



DISTRICT ASSISTANCE FUND ADJUSTMENT FORMULA USAGE

POLICY

In 2010, the Budget Committee of the Louisiana Public Defender Board recommended to the Board, and the Board adopted, the use of an adjustment formula applicable to the original District Assistance Fund formula in an effort to cover district office financial shortfalls and delay inevitable restriction of services. The adjustment formula was successful in its concept and usage; however, with years of required spend-down of fund balances, multiple district insolvencies are projected which will result in restriction of services. Because of the degree of funding shortfall and until such time as more funds become available, the use of the adjustment formula will not provide the relief as it did in the past and in some instances could be harmful.

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that the Board shall render a decision when necessary on the applicability of an adjustment formula after consideration of pertinent and conclusive evidence and documentation provide by its staff and the Budget Committee's recommendation.

Effective this 4th day of September 2014, in perpetuity, until rescinded by action of the Board.

A handwritten signature in blue ink, appearing to read "Robert Burns", is written over a horizontal line.

Robert Burns, Vice-Chair



LOCAL SUPPORT OF INFRASTRUCTURE NEEDS FOR DISTRICT DEFENDER OFFICES

POLICY

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that

The Staff shall pursue legislation which will entitle District Defender Offices to an expense allowance for expenses and payment by police juries, or their equivalent, for salaries of stenographers, clerks and secretaries, and salaries or charges for special officers, investigators and other employees and an expense allowance for stationery forms, telephone, transportation, travel, postage, hotel and other expenses incurred in the discharge of their official duties.

Effective this the 4th day of September, 2014, at Baton Rouge, Louisiana, in perpetuity, until rescinded by action of the Board.

A handwritten signature in blue ink, which appears to read "Robert Burns", is written over a horizontal line.

Robert Burns, Vice-Chair



DISTRICT ASSISTANCE FUND CALCULATIONS – INCLUSIONS AND EXCLUSIONS

POLICY

In 2009, the Board, upon recommendation of the Budget Committee, adopted the District Assistant Fund (DAF) which provides supplemental funding to the individual statewide district public defender offices providing indigent defense services. The supplemental DAF distribution is used to cover shortfalls in the district offices that result from unstable, inadequate, locally generated funds needed to cover the costs of operating the offices.

In order to distribute the limited appropriated state funds most equitably to the individual district offices, a variety of existing conditions are considered in the DAF formula calculation including cost of living, population, salary ranges, rent, support staff, case loads and the number of attorney needed to provide effective representation.

By contract, District Defenders are required to pursue remittance of those local funds which by law, are dedicated to public defense. In the current statewide fiscal climate, District Defenders are urged to seek other non-statutory funding relief, which, if included in the DAF formula could result in a decrease of their allotment of supplemental funds from the state appropriation.

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that any locally generated, non-statutorily required funding streams for public defense, that are established by a District Defender which could potentially decrease his or her office's supplemental funding shall NOT be considered as either revenues or as a reduction of expenditures, in the district's DAF calculation.

Effective this 4th day of September 2014, in perpetuity, until rescinded by action of the Board.

A handwritten signature in blue ink, appearing to read "Robert Burns", is written over a horizontal line.

Robert Burns, Vice-Chair



EXECUTIVE STAFF EVALUATIONS

POLICY

The Louisiana Public Defender Board is required to regularly evaluate the performance of the executive staff. La. R.S. 15:147(B)(1).

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that, pursuant to statutory mandates, all Executive Staff evaluations shall be completed on a bi-annual basis (every two years) retroactive to August 1, 2013. All future executive staff evaluations are to be written by the State Public Defender in an approved format and submitted to the appropriate member(s) of the appointed Personnel Committee in odd-numbered years, not later than August. The State Public Defender shall have the discretion to request and perform an evaluation of any member of his/her executive staff at any time.

Further, the State Public Defender's evaluation is to be completed every two years retroactive to August 1, 2013, by the current Board Chairman and one additional member of the Personnel Committee. The Board shall have the discretion to request and perform an evaluation of the State Public Defender at any time.

Effective this 4th day of September, 2014, in perpetuity, until rescinded by action of the Board.

At Baton Rouge, Louisiana, this 4th day of September, 2014.

A handwritten signature in blue ink, appearing to read "Robert Burns", is written over a horizontal line.

Robert Burns, Vice-Chair



Louisiana Public Defender Board

RESOLUTION

On the 13th day of November, 2014, 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:

WHEREAS, the Board has voted to not renew its contract with Capital Assistance Project of Louisiana (CAPOLA) for the provision of capital defense services; and

WHEREAS, the Louisiana Public Defender Board no longer contracts with any agency in north Louisiana to provide representation for capital defendants; and

WHEREAS, the Louisiana Public Defender Board has been ordered to provide legal counsel in cases wherein the defendant was formerly represented by CAPOLA; and

WHEREAS, it is anticipated that new capital cases will arise in north Louisiana for with the Board has the responsibility of providing legal representation; and

WHEREAS, the staff has already requested attorneys to represent clients formerly represented by CAPOLA and has prepared contracts so that such representation can be provided; and

WHEREAS, the State Public Defender will need the authority to re-allocate capital defense funds to pay legal fees of the attorneys so appointed; and

WHEREAS, at present the budget is adequate to provide for the anticipated appointments in this fiscal year;

WHEREAS, this resolution shall take effect immediately and will include services previously rendered pursuant to the contracts.

It was duly moved and seconded that the following resolution be adopted:

BE IT RESOLVED that the State Public Defender is authorized to re-allocate funds in order to contract with individual attorneys for representation of clients in capital cases as they arise.

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 13th day of November, 2014.



Robert Burns, Chairman



Louisiana Public Defender Board

RESOLUTION

On the 13th day of November, 2014, 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:

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WHEREAS, the Louisiana Public Defender Board no longer contracts with any agency in north Louisiana to provide representation for capital defendants; and

WHEREAS, the Louisiana Public Defender Board has been ordered to provide legal counsel in cases wherein the defendant was formerly represented by CAPOLA; and

WHEREAS, it is anticipated that new capital cases will arise in north Louisiana for with the Board has the responsibility of providing legal representation; and

WHEREAS, the staff has already requested attorneys to represent clients formerly represented by CAPOLA and has prepared contracts so that such representation can be provided; and

WHEREAS, the attorneys so appointed will need funds to pay for core team members and other expert witnesses; and

WHEREAS, the State Public Defender will need the authority to re-allocate capital defense funds to pay for these core team members and expert witnesses; and

WHEREAS, at present the budget is adequate to provide for the anticipated appointments in this fiscal year;

WHEREAS, this resolution shall take effect immediately and will include services previously rendered pursuant to the contracts.

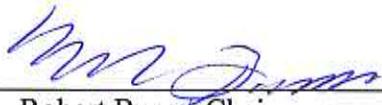
500 Laurel Street, Suite 300, Baton Rouge, Louisiana 70801
Telephone: (225) 219-9305 Facsimile: (225) 219-9326

It was duly moved and seconded that the following resolution be adopted:

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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 13th day of November, 2014.



Robert Burns, Chairman



REPRESENTATION OF CHILDREN IN CINC AND TERMINATION OF PARENTAL RIGHTS CASES

POLICY

Whereas the state public defender system anticipates a large funding shortfall;

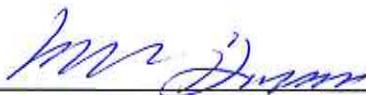
Whereas Children's Code Article 607 has been amended to make the Supreme Court responsible for determining representation of children in Child In Need Of Care Cases; and

Whereas many districts are expected to enter into Restriction of Services in Fiscal Year 2015 or soon thereafter;

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that the Districts are not required to provide representation for children in Child In Need of Care and Termination of Parental Rights cases.

Effective the 13th day of November 2014, in perpetuity, until rescinded by action of the Board.

Signed this 13th day of November, 2014, at Baton Rouge, Louisiana.



Robert Burns, Chairman



**CHILD SUPPORT ENFORCEMENT AND ESTABLISHMENT OF PATERNITY
DEFENSE**

POLICY

Whereas a few districts currently regularly engage in representation of clients in child support enforcement and establishment of paternity proceedings, but that the practice is not regularly performed statewide;

Whereas La. R.S. 46:236 allows for reimbursement of the public defender office of \$25 per case at the expense of the client, but does not require the public defender office to provide representation;

Whereas the State of Louisiana allocates no additional funds to provide this representation;

Whereas child support enforcement is a purely civil matter;

Whereas the state public defender system anticipates a large funding shortfall;

Whereas the funds from La. R.S. 46:236 is a small fraction of the amount necessary to properly perform this service; and

Whereas the Staff has made a request of the State for adequate funds to perform this service;

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that the Districts are not required to provide representation in child support enforcement or establishment of paternity cases.

Effective on the 13 day of November, 2014, in perpetuity, until rescinded by action of the Board.

Signed, this 13th day of November, 2014, at Baton Rouge, Louisiana.

A handwritten signature in blue ink, appearing to read "Robert Burns", is written over a horizontal line.

Robert Burns, Chairman



Louisiana Public Defender Board

RESOLUTION

On the 13th day of November, 2014, 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:

WHEREAS, due primarily to recent election results, a number of district defenders throughout the state have notified the board of their resignations; and

WHEREAS, due to their participation in upcoming run-off elections, there are other district defenders that may soon notify the board of their resignations; and

WHEREAS, the Louisiana Public Defender Board has the authority to and must appoint an Interim District Defender in the district so affected, pursuant to R.S. 15:162 F; and

WHEREAS, these vacancies will occur before the next Board meeting; and

WHEREAS, the Board may authorize a district public defender from a contiguous judicial district to manage and supervise public defender services in the judicial district to be vacated; and

WHEREAS, the State Public Defender, having been a district defender, is well versed in the procedures and intricacies of finding and appointing an Interim Public Defender; and

WHEREAS, as many as five Interim District Defenders must be appointed;

WHEREAS, this situation is temporary and has arisen due to the number of District Defenders pursuing elected positions;

WHEREAS, the authority requested by the State Public Defender is only temporary and will not be needed beyond February of 2015.

It was duly moved and seconded that the following resolution be adopted:

500 Laurel Street, Suite 300, Baton Rouge, Louisiana 70801
Telephone: (225) 219-9305 Facsimile: (225) 219-9326

BE IT RESOLVED that the State Public Defender is authorized to select an interim public defender in the districts wherein a vacancy has arisen, subject to approval by the Board at the next Board meeting.

BE IT RESOLVED that this authority shall end on March 1, 2015.

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 13th day of November, 2014.



Robert Burns, Chairman



NOTIFICATION OF IMPLEMENTATION OF NEW BOARD POLICIES

POLICY

Whereas the Board periodically creates and/or changes existing Board policies; and

Whereas it is essential that these changes be made available to all practitioners appointed to provide legal representation to indigent clients. Therefore,

IT IS THE POLICY OF THE LOUISIANA PUBLIC DEFENDER BOARD that any new policy and any change in an existing policy will be sent by the State Public Defender or his designee to every District Defender and Executive Director of a 501(c)(3) not-for-profit corporation contracting with the Board. Each District Defender and Executive Director is responsible for disseminating every new and/or amended policy to every attorney in their respective offices.

New or amended policies will be placed as instructed by the State Public Defender on the website under the "Supporting Practitioners - Policies" tab. In addition, the policy will be placed in the next issue of the LPDB newsletter.

Signed this 13th day of November, 2014, effective in perpetuity, until rescinded by action of the Board.

A handwritten signature in blue ink, appearing to read "Robert Burns", is written over a horizontal line.

Robert Burns, Chairman



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Monday, May 12, 2014
7389 Florida Blvd, Suite 400, Conference Room 2
Baton Rouge LA 70806
2:00 p.m.

MINUTES

1. Call to Order and Remarks of the Vice Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Vice Chairman on Monday, May 12, 2014, at 2:00 p.m. at the Louisiana Office of Group Benefits in Baton Rouge, Louisiana.

The following Board Members were present:

Robert Burns, Vice Chairman
Hampton Carver
Leo Hamilton
Robert Lancaster
Herbert Larson
Hector Linares
Tom Lorenzi
Herschel Richard

The following Board Members were absent:

Addison Goff
Frank Holthaus
Rebecca Hudsmith
Jacqueline Nash
Gina Womack

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

Jay Dixon, State Public Defender
Natashia Carter, Accountant
Jean 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

2. **Call for Public Comment.** No one presented for public comment.
3. **Review of Agenda.*** There were no changes made to the agenda and on motion of Mr. Hamilton seconded by Mr. Lorenzi, the agenda was approved, unopposed, as presented.
4. **Review of the April 14, 2014 Meeting Minutes*.** On Motion of Mr. Lorenzi seconded by Mr. Hamilton the April 14, 2014 Minutes were approved as presented and passed unopposed.
5. **Budget Committee Reports and Recommendations**
 - a. **Financial Report*.** Acting Budget Officer Natasha Carter reported \$32,355,499 has been spent or encumbered to date in FY14 with \$622,984 projected to be expended by June 30, 2014 leaving \$250,770 available for reallocation to the districts. State Public Defender Jay Dixon added that the Office of Planning and Budget has been contacted for approval of the release of \$465,203 remaining in personnel services (salaries and benefits which would have gone to staff positions currently vacant) for reallocation to the districts. Mr. Dixon indicated that the Budget Committee is recommending that the financial report, as presented, be approved. Mr. Hamilton seconded the recommendation which passed unopposed.
 - b. **FY15 DAF Disbursal*.** Dr. Erik Stilling gave a brief summary of the methodology from which staffs' FY15 DAF recommendation is derived and reported that the Budget Committee is recommending adoption of the FY15 distribution as presented. Mr. Hamilton seconded the Budget Committee recommendation which passed unopposed.
 - c. **Long Term Solvency Reports.** Mr. Dixon presented Dr. Stilling's solvency charts and graphs based on current pro forma budget amounts. The charts and graphs assist in explaining the financial condition of the district public defender offices for Fiscal Years 2015, 2016, 2017 and 2018 and the potential for systemic failure statewide.
 - d. **FY14 DAF Year End Distribution*.** Dr. Stilling explained that Staff is requesting approval to distribute final year end DAF monies according to the methodology as presented to the Budget Committee which is recommending adoption. Mr. Hamilton seconded the recommendation which passed unopposed.
 - e. **Salary Increase Requests.** Deputy Public Defender Richard Pittman reported that District Defender Vic Bradley (District 29/St. Charles) has requested a salary increase and staff will be making the requisite site visit in the near future to address the request after which a recommendation will be presented.
6. **Policy Committee Reports and Recommendations**
 - a. **Capital Timesheets and Guide*.** Capital Case Coordinator Jean Faria reported that the recent Legislative Auditor's report (released January, 2014) recommended that anyone in the district offices and the Contract Programs providing capital services should be required to maintain timesheets reflecting all time on capital cases. Ms. Faria indicated that the Contract Programs have a timekeeping mechanism in place and the

form compiled by staff, based on that mechanism, meets the requirements of the Legislative Auditor. Ms. Faria reported that the Policy Committee is recommending adoption of the timekeeping form and the guide. Mr. Lorenzi seconded the recommendation which passed unopposed.

b. 501c3 – Full Organizational Budgets Update. Mr. Dixon reported that staff had completed further review of this issue and it is their opinion that rather than requiring submittal of full organizational budgets by the contract programs, that each program will be required to submit, with all future budget requests, a copy of their previous year's legislative audit.

7. Capital Performance Standards*. Ms. Faria reported that the Capital Performance Standards are complete and staff is requesting adoption by the Board and approval to move forward with administrative processes. Mr. Lorenzi commended the Capital Working Group and moved for adoption. Mr. Hamilton seconded the motion which passed unopposed.

8. CAPOLA Assessment – Conclusions. Ms. Faria reported that the Capital Working Group has reviewed and approved the recent CAPOLA assessment and recommendations. CAPOLA's Board of Directors has requested a formal meeting with staff to get a better understanding of the report, which is being scheduled.

9. 2014 Legislative Update. Mr. Dixon summarized recent legislation and the status of bills being tracked by LPDB. Specifically Mr. Dixon reported on SB 168 which is waiting on Governor's signature and will serve as a guide for the Board's makeup to incorporate more members from North Louisiana; SB 652 sponsored by Senator Guillory which would allow teachers to have students arrested and removed from premises in handcuffs without having committed a crime and without authorization of the principal or the discretion of the officer to decline to arrest; and, HB 16 which will establish a re-entry court in Lafayette.

10. Executive Session*. On motion of Mr. Richard, seconded by Mr. Hamilton the Board went into Executive Session. On motion of Mr. Hamilton, seconded by Mr. Richard, the Board left Executive Session.

Upon returning to its regular meeting, Mr. Richard moved that LPDB support an amicus brief in the Interest of R. T., seconded by Hector Linares and passed unopposed. Mr. Linares agreed to write the brief.

11. Deputy Public Defender, Director of Training*. Mr. Dixon reported that William Boggs has been offered and has accepted the Deputy Public Defender, Director of Training position for the annual salary of \$110,000 and is scheduled to start June 1, 2014. Mr. Richard moved to hire Mr. Boggs for the position at an annual salary of \$110,000, which was seconded by Mr. Larson and passed unopposed.

12. SPD Report. Mr. Dixon informed the Board that the SPD report on all staff actions since the last Board meeting is in the provided packets.

13. Next Proposed Meeting Date: Thurs. Sep. 4, 2014. The Board scheduled its next meeting date for Thursday, September 4, 2014, at 2:00 p.m. The location will be announced once confirmed.

14. Adjournment*. There being no further business, and upon motion of Mr. Richard, seconded by Mr. Hamilton, the meeting adjourned.

GUESTS:

Richard Goorley
Paul C. Fleming
John Burkhardt
Derwyn Bunton
Alan J. Robert
John W. Lindner
Richard Bourke

Tony Champagne
Richard Tompson
Bruce Unangst
Stephen Singer
Mario Guadamud
Tony Tillman
Josh Perry

Reggie McIntyre
Jim Looney
Michael A. Mitchell
Matthew Robnett
G. Paul Marx
Herman Castete

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 12th day of May, 2014, as approved by the Board on the 4th day of September, 2014, at Baton Rouge, Louisiana.



Robert Burns, Vice-Chair



LOUISIANA PUBLIC DEFENDER BOARD

BOARD MEETING

Thursday, November 13, 2014
LSU Law Center, Tucker Room
Baton Rouge LA 70806
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 Thursday, November 13, 2014, at 2:20 p.m. at the LSU Law Center, Tucker Room, in Baton Rouge, Louisiana.

The following Board members were present:

Robert Burns	Herbert Larson
Hampton Carver	Hector Linares
Addison Goff	Herschel Richard
Leo Hamilton	Stephen Singer
Rebecca Hudsmith	Gina Womack
Robert Lancaster	

The following Board members were absent:

Frank Holthaus	Jacqueline Nash
Tom Lorenzi	

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

Jay Dixon	Jean Faria
Barbara Baier	Anne Gwin
William Boggs	Tiffany Simpson
Marianne Buchanan	Erik Stilling

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

Natashia Carter
Richard Pittman

Chairman Burns welcomed William Boggs who joined LPDB as the Deputy State Public Defender/Director of Training in July of 2014.

2. Call for Public Comment. No one presented for Public Comment.

3. Adoption of the Agenda.* Mr. Hamilton moved to amend the agenda. Mr. Carver seconded the motion, which passed unopposed. Mr. Hamilton moved that item number five on the agenda, Appointment of a Vice-Chairman, be made an action item and that the agenda be approved as amended. Mr. Carver seconded the motion which passed unopposed.

4. Review of the September 4, 2014 Meeting Minutes*. Mr. Hamilton moved to accept the Minutes of the September 4, 2014 meeting as presented. Ms. Womack seconded the motion which passed unopposed.

5. Appointment of a Vice-Chairman*. Chairman Burns reported that since his appointment as Chairman, the Vice-Chairmanship remains vacant. Mr. Hamilton moved to appoint Herschel Richard as Vice-Chairman. Mr. Carver seconded the motion, which passed unopposed. Mr. Richard accepted the appointment.

6. Budget and Fiscal Issues. Mr. Dixon reported that the Budget Committee met recently but because of a lack of quorum the Committee does not bring recommendations to the Board on the agenda items below.

a. Financial Report*. LPDB Budget Analyst Marianne Buchanan provided a brief summary of the agency financial status as of October 16, 2014. Ms. Buchanan reported that since the beginning of this fiscal year, the amounts expended and encumbered total \$15.5 million, or 45.5% of the total budget of \$34 million. She reported that of the remaining expected expenditures, there is \$87,424 available which could be used for reallocation. Mr. Hamilton moved to adopt the financial report as presented. Mr. Larson seconded the motion which passed unopposed.

b. DAF and CINC Disbursements*. State Public Defender Jay Dixon requested that the Board approve disbursement of the second distribution of DAF and CINC funds in amounts equal to the first distribution. Mr. Hamilton moved to approve the DAF disbursements as recommended by staff. Ms. Womack seconded the motion which passed unopposed. Mr. Hamilton moved to approve the CINC disbursements as recommended by staff which was seconded by Prof. Linares and passed unopposed.

c. FY15 Contract Amendments*. Mr. Dixon reported that the contract amendments for all of the 501c3 programs are for amounts equal to the first six-month distribution with an exception to allocations to BRCCO, CAPSELA and LCAC. Mr. Dixon requested that \$300,000, reserved from the non-funding of CAPOLA, be added to the BRCCO, CAPSELA and LCAC contracts, in equal amounts, to cover extra expenses to be incurred for handling those cases being left un-represented as a result of CAPOLA's removal as legal counsel. Mr. Hamilton moved to approve the contract amendments with an additional \$100,000 going to BRCCO, CAPSELA, and LCAC for fiscal year 2015. Mr. Richard seconded the motion which passed unopposed.

d. District Defender Salary Review Update. ITM Director Dr. Erik Stilling gave a brief synopsis on the history and current status of District Defender Salary ranges. Dr. Stilling indicated that staff continues to compile information and will develop an analysis to present at the next Board meeting.

7. **Policy Committee Reports and Recommendations.** Mr. Dixon reported that because of a lack of quorum the Policy Committee did not meet and has no recommendation on the following agenda items for Board action.

a. **CAPOLA Assessment and Recommendations*.** Board Member Rebecca Hudsmith gave a summary of the Capital Working Group's recent efforts to address and resolve serious issues with the Capital Project of Louisiana (CAPOLA) and reported that with all due considerations that it is the recommendation of the working group to not renew the contract with CAPOLA for capital representation services. After a brief discussion, Capital Case Coordinator Jean Faria was instructed to draft an Executive Summary, ultimately to double as a press release and report to the Legislative Auditor. Mr. Richard moved to accept the recommendation not to renew the contract with CAPOLA. Mr. Hamilton seconded the motion which passed unopposed.

Upon motion of Mr. Richard, seconded by Mr. Carver, the Board went into Executive Session.

Upon motion of Mr. Richard, seconded by Ms. Womack, the Board left Executive Session.

Upon return to the regular meeting, Mr. Richard moved to amend the agenda to include item number 7(i) – Amicus Brief - the Capital Appeals Project. Ms. Womack seconded the motion which passed unopposed.

Additionally, the following Resolutions were brought for discussion:

i. **Authority to Reallocate Funds – Legal Fees*.** Staff is requesting permission to reallocate CAPOLA funds to pay private counsel to take those cases from which CAPOLA is being removed as legal counsel. Mr. Richard moved to adopt the Resolution and Mr. Hamilton seconded the motion which passed unopposed.

ii. **Authority to Reallocate Funds – Expert Witness Expense*.** Staff is requesting permission to reallocate CAPOLA funds to pay core team members, mitigation experts and investigator on those cases from which CAPOLA is being removed as legal counsel and private counsel brought in. Mr. Richard moved to adopt the Resolution and Mr. Hamilton seconded the motion which passed unopposed.

iii. **Contract Attorney Approvals*.** Ms. Faria reported that staff is requesting approval to contract with private counsel to handle capital cases. Attorneys' fees will be capped, with an exception for two attorneys who will be paying core team members already in place. Mr. Hamilton moved to approve contracts for private attorneys to enroll as counsel in those capital cases being left unrepresented as a result of CAPOLA's contracts not being renewed. Ms. Womack seconded the motion. The motion passed eight in favor, two abstaining.

b. **Expert Witness Protocol Amendment*.** Mr. Dixon reported that staff is requesting an amendment to the existing expert witness protocol. Currently, all requests for expert funding are placed on a first in/first out basis and are denied permission to begin work or incurring fees until funding becomes available. Staff is requesting that mitigation experts be allowed to start work immediately in order to avoid the potential loss of dated evidence. Payment on services rendered

would still not be made until funds are available. The amended protocol would allow mitigation experts to begin work immediately, rather than potentially loose evidence because of statute of limitations. Mr. Hamilton moved to approve the protocol amendment which was seconded by Mr. Larson and passed unopposed.

c. **Board Vacancies/Appointments.** Mr. Dixon reported that membership appointments to Board are lagging or lacking. A number of appointments have either not been made, not been ratified by Governor, and/or confirmed by the Senate. After a brief discussion, Staff was instructed to submit in writing to the Governor and to the Chief Justice of the Supreme Court requests for appointments to those seats currently vacant and to request confirmation by the Governor of the recommendations of Mr. Herbert Larson (representing Tulane Law School) and Mr. Stephen Singer (representing Loyola Law School).

d. **Child Support Enforcement/Establishment of Paternity Defense – Policy*.** Mr. Dixon reported that a few districts currently regularly engage in representation of clients in child support enforcement and establishment of paternity proceedings, but that that practice is not regularly performed statewide. He further reported that R.S. 46:236.5B(2) allows for reimbursement to the public defender office the amount of \$25 per case -- at the expense of the client – but that the statute does not require the public defender office to provide the representation. Considering the anticipated funding shortfall, Mr. Dixon submitted a draft policy on this matter stating that the district offices are not required to provide legal representation in these two types of cases. Mr. Hamilton moved to adopt the policy which was seconded by Mr. Linares and passed unopposed.

e. **Curatorship - Policy*.** Mr. Dixon reported that there is currently no law requiring Public Defenders to act as curators in CINC cases and that when they are accepted substantial expense is incurred. After a brief discussion, it was determined that laws may actually exist barring an attorney from acting as curator and providing representation to the child. The issue was tabled for future discussion.

f. **CINC and TPR Representation – Policy*.** Mr. Dixon reported that Children’s Code Article 607 has been amended making the Supreme Court responsible for determining representation of children in Child in Need of Care (CINC) cases. Considering the anticipated funding shortfall, Mr. Dixon submitted a draft policy stating that the district public defender offices are not required to provide legal representation for children in CINC and in Termination of Parental Rights cases. Mr. Hamilton moved to adopt the policy which was seconded by Mr. Carver and passed unopposed.

g. **Protocol - LPDB Policy Implementation Notification*.** Mr. Dixon submitted a draft protocol to keep district and contract programs apprised of policies adopted by the Board which may affect them. Mr. Hamilton moved to adopt the protocol which was seconded by Ms. Womack and passed unopposed.

h. **Out of State Travel Exception*.** Dr. Stilling is requesting an exception to the Board’s active freeze on out of state travel. Dr. Stilling has been invited to attend the American Society of Criminologists’ annual convention to present on LPDB’s data program. The cost of the trip is not to exceed \$1,200. Mr. Hamilton moved to approve this request which was seconded by Mr. Goff and passed unopposed.

i. **CAP –Amicus.** Ms. Sarah Ottinger, Executive Director of the Capital Appeals Project (CAP) has requested that LPDB enter into an amicus. After a brief

discussion and upon motion of Mr. Hamilton, seconded by Robert Lancaster, SPD Dixon and Capital Case Coordinator Jean Faria were authorized to determine if the brief to be filed by CAP is a “true amicus” and to make the final decision whether LPDB will participate.

8. Contract Resolutions (La. R.S. 42:262). Pursuant to La.R.S. 42:262 requiring any contract for legal services to be supplemented with written Board approval, staff submitted resolutions approving contracts, as follows:

a. Stone, Pigman*. The LPDB must respond to rulings filed in *State v. Kenneth Willis*, Docket Number 304-806, Section 3, 1st Judicial District Court, Parish of Caddo and *State v. Tarika Wilson*, Docket 315-973, Section 1, 1st Judicial District Court, Parish of Caddo. The Law Firm of Stone, Pigman has agreed to perform legal services upon the terms and conditions set forth in the contract to be submitted to the Attorney General for the State of Louisiana for approval. Mr. Hamilton moved to adopt the resolution which was seconded by Mr. Richard and passed unanimously.

b. Decuir, Clark & Adams*. *Subpoenas Duces Tecum* have been filed in *State v. Robertson*, Docket No. 7-12-0625, Division VII and a *Petition for Writ of Mandamus, Declaratory Judgment and Supplemental Relief* has been filed in *Edge v. Louisiana Public Defender Board, et al*, Docket No. C624295, Division 26, both in the 19th JDC. The Law Firm of DeCuir, Clark & Adams has agreed to perform legal services upon the terms and conditions set forth in the contract to be submitted to the Attorney General for the State of Louisiana for approval. Mr. Larson Larson moved to adopt the resolution which was seconded by Mr. Hamilton and passed unanimously.

9. District Defender Pending Vacancies.

a. Authority to Appointment Interim*. Mr. Dixon reported that there are District Defender vacancies in Districts 33 (Allen Parish), 17 (Lafourche), and 16 (Iberia, St. Martin, St. Mary Parishes) and possibly in Districts 3 (Lincoln, Union) and 30 (Vernon). Mr. Dixon is requesting temporary authority (ending March 1, 2015) to select an interim District Defender in those districts where a vacancy has occurred or may occur. The appointments will be subject to approval by the Board at the next meeting. Mr. Goff moved to approved temporary Interim District Defender appointment authority to Mr. Dixon which was seconded by Ms. Womack and passed unopposed.

10. SSA Report and FY 15 Outreach Update. Mr. Dixon reported that staffs’ FY15 Outreach project has begun with meeting with legislators, judges, local clubs, and site visits being scheduled. The purpose is to inform and educate as many as possible on the pending public defense crisis.

11. Executive Session*. There were no further issues to be discussed in Executive Session.

12. SPD Report. Mr. Dixon reported that staffs’ activities since the last Board meeting are available for review in the SPD report provided in the Board’s meeting materials.

13. Other Business. There was no further business presented for discussion.

14. Meeting Schedule*. The Board set its next two meetings for Tuesday, January 13, 2015, and Tuesday, March 24, 2015. The location of the meeting will be announced.

15. **Adjournment***. Mr. Hamilton moved to adjourn which was seconded by Ms. Womack.

Guests:

Chris Aberle
Tony Champagne
Steve Thomas
Sophia Harris
Allen Harvey

Kerry P. Cuccia
Clay Carroll
John Burkhart
Sarah Ottinger
Paul Fleming

Beane Bonin
Michael A. Mitchell
Jee Park
Chuck Reid
Alan J. Robert

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 13th day of November, 2014, as approved by the Board on the 13th day of January, 2015, at Baton Rouge, Louisiana.


Robert Burns, Chairman



Guide to Completing LPDB District Capital Time Sheet

Effective: April 29, 2014

Beginning May 1, 2014, all attorney, investigator and mitigation specialist time spent on a capital case, or a potentially capital case, at the trial court level must be documented on the attached LPDB District Capital Time Sheet.

I. The Itemized Time Sheets:

A. Time must be broken down according to category, date, client name, amount of time in hours and tenths of an hour, and description of services/outcome, according to the following categories:

1) Court = CT

2) Defendant Interview/Client Contact = CC

a. For the purpose of documenting client contact, time spent waiting for prison guards to take you into the prison and to bring your client to you in the visitation room is to be designated as TR, travel time. Such time is NOT to be designated as client contact or defendant interview time.

3) Travel = TR

4) General Activities

- a. Administrative Tasks = AT
- b. Investigative Services = IS
- c. Legal Services = LS
- d. Research/Writing = RW
- e. Preparation/Review = PR
- f. Meeting-Internal = MI
- g. Other = OT

- B. While the document itself is *Privileged and Confidential* and covered by the *Attorney Client* and *Attorney Work Product Privileges*, time sheets are not expected to include exhaustive detail and, in an abundance of caution, attorneys should redact confidential information and work product. However, time sheets must include meaningful details about the quantity and quality of services rendered.
- C. Time sheets must be computer generated or typed. Unless there is a conflict of interest with the District Defender, time sheets must be submitted, by the first of each month, to the District Defender with jurisdiction over the case. These time sheets shall be maintained by the District Defender and made available upon request by the Case Supervisor, LPDB's Trial Level Compliance Officer, Capital Case Coordinator and/or State Public Defender.
- D. In the event of a conflict of interest with the District Defender, time sheets are to be maintained by Trial Lead Counsel and made available upon request by the Case Supervisor, LPDB's Trial Level Compliance Officer, Capital Case Coordinator and/or the State Public Defender.
- E. LPDB's ITM Division expects defenderData to complete the automation of the District Capital Trial Time Sheet in the next several weeks. Until its integration into the statewide database **all capital core team members** employed by, or under contract with a District Defender to provide direct representation in all potentially capital cases and those that proceed to a capital or non-capital jury trial, shall use the attached form to capture their time.
- F. Paper time sheets shall be maintained by the appropriate repository until such time as the time sheet information is entered into defenderData or the case goes to post-conviction, whichever occurs earlier. In the event the case reaches post-conviction, the time sheets are to be sealed and turned over to successor counsel.



LOUISIANA PUBLIC DEFENDER BOARD

Effective: September 17, 2013

Last Updated: ~~September 13, 2013~~ January 7, 2014

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.

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-monthly** 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.

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LOUISIANA PUBLIC DEFENDER BOARD

*Effective: September 17, 2013
Last Updated: November 6, 2014*

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. LPDB shall not provide approvals totaling more than the maximum monthly amount available

from the Expert Witness Fund. However, approvals may exceed the maximum monthly amount available from the Expert Witness Fund for Core team members as defined by the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (Revised Edition February 2003), Guideline 4.1(A), and the Louisiana Capital Defense Guidelines (LAC 22:XV. Chapter 9) § 913(A)(1)(a), specifically for Mitigation Specialists and Investigators.

- 4.3 Core team member requests for approval are subject to the availability of funding. While Expert Witness requests for approval for Mitigation Specialists and Investigators may be approved to begin work immediately, they cannot be paid until funds are available.
- 4.4 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.
 - 4.4.1 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.
 - 4.4.2 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.
- 4.5 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.
- 4.6 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.

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 exceptional 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-invoiced 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 With the exception of Core Team Members as defined by the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases (Revised Edition February 2003), Guideline 4.1(A), 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 monthly maximum amount available in the Expert Witness Fund.
- 6.2.1 Should the monthly maximum amount of the Expert Witness Fund be reached, the Capital Case Coordinator shall not approve any additional applications for expert witness funds, with the exception of Core Team Members, until and unless additional funds become available by virtue of the release of the monthly installment of the Expert Witness Fund, or release of funds for 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 monthly maximum amount of the 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. The notification shall estimate the month in which the Expert Witness Fund approval reasonably can be expected.