



To: Representative Cameron Henry, Chairman House Committee on Appropriations
Fr: James T. Dixon, Jr., State Public Defender
Re: Fiscal Year 2017-2018 Budget Request Hearings

The mission of the Louisiana Public Defender Board (LPDB) is to pursue equal justice by advocating for clients, supporting practitioners and protecting 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.

While LPDB has been spared the budget cuts that most other state agencies have faced, a financial crisis continues to loom over the state's public defense system. Unlike any other state in the nation, the majority of public defense funding originates from special court costs arising from traffic and criminal filings. In this unstable, unreliable, and insufficient funding system, the number of filings, which statewide provide 66% of district public defender office revenues, have fallen by more than 30% since 2009. Act 571 of the 2016 Regular Legislative Session, was passed in an effort to end service restrictions and prevent future restrictions of service in districts across the state. However, dedicating 65% of the Public Defender Fund has led to a capital case wait list and potential Citizen litigation, and has done nothing to improve the funding mechanism whereby public defenders have very little control over revenues that are easily affected by natural disasters, social unrest, and internal decisions made by other members of the criminal justice system.

Against this backdrop, LPDB has made an FY 18 budget request to the Division of Administration in the amount of \$62,455,651 which is an increase of \$28,673,944 from the FY 17 appropriation. The request for an increased appropriation will primarily provide additional revenues to the district offices and reinstate program office funding to the initial FY 16 appropriation. Below the committee will find responses to both the initial and subsequent FY 18 budget request questionnaire.

During the 2016 sessions, what did the department testify would be the effects of the FY 17 budget on services, staffing, and contracts?

- The Louisiana Public Defender Board (LPDB) testified that the FY 17 recommended budget which proposed a 61.9% budget reduction would have a catastrophic effect

on the criminal justice system, thus greatly impacting public safety. The proposed reduction would have resulted in LPDB being forced to implement a statewide services restriction plan which would have affected 33 of the state's 42 judicial districts (52 of the state's 64 parishes). The proposed reductions would have resulted in significant reductions in public defenders' ability to provide capital and appellate representation. These reductions would also have effectively eliminated representation in juvenile and child in need of care cases.

- Following the 1st Special Session, LPDB's budget was amended to a virtual stand-still budget compared to the FY 16 budget. During committee hearings, LPDB testified that the stand-still budget would do very little to end service restrictions in 14 of the state's judicial districts.
- In addition to reductions in services and contracts, LPDB testified that the FY 17 budget would prevent the office from filling the statutorily required Director of Training position and a paralegal position. Leaving the Director of Training position vacant greatly limits the office's to provide training and instruction to public defenders across the state.

Compared to FY 16, what reductions, including services, staffing, and contracts, have been made in the department in FY 17?

- During FY 16, LPDB was forced to reduce contracts by \$2,917,054.50 to prevent district office closures as well as minimize district office service restrictions. The reductions have been maintained during FY 17 and an additional reduction of \$654,581 have been applied during FY 17.
- As part of LPDB's plan to reduce contracts, the office no longer provides contracts for the Sex Offender Assessment Panels (SOAP).
- While no reductions to staffing have been made by the office, the statutorily created Director of Training position and one paralegal position have remained frozen.

What reductions would the department make if there are mid-year reductions to the FY 17 budget?

- As a result of Act 571 of the 2016 Regular Legislative Session, LPDB greatly reduced its administrative and program budgets. LPDB withheld a portion of the District Assistance Fund, state revenues that flow directly to district public defender offices, in anticipation of potential budget cuts. In the event of a 5% budget cut, those funds would be returned and additional cuts to the administrative and program budgets would be made by the state office.

Provide a brief overview of the FY 18 budget request compared to FY 17 by budget unit. What increases are requested in FY 18 and why are the increases necessary, including any new or expanded programs or services to additional populations? Are there any reductions in the FY 18 budget requests, including those as a result of annualizing reductions made in FY 17?

- LPDB's FY 18 budget request totals \$62,455,651 which is an increase of \$28,673,944 over the FY 17 appropriation.
 - o LPDB has requested an increase of \$24,723,945 to the Louisiana Public Defender Fund which would include a \$19,855,125 increase in funding to the districts. As ticket and criminal filings continue to decline, particularly in districts affected by the March and August floods, the districts continue to see decreases in local revenues. The remaining increase would return the 501c3 programs to FY 16 levels, which would hopefully prevent the Citizen litigation that is expected in the near future due to the current waitlist for capital representation and help reduce the backlog for expert witness requests;
 - o LPDB has requested an increase of \$3,708,971 to cover the expenses of the Indigent Parent Representation Fund. The allocation currently received for this program has never been sufficient to cover this program forcing districts to tap into the revenues provided for other case types to cover representation of parents in Child in Need of Care cases; and
 - o LPDB has also requested funding to bring back the agency's training curriculum, particularly the Defender Training Institute, which is an immersive training experience for new public defenders that is highly regarded by district defenders across the state.

Has the department added any positions, including classified, unclassified, and other charges positions, in FY 17? If so, how many and what positions? Did the department request additional positions in the FY 18 budget request? If so, how many and what positions.

- LPDB has not added any new positions in FY 17. The office did not request any new positions in the FY 18 budget request, however a request has been made to fund the statutorily required Director of Training position, as well as one paralegal position. Both positions were frozen during FY 17.

Provide a summary of changes in salaries from FY 16 to FY 17, including performance adjustments, promotions, or any other changes in salaries. Provide a summary of requested changes in salaries from FY 17 to FY 18, including performance adjustments, promotions, or any other changes in salaries.

- There have been no changes in salaries from FY 16 to FY 17. The FY 18 budget request includes a 4% merit increase for all positions except the two vacant positions.

What budget adjustments have been made since the initial appropriation to your department? How much in each means of finance has been appropriated to each agency since the initial appropriation?

- With the exception of Self-Generated Revenues/Fees budget authority totaling \$135,000, LPDB's FY 17 budget is appropriated from State General Funds.
- The state office has withheld 5% of the District Assistance Fund and will make reductions to the administrative and program office budgets in the event of a mid-year budget reduction.

Do your spending and staffing levels match the priorities of your department?

- Act 571 of the 2016 Regular Legislative Session has limited much of the agency's discretion in spending as by law 65% of the Public Defender Fund is required to be sent to the districts in the form of the District Assistance Fund. Additionally, the Indigent Parent Representation Fund and DNA Testing Fund are special dedications already established in law.
- The Director of Training position has been frozen which greatly limits the office's ability to meet many of the training performance measures that have been established.

Provide the top 5 performance measures that give the outcomes in your department. How do you rank nationally based on these priority measures?

- While there are no national rankings for LPDB's priority performance indicators, these indicators were based on the *Ten Principles of a Public Defense Delivery System* promulgated by the American Bar Association in 2002. These principles were developed as a practical guide for governmental officials, policymakers, and other parties charged with creating, funding, and improving public defense delivery systems. It should be noted, however, that the data management system implemented by the LPDB is nationally recognized. It provides the agency with workload data and provides current financial and compensation data from every district in the state. Because of this data management system, LPDB is the most transparent agency in the Louisiana criminal justice system.
- The top 5 performance indicators as established by the LPDB are as follows:
 - o Submit 3 grants for each fiscal year for LPDB and/or for the district offices
 - o Provide on-site and/or long distance training for appropriate personnel in 20 district public defender and program offices
 - o Receive positive evaluations ("3" or higher) from more than 80% of training participants at LPDB-sponsored trainings
 - o Train 20% of total Louisiana public defenders
 - o Use the District Assessment Protocol (with corrective action as needed) to perform full assessments in 10 district public defender offices

Provide a list of all sources of revenue that are not appropriated. These funds could include restricted or off budget accounts. Also, please provide the amount anticipated to be used in FY 17, the amount in FY 18, and any balance or reserve amount for each source or revenue.

- LPDB has been awarded a grant from the Louisiana Commission on Law Enforcement, the FY 17 award totaled \$50,000. LPDB has applied to receive a FY 18 grant in the amount of \$75,000.
- LPDB also received a grant from the Laura and John Arnold Foundation to conduct a workload study. The carry forward grant amount from FY 16 is \$55,034, we do not anticipate any funding from the Arnold Foundation in FY 18.