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District Defender Responds to NLADA Report

Report contains factual inaccuracies and misrepresentations regarding the 15th JDC

LAFAYETTE, LA - 15th Judicial District (JD) District Defender David Balfour issued the following statement in response to the National Legal Aid & Defender Association (NLADA) report, "Effective Assistance of Counsel: Implementing the Louisiana Public Defender Act of 2007."

As a public defender for more than 28 years I have dedicated my life's work to ensuring that all citizens have equal access to justice, regardless of their ability to afford counsel.

However, I am concerned that the NLADA's recent report contains numerous misrepresentations and factual inaccuracies regarding the operations of 15th JD Indigent Defender's Office (IDO). For example:

- 1) The structure of the IDO staff and the trial attorneys working in the tri-parish district are inaccurately described throughout the report. The authors also consistently misrepresent IDO policies. Some of the most alarming misrepresentations are in reference to the office's policies regarding caseload, conflicts of interest, defense in death penalty cases and probation revocations.
- 2) Throughout the report, it is suggested that many of the attorneys in the 15th JD IDO carry excessive caseloads as defined by national standards, and these large caseloads prevent them from pursuing meaningful communications with their clients. Two charts contained in the report attempt to demonstrate that caseloads for attorneys are inappropriate. However, the charts refer to the total number of cases assigned to each attorney, rather than the number of open, active files being managed by the attorneys, therefore the charts are misleading. In fact, the policy of the 15th JD IDO is to limit caseload to 150 active cases per attorney. These guidelines are consistent with the recommendations of the American Bar Association.
- 3) The report also suggests that the 15th JD IDO does not have a policy regarding conflicts of interest, but it in fact does. Conflicts are defined and controlled by the Louisiana Supreme Court's Rules of Professional Responsibility, which are scrupulously followed in the 15th JD IDO, and the office expends a considerable amount of time and energy to avoid potential conflicts when files are initially appointed.

- 4) The report suggests that the 15th JD IDO policy regarding death penalty cases is somehow sub-standard and notes that the American Bar Association's Death Penalty Guidelines indicates that capital attorneys should handle no more than three cases per year and that counsel at trial must have at least five years experience. Indeed, the policy of the 15th JD IDO dictates that no capital attorney should have more than two death penalty cases at any time and in fact all of the capital attorneys in the 15th JD IDO have well in excess of five years experience. It should also be noted that over the last 28 years, the 15th JD IDO has never lost a client to a death sentence in a First- Degree prosecution.
- 5) The report suggests that some indigent defendants face the possibility of having their probation revoked if they fail to pay their court-ordered IDO fees. This is completely inaccurate. There is a standing policy within the 15th JD IDO that directs any attorney involved in revocation proceedings to waive IDO fees if such fees are alleged to be a factor that might result in revocation.
- 6) The report absolutely ignores the positive and complimentary reports its investigators obtained. For example, when Judge Edward Rubin was interviewed by the NLADA investigators, he was extremely complimentary of the management and work of the 15th JD IDO. Both Judge Rubin's and all other complimentary remarks were omitted by the authors of the NLADA report.
- 7) At pages 36 through 37 the authors of the NLADA report demonstrate that they have absolutely no understanding of the legal difference between a criminal proceeding involving a juvenile and a truancy proceeding.
- 8) At page 27 of the NLADA report the NLADA misrepresented and misstated the record of IDO lawyers in Acadia Parish in death penalties cases as may be seen from the Affidavit of Mr. Kim Hayes, a copy of which is attached.

The misrepresentation and misstatement of these most basic facts calls into question the accuracy and validity of the entire report.

It should also be noted that despite the many concerns expressed by the NLADA in this report, the 15th JD IDO has never been the subject of complaint by any of the tens of thousands of clients it has served over the last two decades, nor has it ever been the subject of inquiry or reprimands from the Louisiana State Bar Association or the Louisiana Supreme Court.

In contrast to this report, the 15th JD IDO has a solid record of efficiency and effectiveness, managing over 12,000 cases annually over three judicial district courts and four city courts, often with insufficient resources. I hope the Louisiana Public Defender Board will join me in working with the NLADA to correct the inaccuracies in this report.

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