	90	96	100	0	0	N/A	N/A	0	N/A	N/A	N/A	N/A	N/A
CINC-Parent	123	479	576	699	0	28	N/A	N/A	3	N/A	N/A	N/A	N/A	N/A
Termination	1	13	16	17	0	0	N/A	N/A	0	N/A	N/A	N/A	N/A	N/A
FINS	281	363	462	743	N/A	N/A	1	0	38	0	N/A	N/A	N/A	N/A
Delinquency Misdemeanor	597	979	974	1571	N/A	N/A	102	8	186	14	N/A	N/A	5	2
Delinquency Felony	178	426	450	628	N/A	N/A	43	18	37	2	N/A	N/A	3	0
Delinquency-Life	7	12	13	20	N/A	N/A	0	0	0	0	N/A	N/A	0	0
Juvenile Revocations	0	5	5	5	N/A	N/A	0	0	0	N/A	N/A	N/A	N/A	N/A
Adult Misdemeanor	6899	6910	65	6964	N/A	N/A	12	2	8	0	0	0	61	0
Adult Felony Non-LWOP	2726	2574	1355	4081	N/A	N/A	985	803	1070	0	0	8	1	6
Adult LWOP	68	69	85	153	N/A	N/A	10	16	14	0	0	3	0	1
Capital	0	0	0	0	N/A	N/A	0	0	0	0	0	0	0	0
Revocations	344	303	103	447	N/A	N/A	104	35	90	0	N/A	N/A	N/A	N/A
PCR	1	0	0	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0	0
SOAP	0	0	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

The figures in this column represent the total numbers of each type of cases handled by attorneys in your district during the time-period under analysis and are a fairly accurate estimate of the number of cases you could expect in the subsequent year unless you have reason to believe that there is a systematic change in prosecutorial or law enforcement activity.



LOUISIANA PUBLIC DEFENDER BOARD

*Effective: September __, 2013
Last Updated: September 6, 2013*

Protocol For Obtaining Funds From the Capital Expert Witness Fund

1. Policy

- 1.1 This policy recognizes the Louisiana Public Defender Board's responsibility to adopt rules regarding the provision of reasonably necessary services associated with capital proceedings pursuant to LAC 22:XV, Chapter 2.

2. Purpose

- 2.1 The purpose of this policy is to formalize and publish the rules and regulations for the management of the Capital Expert Witness Fund.
- 2.2 The policy addresses the process for applying for funding, counsel's responsibility to monitor the delivery of services, the timely submission of invoices and distribution of payment for services, and the deadlines that apply to the process of requesting and receiving expert witness funding.

3. Application for Funding

- 3.1 Prior to applying for any expert witness funding, counsel must ensure that all relevant and required case information is entered into LPDB's statewide case management system.
 - 3.1.1 For those cases previously entered into the case management system, counsel shall ensure that all case information is up-to-date in the system prior to applying for expert witness funds.
 - 3.1.2 In the event the case is contracted out to counsel unaffiliated with a public defender office, it shall be the obligation of the District Defender to secure a database password for counsel and instruct counsel that access to the Capital Expert Witness Fund is contingent on entry of up-to-date case information into the database.

3.2 To apply for funds from the Capital Expert Witness Fund, counsel must fully complete the Application for Capital Expert Witness Funds. (Attachment A).

3.2.1 The Application Form requires two attachments:

- a. The proposed expert's curriculum vitae, and
- b. The proposed expert's fee schedule

3.2.2 Counsel shall provide: (1) the expert's hourly rate; (2) the expected maximum number of hours required for the expert to complete the work; (3) the amount and description of any travel or other related expenses; and (4) the estimated total costs for the expert's services.

3.3 Counsel shall submit the completed application to the Capital Case Coordinator via Email to capital@lpdb.la.gov and hardcopy by U.S. Mail.

3.4 Counsel shall await a reply from the Capital Case Coordinator regarding the approval or denial of the request for funds.

3.4.1 The reply by the Capital Case Coordinator may be made by Email to counsel. In all cases, a letter stating the approved maximum amount shall be sent by U.S. mail to lead counsel by the Capital Case Coordinator.

3.4.2 Under no circumstances should counsel permit the expert to commence work on the case until and unless counsel receives written approval by the Capital Case Coordinator.

3.4.3 Any work performed by the expert prior to counsel's receipt of notification of approval will not be the LPDB's responsibility.

4. Monitoring the Delivery of Services

4.1 Once approval of the application for capital expert witness funds is obtained by counsel, counsel shall advise the expert of the approved maximum amount.

4.2 Once approval is obtained, counsel should instruct the expert that he or she may begin providing services.

4.3 Counsel is responsible for monitoring the expert's work to ensure the delivery of high quality services.

4.4 Counsel is to monitor the hours worked and the expenses incurred by the expert to ensure that they do not exceed the maximum amount approved.

4.4.1 In the event that the approved maximum amount becomes insufficient for the expert to complete all required work, counsel shall apply for additional funding prior to the expert exceeding the approved maximum amount. A request for additional funding shall be submitted by counsel upon completion of a supplemental application for capital expert witness funds. In addition to the basic required information, requests for additional funding shall also provide a detailed explanation of the reason the expert will exceed the approved maximum amount and the need for any additional work¹.

5. Submitting Invoices

5.1 Invoices for payment of expert fees and expenses shall be submitted by counsel to the Capital Case Coordinator via Email to capital@lpdb.la.gov or by U.S. Mail. LPDB will not accept invoices sent directly from the expert.

5.1.1 Prior to submission for payment, counsel shall review the expert's invoice for accuracy both in the amount invoiced and the services rendered.

5.1.2 Counsel shall submit the invoice to the Capital Case Coordinator with a written affirmation signed and dated by counsel that counsel has reviewed and approved the invoice by the expert and that payment is appropriate.

5.1.3 Invoices shall be submitted for payment within sixty (60) days of the work being performed. Any invoice submitted after sixty (60) days shall be deemed stale and not-payable by LPDB. Absent exceptional circumstances, counsel shall have responsibility for paying any expert invoice that is submitted after sixty days of the work being performed.

5.1.4 Within 30 days of the completion of the case (e.g., completion of trial or reduction of the case to non-capital), counsel shall submit all outstanding expert invoices to the Capital Case Coordinator and indicate that the invoice(s) being submitted is(are) final. Any un-invoiced funds will be automatically released.

¹ Supplemental requests for the same expert do not require the submittal of the expert's CV and fee schedule unless it has changed significantly from the initial submittal.

6. Distribution of Payments

- 6.1 Payments for expert services are distributed directly from the Expert Witness Fund to the district, program or private counsel for which the services were provided.
- 6.2 Upon receipt of payment from the Expert Witness Fund to the district or program office, it is the responsibility of the district, program or private counsel office to issue immediate payment to the expert.
- 6.3 Upon transmission of payment from the district, program or private counsel office to the expert, the office remitting payment shall copy the Capital Case Coordinator on the transmittal letter to the expert witness with a copy of the check issued to the expert.

7. Unused Funds

- 7.1 All approved but un-invoiced funds shall become unavailable for use six (6) months from the date of their approval. Once unavailable, the funds shall be released back into the Expert Witness Fund.
 - 7.1.1 After release of the funds, should counsel still need the services of the previously-approved expert, counsel will be required to re-apply for funding of that expert, updating all relevant information regarding the expert.



LOUISIANA PUBLIC DEFENDER BOARD

*Effective: September 17, 2013
Last Updated: September 13, 2013*

Protocol For Management of the Capital Expert Witness Fund

1. Policy

1.1 This policy addresses the responsibility of the Louisiana Public Defender Board (“LPDB”) to efficiently and effectively manage the monies designated as the Capital Expert Witness Fund.

2. Purpose

2.1 The purpose of this policy is to formalize LPDB’s internal procedures for managing the Capital Expert Witness Fund (“EWF”). This policy defines the responsibilities of staff to effectively track and distribute monies from the Fund.

3. Reviewing Applications for Funding

3.1 Upon receipt of a completed application for expert witness funding, the Capital Case Coordinator shall confirm that all relevant and required case information has been entered into LPDB’s statewide case management system.

3.1.1 If the required information is not present in the case management system, the Capital Case Coordinator shall notify counsel that the application will not be accepted until the case management system is up to date.

3.2 Applications for expert witness funding will only be considered if signed and dated when submitted by counsel, with a completed application and all necessary documents attached thereto.

3.3 Applications for expert witness funding will be reviewed by the Capital Case Coordinator to determine that:

- a. The attorney seeking funding has established that the expert for which funds are being requested is relevant to the defense;
 - b. The requested expert's hourly rate is within the guidelines approved by the Board; and
 - c. The expert's expected maximum number of hours and anticipated travel and other expenses are within reasonable limits.
 - d. That the amount requested does not exceed the amount of available Expert Witness funds.
- 3.4 Upon approval in full or part of the application for expert witness funding, the Capital Case Coordinator shall notify lead counsel in writing and by email that the application has been approved and provide the maximum amount approved.
- 3.5 Upon denial of an application for expert witness funding, the Capital Case Coordinator shall notify lead counsel in writing and by email of the denial and reason for denial.

4. Tracking Approved Expert Witness Funds

- 4.1 Upon approval of an application for expert witness funds, the Capital Case Coordinator shall cause to be entered the pertinent case information, and the date of approval and maximum amount approved, into LPDB's Expert Witness Fund spreadsheet, database, or other tracking system.
- 4.1.1 All applications for expert witness funds will be reviewed to determine whether they are in proper order and meritorious. In the event the request for funding exceeds the amount of the funds available in the Expert Witness Fund, the application shall be placed in a queue and counsel shall be notified by email as to the application's position in the queue.
 - 4.1.2 The applications will remain in the queue in the order in which they were received. Once sufficient funding is accrued to fund the first application for approval, counsel will be notified of the approval and funding for the next application in line will begin to accrue.
- 4.2 At all times, the Capital Case Coordinator shall monitor and track the total amount of all maximum approvals for all cases statewide. Under no

circumstances shall LPDB provide approvals totaling more than the maximum amount of the annual Expert Witness Fund.

4.3 Ninety (90) days after approval the Capital Case Coordinator shall contact lead counsel to determine whether the expert has begun work. Thirty (30) days before the funds are to be released, the Capital Case Coordinator shall notify lead counsel that the invoice for the expert must be submitted within thirty (30) days.

4.3.1 One hundred and eighty (180) days following approval of an application for expert witness funds, the Capital Case Coordinator shall notify counsel by letter and by email, with a copy to the expert, that any un-invoiced funds are being released back into the Expert Witness Fund.

4.3.2 Un-invoiced funds are released based on the passing of one hundred and eighty one (181) days following approval, not upon the receipt of a notice letter.

4.4 Should counsel require additional services from the expert after un-invoiced funds are released back into the Expert Witness Fund, the Capital Case Coordinator shall require counsel to submit a supplemental application for expert witness funding. Extensions may be granted for good cause shown.

4.5 Upon release of the un-invoiced funds, the Capital Case Coordinator shall note in LPDB's tracking system the date and amount of the funds being released and the net difference to the Expert Witness Fund.

4.6 Upon approval of an application for expert witness funds, the Capital Case Coordinator shall cause to be entered the pertinent case information, and the date of approval and maximum amount approved, into LPDB's Expert Witness Fund spreadsheet, database, or other tracking system.

4.7 At all times, the Capital Case Coordinator shall monitor and track the total amount of all maximum approvals for all cases statewide. Under no circumstances shall LPDB provide approvals totaling more than the maximum amount of the annual Expert Witness Fund.

5. Processing of Invoices

5.1 Upon receipt of an invoice by counsel for payment drawn on previously approved expert witness funds, the Capital Case Coordinator shall ensure that:

- a. The invoice has been reviewed and approved for accuracy and amount by counsel;
 - b. The invoice includes counsel's signed affirmation that counsel has reviewed and approved the expert's invoice and that payment is appropriate;
 - c. The invoice is for payment of work performed by the expert within the previous sixty (60) days;
 - d. The amount of the invoice, including the total of any previous invoices paid to the same expert, does not exceed the maximum amount approved.
- 5.2 After confirming that all appropriate documentation has been submitted with the invoice, including the Capital Expert Witness Fund Invoice Submission Form executed and signed by counsel, the Capital Case Coordinator shall review the invoice for approval of the amount submitted.
- 5.3 LPDB will consider an invoice for payment only if the invoice is submitted within sixty (60) days of the work being performed by the expert and all required documentation is submitted with the invoice. Absent exception circumstances, any invoice submitted after sixty (60) days of work being performed shall be deemed stale and not-payable by LPDB.
- 5.4 Once the invoice has been approved by the Capital Case Coordinator, he/she shall place the invoice in line for payment according to the First In – First Out payment principle.
- 5.5 Upon approval of the submitted invoice for payment by LPDB, the Capital Case Coordinator shall cause to be input the invoice amount, payment approval date, and payment amount into LPDB's tracking system.
- 5.6 If the amount of the invoice approved for payment is less than the initial maximum amount approved for work, LPDB shall ensure that counsel has indicated in the Capital Expert Witness Fund Invoice Submission Form whether additional work is expected to be performed by the expert.

- 5.6.1 If additional work is expected to be performed by the expert, the Capital Case Coordinator shall cause a notation to be made to that effect in LPDB's tracking system.
- 5.6.2 If additional work is not expected to be performed by the expert, the Capital Case Coordinator shall release any un-invoice funds back into the Expert Witness Fund and notify counsel in writing and by email of the release.
- 5.7 Any invoice submitted without all appropriate documentation will be returned to counsel for re-submission. Any required re-submission must be made within sixty (60) days of the work being performed. Absent exceptional circumstances, a re-submission does not extend the time within which invoices must be submitted.
- 5.8 Invoices must be submitted by counsel, with all appropriate documentation. LPDB will not pay any invoice submitted directly from an expert.

6. Continual and Contemporaneous Tracking of the Expert Witness Fund

- 6.1 The Capital Case Coordinator shall be responsible for continual and contemporaneous tracking of the Expert Witness Fund, including the balance of approvals for services, invoices pending payment, invoices paid, and total funds remaining available.
- 6.2 The Capital Case Coordinator shall cease approving applications for expert witness funds should the total amount of approvals plus invoices paid and approved for payment equal the annual maximum amount of the Expert Witness Fund.
- 6.2.1 Should the annual maximum amount of the Expert Witness Fund be reached, the Capital Case Coordinator shall not approve any additional applications for expert witness funds until and unless additional funds become available by virtue of the release of previously approved work or other action of the Board.
- 6.2.2 In the event that approvals are ceased pursuant to Section 6.2.1 of this protocol, the Capital Case Coordinator shall notify any counsel seeking approval for funds that the maximum amount of the annual fund has been reached and that no approvals may be granted by LPDB until and unless additional funds become available or other action is taken by the Board.

Expert Rates & Expenditures for FY 12 & FY 13

CODE	SPECIALTY	Expert Hourly Rate Range	# of Experts FY 2012	Total Spent FY 2012	# of Experts FY 2013	Total Spent FY 2013	LPDB Hourly Rate Range
AR	Academic Researcher	200	1	440.00			
AVE	Audio/Video Enhancement	75-125	1	350.00	1	1,550.00	
BFE	Ballistics/Firearm Expert	200-295					50-100
BSE	Blood Spatter Expert						
	w/o professional degree						75-150
	w/ professional degree	250					150-250
CDE	Capital Defense Expert	100-200	3	2,689.05	1	5,200.00	
CE	Corrections Expert	100-150	3	6,775.83	1	1,452.35	
CSR	Crime Scene Reconstruction	150-250			3	18,050.23	150-250
DNA-E	DNA Expert	115-250	5	9,299.00	1	2,500.00	150-250
DR	Document Review	40-75	1	2,100.00			75-150
ED	Educational Diagnostics	150					
EL	Employment Law	275	2	5,576.68			
EyeID	Eye witness Memory Expert	300	1	1,800.00			
FAA	Forensic-Audio Analysis/Cellular Devices	200-375					
FDS	Forensic Document Examiner	150			1	2,000.00	75-150
FFI	Forensic Fire Investigator (Arson)						
	w/o professional degree						50-100
	w/ professional degree	300					100-250
FP	Forensic Pathologist	200-700	3	6,550.00	5	13,567.22	200-300
FPSY	Forensic Psychiatrist	200-400	2	13,605.35	1	10,707.15	150-300
INT	Interpreter	15-250			1	255.00	
INV	Investigator-G/MIT	40-200	14	64,348.41	17	23,456.32	35-75
JC	Jury Consultant	100-200	10	87,862.29	2	25,736.65	
LCSW	Licensed Certified Social Worker/Social Worker	90-125	2	1,665.00			100-175
LEP	Legal Ethics/Professionalism	235-350	2	2,953.95	1	5,600.00	
MID	Medical Doctor	200-250	1	1,000.00			150-250
MIT	Mitigation	35-150	42	188,552.62	56	276,580.99	
NEU	Neurologist	250-600					150-250
NPSC	Neuropsychologist	200-450	18	66,325.06	12	77,301.62	150-300
NPSY	Neuropsychiatrist	150-400	1	5,752.85	3	2,000.00	200-350
PLS	Paralegal Services	35-55			2	7,451.50	
PATH	Pathologist						200-300
PT	Pathologist/Toxicologist						125-300
PCA	Pediatric Child Abuse	125-300					150-250
PHAR	Pharmacologist/Medical Examiner	375-400	1	7,800.00			75-150
PHO	Photographer (Graphics)	125	1	250.00			45-75

CODE	SPECIALTY	Expert Hourly Rate Range	# of Experts FY 2012	Total Spent FY 2012	# of Experts FY 2013	Total Spent FY 2013	LPDB Hourly Rate Range
PSY	Psychiatrist	225-450	8	36,219.56	13	34,265.13	150-300
PSY-PHAR	Psychopharmacology	250					
RS	Records Specialist (Document Examiner/Handwriting)	60-300			1	5,000.00	75-150
SOC	Sociologist	75					100-175
SWS	Software Specialist	45-75					
TC	Telecommunications Consultant	100-325	2	29,870.07			
TRN	Transcriptionist	15			1	4,668.25	
VOS	Victim Outreach Specialist	60-120	4	4,551.28			35-100
Other				3,850.00		1,925.00	
	Totals		128	550,187.00	123	519,267.41	

The following specialties are listed in LPDB's Expert Qualifications & Rates sheet, but were not used in FY 12 and 13.

ACRE	Accident Reconstruction						
	w/o professional degree						20 - 100
	w/ professional degree						100-150
DA	Drug Analyst						
	Bachelor's Degree						75-100
	Master's Degree						125-150
N	Nurse						
	Registered Nurse						30-60
	Master's Degree						60-100
PED	Pediatrician						150-250
SE	Special Education						150-200

There are a number of specialists who charge for the tests administered.

NEUR	Neuroradiologist						
	Functional MRI Technical & Prof. fee 1309.00						
	Spectroscopy Technical & Prof. fee 2,019.00						



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

October 29, 2013

LSU Law Center, Tucker Room

Baton Rouge, Louisiana

2:00 p.m.

MINUTES

1. Call to Order and Remarks of the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Tuesday, October 29, 2013, at 2:00 p.m. the LSU Law Center in Baton Rouge, Louisiana.

The following Board Members were present:

Frank Neuner, Chairman
Robert Burns
Leo Hamilton
Frank Holthaus
Rebecca Hudsmith
Dan Krutz
Robert Lancaster
Luceia LeDoux
Hector Linares
Tom Lorenzi
Pam Metzger
Jacqueline Nash
Herschel Richard
Majeeda Snead
Gina Womack

The following Ex Officio Board Member was present:

Rebecca Hudsmith

The following members of the Board's staff were present:

Julie Ferris, Interim State Public Defender
Jean M. Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Richard Pittman, Deputy Public Defender, Dir. Of Juvenile Defender Services

Tiffany Simpson, Juvenile Justice Compliance Officer
Erik Stilling, Information Technology and Management Officer

3. Review of Agenda. Upon review of the agenda, Ms. Womack moved to amend the agenda to include a discussion regarding the activities of the Juvenile Justice Implementation Committee. Prof. Snead seconded the motion which passed unopposed. Chairman Neuner asked that the issue be addressed later in the agenda after final disposition of action items.

4. Review of the September 16, 2013 Meeting Minutes*. Mr. Hamilton moved for adoption of the September 16, 2013 minutes which was seconded by Gina Womack. Professor Lancaster moved to amend the Minutes to include his dissenting vote for the delay of the state public defender selection at item one. Mr. Goff seconded Prof. Lancaster's motion and the Minutes passed as amended, unopposed.

5. Executive Session*. Ms. LeDoux moved to go into Executive Session. Rev. Krutz seconded the motion. Professor Metzger moved to leave Executive Session which was seconded by Ms. Womack.

6. SPD Selection*. Upon the reconvening of the full Board meeting, Mr. Neuner announced Mr. Starnes' withdrawal for the State Public Defender position, explained the voting procedure and proceeded to count ballots. After final tally, Rev. Krutz moved that Mr. Jay Dixon, who received the majority vote, be approved as the next State Public Defender. Ms. Womack seconded the motion which passed unopposed. Prof. Snead noted the exemplary work done by Ms. Ferris in her capacity as Interim State Public Defender and extended her thanks. Ms. Ferris received a standing ovation.

7. District Issues.

a. District 9 – District Defender Selection*. Considering Staffs' recommendation, Mr. Richard moved to appoint Mr. Glenn Cortello as the District Defender for District 9 (Rapides Parish). Prof. Metzger seconded the motion. Mr. Cortello provided a brief introduction at Prof. Linares' request. Special thanks was given to Mr. Tony Tillman for his interim supervision of the District office pending Mr. Cortello's appointment. Mr. Tillman thanked the current staff at the 9th PDO for their professionalism and hard work.

Ms. LeDoux moved to amend the motion to offer Mr. Cortello a salary equal that of the previous District Defender. The motion passed unanimously, as amended.

Reverend Krutz inquired of Mr. Dixon the date of his official capacity as State Public Defender. Mr. Dixon indicated December 1, 2013, which would provide him enough time to transition out of his current position in Districts 14/38. Mr. Holthaus moved that Mr. Dixon's official start date be December 1, 2013. Judge Burns seconded the motion which passed unopposed.

Mr. Neuner encouraged discussion between Ms. Ferris and Mr. Dixon to determine Ms. Ferris' status with LPDB and clarified that Ms. Ferris would remain in her current capacity as Interim State Public Defender until December 1, 2013. Mr. Hamilton inquired whether Ms. Ferris would

return to the First Assistant State Public Defender position. Professor Metzger reminded the Board that that position no longer exists as there is no Table of Organizational space available for the position and, as advised by General Counsel Roger Harris, the legality of the original formation of the position is questionable.

8. Budget Committee Reports and Recommendations.

a. Financial Report*. Ms. Carter gave a summary of LPDB's current financial status, reporting a total of \$155,730 available for reallocation. Mr. Hamilton moved to adopt the financial report as submitted. Mr. Lorenzi seconded the motion which passed unopposed.

b. FY 15 Budget Request - Ratification*. Ms. Ferris reported that the FY15 budget request was submitted timely on October 15, 2013 for \$53M. The request incorporated all Districts' Needs Based Budgets and included a request for increased T.O. (Table of Organization) from 16 to 19. The ratification of the FY 15 Budget Request is brought to the Board on the recommendation of the Budget Committee. Mr. Hamilton moved to ratify the request which was seconded by Prof. Metzger and passed unopposed.

c. Delegation of Authority -DAF FY 14* and 501c3 Contracts*. Because it is not known when the Board will meet again, Ms. Ferris reported that Staff is requesting that the Board give authority to the Budget Committee to delegate authority to Staff to renew 501c3 contracts that end in December and to distribute the second half of the DAF to the districts once approved by the Budget Committee. Mr. Hamilton moved to give the Budget Committee authority to delegate authority to staff to renew 501c3 contracts and disperse the second half of the DAF to the districts. Mr. Lorenzi seconded the motion, which passed unopposed.

9. Policy Committee Reports and Recommendations*. Ms. Ferris reported that the Policy Committee and the Capital Case Working Group are recommending three action for Board adoption. First is to accept an outstanding offer for additional funds from CDPSELA and CAPOLA in the amount of \$331,000 and \$100,000, respectively, which would be redirected to the Expert Witness Fund to help defray current outstanding invoice submittals for FY 14. If approved, the contract with the Louisiana Appellate Project would have to be amended to include these funds for an annual total of \$1,031,000. Second, the immediate release of the proposed letter to all expert witness fund applicants informing them that expert witness funds are not available but that their applications will be considered once funding becomes available; and, last, adoption of the long-term capital strategic plan as presented.

Mr. Hamilton inquired as to how the funds would transfer. Ms. Ferris reported either by amendment to the contracts or redirection of the funds. Ms. Ferris clarified that any amended contracts would have to be approved by OCR first, which could take time. Several guests inquired when their requests would be approved. Staff clarified that until the funds are reserved for the Expert Witness Fund either by redirection or contract amendment, which would require OCR approval, that the application approval process will remain in suspension and judges are to be made aware that the Board has addressed the issue and until the funds are in place, there will be no expert witness approvals. Mr. Lorenzi urged that the proposed letter be provided to all offices so there is no confusion as to what information is being provided to judges and that all applicants be given 30- day reports on the fund status.

Mr. Hamilton moved to amend the agenda which was seconded by Mr. Holthaus. Mr. Hamilton further moved to amend the Louisiana Appellate Program's contract to incorporate the funds from CDPSELA and CAPOLA, increasing the contract amount from \$600,000 to \$1,031,000 for FY 14. The motion passed unopposed.

9b. Chairman Neuner reported that the Policy Committee is recommending to the Board adoption of a policy that LPDB shall never assume any financial responsibility in trial level DOC cases and that staff draft this resolution for the next Board meeting. Prof. Metzger seconded the recommendation which passed unopposed.

10. Contracts.

a. Professional Services.

i. Decuir Law Firm* and Riviere Law Firm*. Ms. Ferris reported that contracts for legal services have been signed with the Decuir Law Firm for representation of LPDB in the 19th Judicial District in the amount of \$15,000 (to be billed against hourly) and with the Riviere Law Firm in the 17th Judicial District for assistance the *State v. Brown* matter in the amount of \$10,000. Staff is requesting ratification of these contracts which were necessary in order to comply with court order.

b. CPCPL – Angola 5 Contract Ratification and CAP – Angola 5 – FY 14*. Staff is requesting ratification of the contracts for services in the Angola 5 cases.

Services by CPCPL for the remainder of FY14 are in the amount of \$208,800 as the funds provided in the original contract exhausted in September. Ms. Ferris clarified that the funds are available and the contract has been submitted to OCR for approval.

The contract for CAP in the amount of \$151,377 has not yet been executed. Again, Ms. Ferris clarified that the funds are available.

Judge Burns moved to ratify the contracts and Mr. Richard seconded the motion which passed unopposed.

c. JJIC (Amended Agenda Item). Ms. Womack asked for a status and/or recent activity report on the Juvenile Justice Implementation Commission. Mr. Neuner reported that there has not been a meeting of the Commission in six months and there is no activity to report of which he is aware. Ms. Womack and Mr. Pittman discussed holding a meeting of the Juvenile Working Group prior to the JJIC meeting.

11. ISPD Report. The ISPD report is located in the Board meeting materials.

12. Next Meeting Date*. The next meeting date is set for Tuesday, January 7, 2014. The location will be announced once it is determined.

Professor Snead welcomed Tiffany Simpson.

13. Executive Session*. Ms. LeDoux moved to go into Executive Session, seconded by Professor Metzger. Professor Metzger moved to leave Executive Session. Prof. Linares seconded the motion.

14. Other Business. Mr. Hamilton moved to form a Capital Litigation Working Group to oversee capital litigation.

At Mr. Neuner's request, Professor Snead, Herschel Richard and Rebecca Hudsmith volunteered to join the working group. Mr. Lorenzi seconded the motion which passed unopposed.

Ms. LeDoux announced that because of conflicts of interest in other areas of her employment, she would not be requesting re-appointment of her Board term which expires on December 31, 2013.

Rev. Krutz also informed the Board that his term expires December 31, 2013, and he will also not be seeking re-appointment.

15. Adjournment.* Reverend Krutz moved to adjourn, which was seconded by Ms. LeDoux.

Guests:

Michael A. Mitchell
Irina Zheludkova
Bruce Unangst II
Sarah Ottinger
Tony Champagne
J. Clay Carroll
Reggie McIntyre
Derwyn Bunton

G. Paul Marx
Julie Betz
Richard Bourke
Jay Dixon
Teresa King
Jim Looney
Herman Castete

Richard Goorley
Donald Sauviac
Kerry Cuccia
Steve Thomas
Tanner Magee
Tony Tillman
Richard Tompson

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 29th day of October, 2013, as approved by the Board on the 7th day of January, 2014, at Baton Rouge, Louisiana.



Judge Robert J. Burns (Ret.), Vice-Chair