

Appendix B1
List of Trials and Outcomes
2005-2019

	Year	Client	District	Outcome at Penalty	Current Status
1	2005	Anderson, Henry	4	Death	Post-Appeal
2	2005	Cambre, Mark	24	Life	
3	2005	Coleman, Robert	1	Death	Reversed
4	2005	Lacaze, Jamaal	41	Less than Life	
5	2005	Montejo, Jesse	22	Death	Post-Appeal
6	2006	Bordelon, Gerald	21	Death	Executed
7	2006	Brewer, Gerod	26	Less than Life	
8	2006	Holmes, Brandy	1	Death	Reversed
9	2006	Thompson, Terry	19	Life	
10	2006	Williams, Shedran	19	Death	Post-Appeal
11	2007	Clavelle, Gregory	16	Life	
12	2007	Davis, Rick	1	Death	Reversed
13	2007	Lively, Marilyn	16	Life	
14	2008	Amison, Kevin	41	Less than Life	
15	2008	Bell, Anthony	19	Death	Post-Appeal
16	2008	Brumfield, Sanchez	19	Death	Reversed
17	2008	Carter, Terrance	39	Death	Died on the row
18	2008	Davis, Brandon	1	Life	
19	2008	Garcia, Michael	18	Death	Post-Appeal
20	2008	Gillis, Sean	18	Life	
21	2008	Odenbaugh, Lee Roy	4	Death	Post-Appeal
22	2009	Anderson, Michael	41	Death	Reversed
23	2009	Dorsey, Felton	1	Death	Post-Appeal
24	2009	Ferguson, Barry	41	Life	
25	2009	Hebert, Amy	17	Life	
26	2009	Magee, James	22	Death	Post-Appeal
27	2009	Wells, Tyrone	41	Life	
28	2009	Wells, Tyrone	41	Less than Life	
29	2010	Holliday, Dacarius	19	Death	Appeal Pending
30	2010	Jones, Alfred	41	Life	
31	2011	Baker, David	22	Life	
32	2011	Brown, David	20	Death	Appeal Pending
33	2011	Carley, Robert	20	Life	
34	2011	Clark, Jeffrey	20	Death	Appeal Pending
35	2011	Doyle, Isaiah	24	Death	Appeal Pending
36	2011	Henry, Darrill	41	Life	
37	2011	McCoy, Robert	26	Death	Reversed
38	2011	Mickelson, Eric	1	Death	Reversed
39	2011	Tucker, Lamondre	1	Death	Post-Appeal
40	2011	Varnado, Michael	21	Life	
41	2012	Barnes, Kenneth	41	Life	
42	2012	Coleman, Robert	1	Death	Reversed
43	2012	Cope, Christopher	1	Life	
44	2012	Jordan, Sam	1	Life	

Appendix B1
List of Trials and Outcomes
2005-2019

45	2012	Robinson, Dominic	22	Life	
46	2013	Crawford, Rodricus	1	Death	Exonerated
47	2013	Edge, Barry	20	Life	
48	2013	Prince, Daniel	15	Life	
49	2013	Reed, Marcus	1	Death	Post-Appeal
50	2014	Horn, Brian	42	Death	Reversed
51	2015	Barthelemy, Robert	11	Life	
52	2015	Mickelson, Eric	1	Life	
53	2015	Turner, Lee	19	Death	Reversed
54	2016	Brown, David	17	Death	Appeal Pending

Appendix B2
List of Trials and Outcomes
Sentenced to Death 2005-2019

	Year	Client	District	Outcome at Penalty	Current Status
1	2005	Anderson, Henry	4	Death	Post-Appeal
2	2005	Coleman, Robert	1	Death	Reversed
3	2005	Montejo, Jesse	22	Death	Post-Appeal
4	2006	Bordelon, Gerald	21	Death	Executed
5	2006	Holmes, Brandy	1	Death	Reversed
6	2006	Williams, Shedran	19	Death	Post-Appeal
7	2007	Davis, Rick	1	Death	Reversed
8	2008	Bell, Anthony	19	Death	Post-Appeal
9	2008	Brumfield, Sanchez	19	Death	Reversed
10	2008	Carter, Terrance	39	Death	Died on the row
11	2008	Garcia, Michael	18	Death	Post-Appeal
12	2008	Odenbaugh, Lee Roy	4	Death	Post-Appeal
13	2009	Anderson, Michael	41	Death	Reversed
14	2009	Dorsey, Felton	1	Death	Post-Appeal
15	2009	Magee, James	22	Death	Post-Appeal
16	2010	Holliday, Dacarius	19	Death	Appeal Pending
17	2011	Brown, David	20	Death	Appeal Pending
18	2011	Clark, Jeffrey	20	Death	Appeal Pending
19	2011	Doyle, Isaiah	24	Death	Appeal Pending
20	2011	McCoy, Robert	26	Death	Reversed
21	2011	Mickelson, Eric	1	Death	Reversed
22	2011	Tucker, Lamondre	1	Death	Post-Appeal
23	2012	Coleman, Robert	1	Death	Reversed
24	2013	Crawford, Rodricus	1	Death	Exonerated
25	2013	Reed, Marcus	1	Death	Post-Appeal
26	2014	Horn, Brian	42	Death	Reversed
27	2015	Turner, Lee	19	Death	Reversed
28	2016	Brown, David	17	Death	Appeal Pending

Appendix B3
List of Trials and Outcomes
Reversals of Death Cases 2005-2019

	Year	Client	District	Outcome at Penalty	Current Status
1	2005	Coleman, Robert	1	Death	Reversed
2	2006	Holmes, Brandy	1	Death	Reversed
3	2007	Davis, Rick	1	Death	Reversed
4	2008	Brumfield, Sanchez	19	Death	Reversed
5	2009	Anderson, Michael	41	Death	Reversed
6	2011	McCoy, Robert	26	Death	Reversed
7	2011	Mickelson, Eric	1	Death	Reversed
8	2012	Coleman, Robert	1	Death	Reversed
9	2013	Crawford, Rodricus	1	Death	Exonerated
10	2014	Horn, Brian	42	Death	Reversed
11	2015	Turner, Lee	19	Death	Reversed

From: Jean Faria <JFaria@lpdb.la.g >
Date: Wed, Apr 24, 2019 at 4:30 PM Subject: DP data
To: bill quigley <quigley77@gmail.com>

Bill:

In response to your query:

Average number of capital arrests between 2012 and 2015?

84 capital arrests per year

Average number of capital indictments between 2012- 2015?

32 capital arrests per year

The percentage of times the state announces it would not seek death prior to trial without an agreement to plea:

74%

The percentage of time the state announced it would not seek death as part of a plea?

21%

The percentage of time the case went to trial?

3%

Of the total list of cases that were resolved with a plea:

The percentage of cases where pleas were to life without parole?

50% (12 cases)

The percentage of cases where pleas were to a term of years?

50%

In terms of cases where death was dropped without an agreement:

The percentage of cases where pleas were to life without parole:

We can't state the percentage because we don't have complete data on all cases. We do know that 18 cases so far have resulted in life without parole: 4 by plea, 14 by trial. One third of the case results still need to be finalized.

Let me know if you need further information.

All the best,

Jean

Jean M. Faria

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LOUISIANA PUBLIC DEFENDER BOARD

Thursday, April 18, 2019
Bluebonnet Regional Library, Baton Rouge, LA
12:00 p.m.

AGENDA

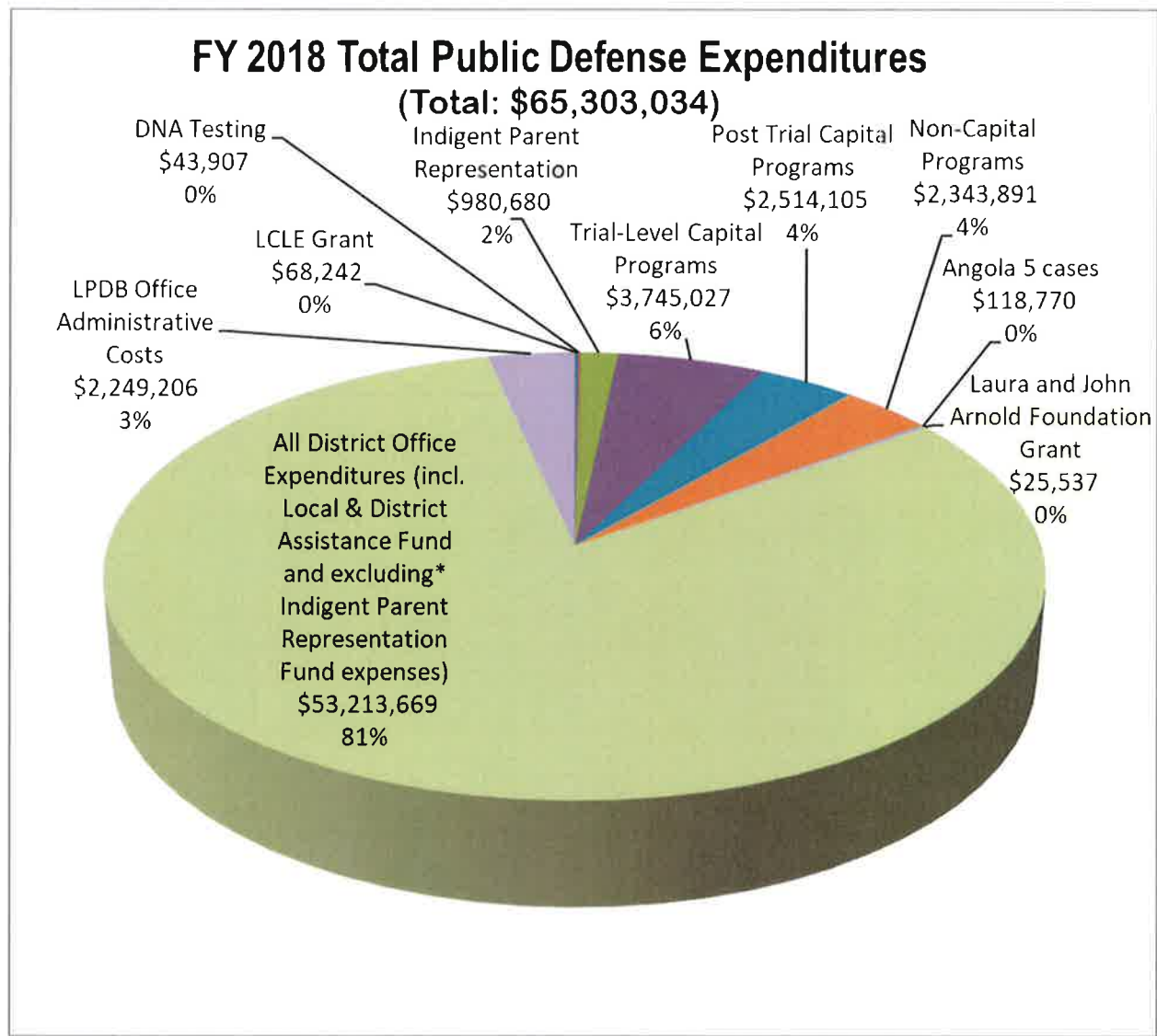
1. Call to Order and Comments by Chairman, Frank Holthaus
2. Adoption of the Agenda* pgs. 119-121
3. Call for Public Comment¹
4. Adoption the Minutes, January 31, 2019* **Tab 1**, pgs. 122-126
5. Executive Session²
6. Strategic Plan* **Tab 2**, pgs. 127-163
The amended strategic plan as presented at the January 30, 2019 Board meeting to meet state compliance (for approval) through the remainder of FY2019 in addition to current state instructions and templates for new submittals covering FYs 2020-2021, and 2024-2024, which are due July 1, 2019 to OPB.
7. Budgetary and Fiscal **Tab 3**
 - a. Financial Report through March 31, 2019* pgs. 164-168
The Budget Committee is recommending the report as presented.
 - b. FY19
 - i. Solvency Projections. *Projections made with data through February 28, 2019.* pg. 169
 - ii. Exigency Funding.
 - a. District 11 - \$10,000 pgs. 170-172
The Budget Committee is recommending exigency funding in the amount of \$10,000 to District 11.
 - b. District 19 - \$452,593 pgs. 173-177
The Budget Committee is recommending exigency funding in the amount of \$452,593 to District 19.

¹ Public Comments shall be limited to items on the duly noticed agenda pursuant to open meeting laws.

² 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: *Joseph Allen et al v. John Bel Edwards*, et al, Docket: C655079, Section 27, 19th JDC, Parish of East Baton Rouge; *State v. Frederick Jackson*, Docket No.: 222,275 (26th JDC, Bossier Parish); *State v. Derek Mitchell*, Docket No.: 2017-CR-62422 (15th JDC, Vermilion Parish); *State v. Dakota Theriot*, Docket No.: 38517 (21st JDC, Livingston Parish) and *State v. Dakota Theriot*, Docket No.: 40300 (23rd JDC, Ascension Parish).

- c. Catastrophic ROS*. *The Budget Committee brings this issue to the full Board for guidance and discussion to include the possible creation of a plan requiring district defenders to identify ROS plans that do not allow for office closures rather a gradual reduction in staff if at all possible; Alternatively, to refer the issue to the Policy Committee to review and update existing ROS protocols/guidance with consideration to suggestions from district defenders.* pgs. 178-188
- d. FY20 Appropriation - informational
- i. CINC FY20 Funding. *Update regarding funding for partial reimbursement by the federal government for parent and child representation in child welfare cases.*
- e. FY2020 Contract Amounts* pg. 189
- The Budget Committee is recommending maintaining funding for FY20 as presented (staff recommendation column), which is equal to what each contractor was initially approved for in FY19.*
- i. Professional and Consulting
- ii. 501(C)3 Programs
- f. DAF FY20*
- The Budget Committee is recommending Method 14 Consensus \$24.08M for FY20 which would provide for approximately \$2M in exigency funds for districts in need.*
- i. Assuming \$20.5M, Hypothetical, 95% DAF Allocation pgs. 190-198
- ii. Assuming \$24.08M, Hypothetical, 95% DAF Allocation pgs. 199-213
- iii. All Formulae DROP BOX
- iv. Method 14 Consensus, \$20.5M w/ CAP pg. 214-215
- v. Method 14 Consensus, \$24.08M w/ CAP pg. 216-217
8. ROS Updates - Informational
9. Resolutions and Policies **Tab 4, pg. 218**
- a. Resolution – Authority for Staff to Submit Request for Attorney General Opinion* *The Board requested that General Counsel seek an Attorney General Opinion on the issue of email strings possibly violating Open Meeting Laws and proper email procedures among Board members and the field. AG rules require a current Board Resolution attached to the opinion request at submittal time.*
10. District Information **Tab 5**
- a. District 17 – District Defender Selection – update
- The selection committee submitted its list of candidates on April 11th. All Board members will be notified by email of interviews, to be scheduled the week of April 22nd, and are invited to attend in person or by phone.*
- b. District 25 - Resignation of District Defender (Plaquemines Parish) pg. 219
- i. Search for District Defender – Status. *Once the selection committee is fully appointed the statutory clock will begin to run. The Chief Judge and SPD have made their appointments. As of April 12, 2019, the LSBA president's appointment remains.*
- ii. Interim District Defender, District 25*
- Appointment and Salary Ratification of Tom Gernhauser at \$3000 per month* pg. 220
- c. LLA District Compliance Report, 2019 pgs. 221-249
- Annual report released by the LLA on district compliance.*

- | | | |
|-----|---|--|
| 11. | LPDB – JLCB 2018 Report
<i>Annual mandatory report submitted to JLCB on March 1.</i> | Tab 6 , pgs. 250-255 |
| 12. | Legislative Session, 2019 - informational | |
| 13. | Division Reports
a. Capital
b. Juvenile Strategic Plan | Tab 7
pgs. 256-264
pgs. 265-266 |
| 14. | Announcements
a. Executive Staff Position Interviews | |
| 15. | Next Meeting | |
| 16. | Adjournment* | |



This pie chart graphically depicts the **combined** amounts of LPDB expenditures on major line items and the total expenditures for the 42 District Public Defender Offices for FY18. Statewide, the district offices provide legal representation in most criminal matters in which an adult or a juvenile defendant could face imprisonment or detention and for parents in Child-In-Need-of-Care (CINC) cases. The exception is Orleans Parish where most juvenile clients are represented through a contract between LPDB and Louisiana Center for Children's Rights (LCCR). In addition, LPDB contracts with 501(C)(3) programs to provide legal representation in post-conviction, appellate, and capital cases throughout the state and juvenile representation in limited jurisdictions. A few district offices provide legal representation in capital cases. Any district in Restriction of Services (ROS) is deemed unable to provide services in capital cases.

CAPITAL DIVISION April 9, 2019**Statistics**

As of 4/9/19, there are 35 capital indicted cases in which an indigency determination has been made and indigent counsel are assigned or pending or pro bono counsel has enrolled.

Of the 35 capital indicted cases, the geographical distribution and the source of funding for their representation is shown below:

INDIGENT INDICTED CAPITAL CASES 4/9/2019

District	Parishes	Program	Pro bono	Appointed	Waiting	TOTAL
1	Caddo	1			1	2
9	Rapides	3				3
10	Natchitoches	1				1
14	Calcasieu	2				2
15	Lafayette, Acadia Vermillion	8	1	1	1	11
16	Iberia, St. Martin, St. Mary	3			1	4
19	East Baton Rouge				1	1
21	Livingston, Tangipahoa, St. Helena			1		1
22	St. Tammany	2	1			3
23	Ascension, Assumption, St. James			1		1
24	Jefferson	1				1
26	Bossier, Webster	1				1
40	St. John	2				2
41	Orleans	1				1
42	DeSoto	1				1
		26	2	3	4	35

The 35 capital indictments are spread across 15 of Louisiana's 42 judicial districts.

Of the 35 capital indictments, program offices contracting with the LPDB provide merits representation in 26 cases, the district defender is not responsible for representation in any of the indicted cases, 2 are represented by pro bono counsel, 3 have counsel appointed under *State v. Citizen* and funding litigation has been commenced and 4 indicted cases are on the waiting list with rights counsel assigned and litigating the appointment of merits counsel. The LPDB's capital

programs provide merits representation pursuant to their contracts in 84% of the indicted capital cases in which merits representation is being provided. In 6% of indicted capital cases in which merits representation is provided pro bono or formerly private counsel provide services and in 10% of cases merits counsel has been appointed under *Citizen*.

In addition, as of 4/9/19 there are 9 pre-indictment first degree murder cases in which the District Attorney has not announced that the case will proceed without the death penalty. Of the pre-indictment cases, none have capitally certified counsel appointed on the merits, two have rights counsel appointed.

A snapshot of the workload of the three capital trial offices is provided in the chart below.

Office	Pre-indictment	Indicted	Appeal	TOTAL
BRCCO		9		9
CDPSELA		10		10
LCAC		9	1	10

Each office also retains responsibility for some previously capital cases as well as three capitally indicted cases where the defendant has been found irreversibly incompetent, in addition to the enumerated workload.

In addition to the indicted capital cases handled by the trial program offices, the Capital Appeals Project (CAP) is currently handling two such cases on a limited rights basis (911(H)), one resulting from a remand following a successful appeal.

As a further burden, staff attorneys at the LCAC have been mandatorily appointed in four indicted capital cases under *Citizen* since the last capital report. In one of those cases the District Attorney has subsequently announced that he will not seek death but three remain open as death cases with funding litigation initiated.

At current funding levels, neither the districts nor the program offices have the capacity to manage the rate of capital indictments the state is currently experiencing.

INDICTED CAPITAL CASES 4/9/19

District	Parish	Client Name	Representation
1	Caddo	Cannon, Grover	CDPSEL
1	Caddo	Watkins, Dewayne	LCAC*
9	Rapides	Sonnier, Ebony Nicole	CDPSEL
9	Rapides	Sonnier, Matthew	BRCCO
9	Rapides	Teasley, Timothy	CDPSEL
10	Natchitoches	Smith, Felicia	LCAC
14	Calcasieu	Daigle, Kevin	BRCCO

14	Calcasieu	Thompson, Felton	CDPSEL
15	Lafayette	Aubrey, Jonathan	BRCCO
15	Lafayette	Broussard, Landon	Pro bono
15	Lafayette	Delahoussaye, Joseph	BRCCO
15	Lafayette	Howard, Ian	LCAC
15	Lafayette	Sylvester, Joseph	LCAC
15	Lafayette	Willis, Joshua	CDPSEL
15	Vermillion	Crooms, Robert	CAP*
15	Vermillion	Levine, Jalen	BRCCO
15	Vermillion	Mitchell, Derrick	<i>Citizen</i>
15	Vermillion	Trahan, Nathaniel	BRCCO
15	Vermillion	Viator, Derrick	BRCCO
16	Iberia	Augustine, Jeyohn	LCAC*
16	Iberia	King, Michelle	CDPSEL
16	Iberia	Verret, Roy	LCAC
16	St. Martin	Thomas, Toni Trimble	CDPSEL
19	East Baton Rouge	Turner, Lee	CAP*
21	Livingston	Theriot, Dakota	<i>Citizen</i>
22	St. Tammany	Landry, Jason	LCAC
22	St. Tammany	Nauck, Corey	Pro bono
22	St. Tammany	Olivieri, Steve	BRCCO
23	Ascension	Theriot, Dakota	<i>Citizen</i>
24	Jefferson	Every, Joshua	CDPSEL
26	Bossier	McCoy, Robert	LCAC
40	St. John	Joekel, Kyle David	CDPSEL
40	St. John	Smith, Brian	LCAC
41	Orleans	Hambrick, Mark	CDPSEL
42	De Soto	Horn, Brian	BRCCO

*911(H) preservation of rights representation

PRE-INDICTMENT CAPITAL CASES 4/9/19

As of April 9, 2019, there are 9 pre-indictment capital cases.

District	Parish	Name	Representation
15	Lafayette	Bourque Jr, Paul	
15	Lafayette	Edwards, Jeremy	
15	Lafayette	Ladelle, Ayana	
15	Lafayette	Richard, Dewayne	
19	East Baton Rouge	Curtis, Adrian	
19	East Baton Rouge	Brown, Donevan	

19	East Baton Rouge	Curtis, Courtland	
24	Jefferson	Leonard, Terrance	Rights
24	Jefferson	Lloyd, Gamario	Rights

CAPITAL TRIAL WAIT LIST 4/9/19

As of April 9, 2019, there are 16 cases on the Capital Trial Wait List.

District	Name	Eligible Date	Posture	Representation	Days Delay to Counsel
15	Crooms, Robert	11/2/2018	Indicted	Rights	158
15	Mitchell, Derrick	11/7/2018	Indicted	Citizen	96
19	Turner, Lee	12/5/2018	Indicted	Rights	125
16	Augustine, Jeyohn	1/4/2019	Indicted	Rights	95
21	Theriot, Dakota	1/27/2019	Indicted	Citizen	72
23	Theriot, Dakota	1/27/2019	Indicted	Citizen	72
1	Watkins, Dewayne	2/14/2019	Indicted	Rights	54
24	Leonard, Terrance	3/6/2019	Pre-indictment	Rights	34
24	Lloyd, Gamario	3/22/2019	Pre-indictment	Rights	18
19	Curtis, Adrian	3/29/2019	Pre-indictment		11
19	Brown, Donevan	3/29/2019	Pre-indictment		11
19	Curtis, Courtland	3/29/2019	Pre-indictment		11
15	Edwards, Jeremy	3/30/2019	Pre-indictment		10
15	Ladelle, Ayana	4/1/2019	Pre-indictment		8
15	Richard, Dewayne	4/1/2019	Pre-indictment		8
15	Bourque Jr, Paul	4/5/19	Pre-indictment		4

Eligible date refers to the date at which the client became eligible to receive capital defense services. It will usually refer to the arrest date following arrest for first degree murder. However, where a case is not initially identified as capital, it will be the date at which the case is identified as a capital case. In the case of clients who have received a reversal of conviction or sentence upon review, it will be the date of that reversal, unless the State seeks further review. Where counsel has been removed due to conflict or for other reason, it refers to the date that new counsel was required. The waiting list is based upon date of eligibility but prioritizes those who have been indicted.

Trial Expert Witness Fund Update

Through the end of the fiscal year \$1,882.94 currently remain available for any new or pending requests and there are currently \$60,002 in requests pending approval.

The FY19 budget for the Capital Trial Expert Witness Fund award is \$250,000, a significant reduction from historical funding as shown below:

Fiscal Year	Trial Expert Witness Fund
FY19	\$250,000
FY18	\$250,000
FY17	\$385,000
FY16	\$800,000
FY15	\$855,000
FY14	\$1,031,000
FY13	\$600,000
FY12	\$600,000
FY11	\$600,000
FY10	\$500,000
FY09	\$301,762

To date, there have been 51 expert witness applications for funding totaling \$532,740.04. This total included \$50,272 in applications in queue at the start of fiscal year 2019. Three of those applications totaling \$1,625 were fully or partially denied. Seventy-four invoices have been paid totaling \$250,221.51. There is 1 invoice pending, review and payment for the month of April. There is 1 request for a 180-day extension of funding. A total of \$226,260.34 has been released and returned to the fund due to staleness or case closures.

Funding of capital trial representation and demand

The FY19 capital trial representation funding, including attorneys, mitigation specialists, fact investigators, paralegals and support services, overheads and all case related expenses save experts, is \$3,495,027, a significant reduction from historical funding as shown below.

Fiscal Year	Trial Representation Programs
FY19	\$3,495,027
FY18	\$3,330,027
FY17	\$3,125,000
FY16	\$4,819,728
FY15	\$4,761,675
FY14	\$4,264,779
FY13	\$4,597,311

FY12	\$4,839,501
FY11	\$4,687,347
FY10	\$4,744,820
FY09	\$5,375,506

Trial representation is provided by contracts with three not-for-profit law offices operating specialist capital defense practices: Capital Defense Project of South-East Louisiana (CDPSELA), Baton Rouge Capital Conflict Office (BRCCO) and Louisiana Capital Assistance Center (LCAC).

The combined professional hours purchased by the contracts are shown in the table below.

Staff Role	Annual Contract Hours	Hours provided to 1/31/19	Percentage of hours expected to date	Percentage of Annual Contract Hours
Lead counsel	14,841	9,881	114%	67%
Associate Counsel	7,251	4,724	112%	65%
Junior Counsel	2,604	1,270	84%	49%
TOTAL: LAWYER	24,696	15,876	110%	64%
Mitigation Specialist	18,564	12,572	116%	68%
Fact Investigator	3,396	2,320	117%	68%
Total: INV	21,960	14,892	116%	68%
Paralegal	5364	3,711	119%	69%
Law Clerk	331	652	197%	115%
Total: SUPPORT	5,931	4,364	126%	74%

The Board has previously set the allowable hourly contract rate for capital trial services at a range of \$85 to \$110 for certified capital counsel (lead or associate counsel). By way of comparison, the current hourly rate for Federal Criminal Justice Act appointments in capital cases is \$188 and in non-capital cases is \$140. The contracts with the program offices produce an effective hourly contract rate at or below the low end of the state scale for lead counsel and considerably below that scale for associate counsel, as well as providing effective hourly rates for the other staff well below market contract rates.

A detailed review of indigent capital arrests, indictments and the ultimate disposition of cases was conducted for the period FY12-15. It showed an annual average of 84 adult first degree murder arrests a year and 32 first degree indictments where death remained on the table. A review of FY18 reveals 79 adult first degree murder arrests and 32 first degree indictments where death remained on the table. It should also be noted that some districts continued to provide merits representation in FY12-15 but that is no longer the case.

In essence, the current level of demand is at a comparable level to the FY12-15 period but funding through district defender offices has been removed and funding from the state office for capital trial representation (contracts and the expert fund) has been reduced by 30% compared to that earlier period.

Citizen Appointments & Funding Litigation

Where cases cannot be staffed through the existing capital defense contracts as a result of lack of adequate resources, the district court is promptly advised.

Pursuant to *State v. Citizen*, the court is expected to mandatorily appoint capital certified counsel, whether there is funding available for appointed counsel or not. Appointed counsel may seek to resist the appointment if accepting the appointment would result in a violation of the rules of professional conduct. Mandatorily appointed counsel cannot be forced to work for free and, pursuant to *Citizen*, the court must identify a source of funds to compensate counsel. The only available sources of funds under the *Citizen* decision are the local and state defender funds. Under *Citizen*, counsel is expected to file a motion for the court to determine a source of funds and, if no funds are identified, the defense may move for a halt of the prosecution. The Louisiana Public Defender Act specifically acknowledged the authority to halt prosecutions and provided that it was “the express intention of the legislature to ensure adequate resources” to ensure no prosecutions were halted. La. R.S. 15:142(D).

Since January 2019, several capital cases have involved litigation regarding the mandatory appointment of counsel and the determination of a source of funds. In one case, a halt of prosecution was ordered due to the lack of identifiable funds – this is the first halt of prosecution under *Citizen* since the Louisiana Public Defender act was passed.

The following is a brief summary of the litigation regarding appointment and funding that has occurred since January:

State v. Frederick Jackson, 222,275 (26th JDC) – district court appointed two counsel – both accepted the appointment and moved to determine a source of funds under *Citizen*. The court determined that there was no identifiable source of funds and entered a halt of prosecution pending a further hearing to try to identify a source of funding. Subsequently the state announced that it did not intend to seek the death penalty and mandatorily appointed counsel were relieved of the appointment. Counsel were directed to submit an invoice for the work performed under the appointment, which the court will direct be paid.

State v. Derek Mitchell, 2017-CR-62422 (15th JDC) – the district court mandatorily appointed a single attorney who accepted the appointment. Counsel has moved for appointment of a second attorney and moved to determine a source of funds. The motion has not yet been set for hearing.

State v. Dakota Theriot, 40300 (23rd JDC) – Two counsel were mandatorily appointed and both objected due to workload. The district court mandatorily appointed two other certified counsel who accepted the appointment and moved to determine source of funds. That motion is set for hearing on April 29, 2019.

State v. Dakota Theriot, 38517 (21st JDC) – Two counsel were mandatorily appointed, with one accepting and one objecting. A motion to determine second counsel and a motion to determine source of funds have been filed and are set for hearing on May 29, 2019.

State v. Jeyohn Augustine, 51-6105 (16th JDC) – Two counsel were mandatorily appointed – one objected and the other did not respond. The district court has now appointed a further attorney in lieu of counsel who objected. It is not known if counsel will accept or object at this stage.

State v. Dewayne Watkins, 362447 (1st JDC) – The district court mandatorily appointed every capitally certified lawyer in the state but has not yet sent out notices to any of those counsel. Emergency writs are pending in the Court of Appeals and Supreme Court complaining that this represents an improper and ineffective appointment.

State v. Trashone Mayes, 18-3821 (7th JDC) – The district court mandatorily appointed two counsel, both of whom objected. The issue of appointment was subsequently mooted when the state announced that it did not intend to seek the death penalty.

State v. Kenton Crooms, 2017-CR-63023 (15th JDC) – The district court refused to appoint counsel and instead set the case off for two months and subpoenaed Jay Dixon to provide evidence on the motion to appoint counsel. Emergency writs were filed in the Third Circuit Court of Appeal and the Louisiana Supreme Court challenging the failure to immediately appoint counsel. Prior to a decision from the Third Circuit, the state filed a notice that it no longer intended to seek the death penalty.

State v. Anthony Taylor, 51-5974 (16th JDC) – Prior to the district court acting to make an appointment of counsel, the state filed a notice that it did not intend to seek the death penalty, mooting the issue.

State v. Lance Rouse, 19-CR1-140973 (22nd JDC) – The court sat of the decision on appointment of counsel for months, leaving Mr. Rouse without merits representation in the pre-indictment period. The issue was rendered moot when the grand jury returned an indictment for second degree murder.

State v. Ernest White, (15th JDC) - Prior to the district court acting to make an appointment of counsel, the state filed a notice that it did not intend to seek the death penalty, mooting the issue.

Court Appearances

The capital case coordinator appeared in Mansfield on March 7, 2019 and April 4, 2019 in State v. Brian Horn.

Training

On March 29, 2019, LPDB and NAPD Fund for Justice co-sponsored Larry Pozner on Cross: Advanced Techniques Using the Chapter Method, hosted by Loyola University New Orleans, College of Law and Advocacy Center. There were 81 attendees for the event.

On May 17, 2019, LPDB and Innocence Project New Orleans will present a training on the science of memory and eyewitness identifications and Act 466 of 2018. This training will be hosted by Donald Kneipp, District Defender in the 2nd Judicial District, at the District Court in Arcadia, La.

Appendix B6 LPDB Contracts FY11-20

FY 11 Contract Amounts	
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 11 Actual
Baton Rouge Capital Conflict Office (BRCCO)	935,000
Capital Assistance Project of La. CAPOLA	\$ 1,399,787
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 1,168,268
Capital Defense Project of Southeast Louisiana (CDPSLA) 22	\$ -
Louisiana Capital Assistance Center (LCAC)	\$ 1,184,292
Louisiana Appellate Project (EW)	\$ 600,000
TOTAL "Capital Trial Programs"	\$ 5,287,347
Capital Appeals Project (CAP)	\$ 1,096,515
Capital Post-Conviction Project of Louisiana (EW)	\$ 800,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 2,306,000
TOTALS	\$ 4,202,515
Louisiana Appellate Project (LAP)	\$ 1,896,250
Innocence Project of New Orleans (IPNO)	\$ 400,000
La Center for Childrens' Rights (LCCR)	\$ -
TOTALS	\$ 2,296,250
Total Capital	\$ 9,489,862
Other Contracts	\$ 2,296,250
Total amount	\$ 11,786,112
DAF Amount:	\$ 18,764,017

FY 12 Contract Amounts	
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 12 Actual
Baton Rouge Capital Conflict Office (BRCCO)	935,000
Capital Assistance Project of La. CAPOLA	\$ 1,228,751
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 1,491,458
Capital Defense Project of Southeast Louisiana (CDPSLA) 22	\$ -
Louisiana Capital Assistance Center (LCAC)	\$ 1,184,292
Louisiana Appellate Project (EW)	\$ 600,000
TOTAL "Capital Trial Programs"	\$ 5,439,501
Capital Appeals Project (CAP)	\$ 1,096,515
Capital Post-Conviction Project of Louisiana (EW)	\$ 800,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 2,306,000
TOTALS	\$ 4,202,515
Louisiana Appellate Project (LAP)	\$ 1,896,250
Innocence Project of New Orleans (IPNO)	\$ 400,000
La Center for Childrens' Rights (LCCR)	\$ -
TOTALS	\$ 2,296,250
Total Capital	\$ 9,642,016
Other Contracts	\$ 2,296,250
Total amount	\$ 11,938,266
DAF Amount:	\$ 18,214,090

FY 13 Contract Amounts	
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	Total FY 15 Contract
Baton Rouge Capital Conflict Office (BRCCO)	\$ 935,000
Capital Assistance Project of La. CAPOLA	\$ 1,399,788
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 1,663,370
Louisiana Capital Assistance Center (LCAC)	\$ 599,153
Louisiana Appellate Project (EW)	\$ 600,000
TOTAL "Capital Trial Programs"	\$ 5,197,311
Capital Appeals Project (CAP)	\$ 1,092,852
Capital Post-Conviction Project of Louisiana (EW)	\$ 800,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 2,361,750
TOTALS	\$ 4,254,602
Louisiana Appellate Project (LAP)	\$ 1,898,144
Innocence Project of New Orleans (IPNO)	\$ 400,000
La Center for Childrens' Rights (LCCR)	\$ 510,000
TOTALS	\$ 2,808,144
Total Capital	\$ 5,197,311
Other Contracts	\$ 7,062,746
Total amount	\$ 12,260,057
DAF Amount:	\$ 17,476,285

FY 14 Contract Amounts		
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	Total FY 15 Contract	Total FY 15 Contract
Baton Rouge Capital Conflict Office (BRCCO)	\$ 467,500	\$ 935,000
Capital Assistance Project of La. CAPOLA	\$ 599,893	\$ 1,299,788
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 831,685	\$ 831,685
Louisiana Capital Assistance Center (LCAC)	\$ 599,153	\$ 1,198,306
Louisiana Appellate Project (EW)	\$ 600,000	\$ 1,031,000
TOTAL "Capital Trial Programs"	\$ 3,098,231	\$ 5,295,779
Capital Appeals Project (CAP)	\$ 546,426	\$ 1,092,852
Capital Post-Conviction Project of Louisiana (EW)	\$ 800,000	\$ 800,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 1,180,875	\$ 2,361,750
TOTALS	\$ 2,527,301	\$ 4,254,602
Louisiana Appellate Project (LAP)	\$ 949,072	\$ 1,898,144
Innocence Project of New Orleans (IPNO)	\$ 400,000	\$ 400,000
La Center for Childrens' Rights (LCCR)	\$ 255,000	\$ 510,000
TOTALS	\$ 1,604,072	\$ 2,808,144
Total Capital	\$ 3,098,231	\$ 5,295,779
Other Contracts	\$ 4,131,373	\$ 7,062,746
Total amount	\$ 7,229,604	\$ 12,358,525
DAF Amount:	\$ 17,414,994	

FY 15 Contract Amounts		
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	Total FY 15 Contract	Amended amounts
Baton Rouge Capital Conflict Office (BRCCO)	\$ 467,500	\$ 1,135,000
Contracts Covering CAPOLA Cases **	\$ 445,000	\$ 365,000
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 831,685	\$ 1,863,370
	\$ -	\$ -
Louisiana Capital Assistance Center (LCAC)	\$ 599,153	\$ 1,398,306
Louisiana Appellate Project (EW)	\$ 600,000	\$ 855,000
TOTAL "Capital Trial Programs"	\$ 2,943,338	\$ 5,616,676
Capital Appeals Project (CAP)	\$ 546,426	\$ 1,092,852
Capital Post-Conviction Project of Louisiana (EW)	\$ 800,000	\$ 800,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 1,180,875	\$ 2,361,750
TOTALS	\$ 2,527,301	\$ 4,254,602
Louisiana Appellate Project (LAP)	\$ 950,734	\$ 1,901,468
Innocence Project of New Orleans (IPNO)	\$ 200,000	\$ 400,000
La Center for Childrens' Rights (LCCR)	\$ 255,000	\$ 510,000
TOTALS	\$ 1,405,734	\$ 2,811,468

Total Capital	\$ 2,943,338	\$ 5,616,676
Other Contracts	\$ 3,933,035	\$ 7,066,070
Total Proposed amounts	\$ 6,876,373	\$ 12,682,746

DAF Amount: \$ 17,758,896

FY 16 Contract Amounts		
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 16 Actual	Amended amounts
Baton Rouge Capital Conflict Office (BRCCO)	\$ 1,135,000	\$ 1,135,000
Contracts covering capital cases in North LA	\$ 442,446	\$ 495,000
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 2,063,370	\$ 1,891,423
Capital Defense Project of Southeast Louisiana (CDPSLA) 22		
Louisiana Capital Assistance Center (LCAC)	\$ 1,298,305	\$ 1,298,305
Louisiana Appellate Project (EW)	\$ 800,000	\$ 800,000
TOTAL "Capital Trial Programs"	\$ 5,739,121	\$ 5,619,728
Capital Appeals Project (CAP)	\$ 1,092,852	\$ 1,092,852
Capital Post-Conviction Project of Louisiana (EW)	\$ 651,603	\$ 823,551
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 2,461,750	\$ 2,461,750
TOTALS	\$ 4,206,205	\$ 4,378,153
Louisiana Appellate Project (LAP)	\$ 1,904,864	\$ 1,904,864
Innocence Project of New Orleans (IPNO)	\$ 400,000	\$ 400,000
La Center for Childrens' Rights (LCCR)	\$ 510,000	\$ 510,000
TOTALS	\$ 2,814,864	\$ 2,814,864

Total Capital	\$ 9,945,326	\$ 5,619,728
Other Contracts	\$ 2,814,864	\$ 7,193,017
Total Proposed amounts	\$ 12,760,190	\$ 12,812,745

DAF Amount: \$ 17,571,034

FY 17 Contract Amounts		
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 17 Actual	Amended amounts
Baton Rouge Capital Conflict Office (BRCCO)	600,000	1,102,000
Contracts covering capital cases in North LA		
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 600,000	\$ 921,000
Capital Defense Project of Southeast Louisiana (CDPSLA) 22		
Louisiana Crisis Assistance Center (LCAC)	\$ 850,000	\$ 1,102,000
Louisiana Appellate Project (EW)	\$ 200,000	\$ 385,000
TOTAL "Capital Trial Programs"	\$ 2,250,000	\$ 3,510,000
Capital Appeals Project (CAP)	\$ 480,000	\$ 1,090,000
Capital Post-Conviction Project of Louisiana (EW)	\$ 170,000	\$ 485,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 600,000	\$ 1,166,109
TOTALS	\$ 1,250,000	\$ 2,741,109
Louisiana Appellate Project (LAP)	\$ 1,523,891	\$ 1,523,891
Innocence Project of New Orleans (IPNO)	\$ 360,000	\$ 360,000
La Center for Childrens' Rights (LCCR)	\$ 510,000	\$ 460,000
TOTALS	\$ 2,393,891	\$ 2,343,891

Total Capital	\$ 3,500,000	\$ 6,251,109
Other Contracts	\$ 2,393,891	\$ 2,343,891
Total Proposed amounts	\$ 5,893,891	\$ 8,595,000

DAF Amount: \$ 22,214,820

FY 18 Contract Amounts		
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 18 Recommended	FY 18 Actual
Baton Rouge Capital Conflict Office (BRCCO)	\$ 1,110,009	\$ 1,110,009
Contracts covering capital cases in North LA		
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 1,110,009	\$ 1,110,009
Capital Defense Project of Southeast Louisiana (CDPSLA) 22	\$ -	\$ -
Louisiana Capital Assistance Center (LCAC)	\$ 1,110,009	\$ 1,110,009
Louisiana Appellate Project (EW)	\$ 250,000	\$ 250,000
TOTAL "Capital Trial Programs"	\$ 3,580,027	\$ 3,580,027
Capital Appeals Project (CAP)	\$ 1,110,009	\$ 1,110,009
Capital Post-Conviction Project of Louisiana (EW)	\$ 250,000	\$ 250,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 1,110,009	\$ 1,110,009
TOTALS	\$ 2,470,018	\$ 2,470,018
Capital Post-Conviction Project of Louisiana (EW) **	\$ 1,523,891	\$ 1,523,891
Innocence Project of New Orleans (IPNO)	\$ 360,000	\$ 360,000
La Center for Childrens' Rights (LCCR)	\$ 460,000	\$ 460,000
TOTALS	\$ 2,343,891	\$ 2,343,891

Total Capital	\$ 6,050,045	\$ 6,050,045
Other Contracts	\$ 2,343,891	\$ 2,343,891
Total Proposed amounts	\$ 8,393,936	\$ 8,393,936

DAF Amount:
**Formerly LAP EW

FY 19 Contract Amounts			
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 19 Budget Request	FY 19 Recommended	FY 19 Actual
Baton Rouge Capital Conflict Office (BRCCO)	\$ 1,166,546	\$ 1,110,009	\$ 1,165,009
Contracts covering capital cases in North LA			\$ -
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 1,315,396	\$ 1,110,009	\$ 1,165,009
Capital Defense Project of Southeast Louisiana (CDPSLA) 22	\$ -	\$ -	\$ -
Louisiana Capital Assistance Center (LCAC)	\$ -	\$ 1,110,009	\$ 1,165,009
Capital Post-Conviction Project of Louisiana (EW)--Trial	\$ 800,000	\$ 250,000	\$ 250,000
TOTAL "Capital Trial Programs"	\$ 3,281,942	\$ 3,580,027	\$ 3,745,027
Capital Appeals Project (CAP)	\$ 1,110,009	\$ 1,110,009	\$ 1,110,009
Capital Post-Conviction Project of Louisiana (EW)	\$ 650,000	\$ 250,000	\$ 250,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 2,461,750	\$ 1,110,009	\$ 1,110,009
TOTALS	\$ 4,221,759	\$ 2,470,018	\$ 2,470,018
Capital Post-Conviction Project of Louisiana (EW) **	\$ 1,714,952	\$ 1,523,891	\$ -
Innocence Project of New Orleans (IPNO)	\$ 400,000	\$ 360,000	\$ 360,000
La Center for Childrens' Rights (LCCR)	\$ 510,000	\$ 460,000	\$ 460,000
TOTALS	\$ 2,624,952	\$ 2,343,891	\$ 820,000

Total Capital	\$ 7,503,701	\$ 6,050,045	\$ 6,215,045
Other Contracts	\$ 2,624,952	\$ 2,343,891	\$ 820,000
Total Proposed amounts	<u>\$ 10,128,653</u>	<u>\$ 8,393,936</u>	<u>\$ 7,035,045</u>

DAF Amount:
**Formerly LAP EW

FY 20 Contract Amounts			
501(c)3 PUBLIC DEFENDER ORGANIZATIONS	FY 20 Budget Request	FY 20 Recommended	FY 20 Actual
Baton Rouge Capital Conflict Office (BRCCO)	\$ 1,166,546		\$ -
Contracts covering capital cases in North LA			\$ -
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$ 1,652,000		\$ -
Capital Defense Project of Southeast Louisiana (CDPSLA) 22	\$ -	\$ -	\$ -
Louisiana Capital Assistance Center (LCAC)	\$1,650,000		
Capital Post-Conviction Project of Louisiana (EW)--Trial	\$ 600,000		\$ -
TOTAL "Capital Trial Programs"	\$ 5,068,546	\$ -	\$ -
Capital Appeals Project (CAP)	\$ 1,110,009		\$ -
Capital Post-Conviction Project of Louisiana (EW)	\$ 600,000		\$ -
Capital Post-Conviction Project of Louisiana (CPCPL)	\$ 2,000,000		\$ -
TOTALS	\$ 3,710,009	\$ -	\$ -
			\$ -
Innocence Project of New Orleans (IPNO)	\$ 400,000		\$ -
La Center for Childrens' Rights (LCCR)	\$ 510,000		\$ -
TOTALS	\$ 910,000	\$ -	\$ -

Total Capital	\$ 8,778,555	\$ -	\$ -
Other Contracts	\$ 910,000	\$ -	\$ -
Total Proposed amounts	<u>\$ 9,688,555</u>	<u>\$ -</u>	<u>\$ -</u>

Contract Amounts

501(c)3 PUBLIC DEFENDER ORGANIZATIONS	Total FY 08 Contract	Total FY 09 Contract	Total FY 10 Contract	Total FY 11 Contract	Total FY 12 Contract	Total FY 13 Contract	Total FY 14 Contract	Total FY 15 Contract	Total FY 16 Contract	Total FY 17 Contract	Total FY 18 Contract	Total FY 19 Contract
Baton Rouge Capital Conflict Office (BRCCO)	\$820,350	\$820,350	\$ 820,350	\$ 935,000	\$ 935,000	\$ 935,000	\$ 935,000	\$ 1,135,000	\$ 1,135,000	\$ 1,110,200	\$ 1,110,009	\$ 1,165,009
Capital Assistance Project of La. CAPOLA	\$1,399,787	\$1,612,483.62	\$ 1,399,787	\$ 1,399,787	\$ 1,228,751	\$ 1,399,788	\$ 1,299,788	\$ -	\$ -			
Contracts covering capital cases in North LA	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 445,000	\$ 495,000			
Capital Defense Project of Southeast Louisiana (CDPSLA)	\$1,541,858	\$1,758,380	\$ 1,541,858	\$ 1,168,268	\$ 1,491,458	\$ 1,663,370	\$ 831,685	\$ 1,763,370	\$ 2,063,370	\$ 921,000	\$ 1,110,009	\$ 1,165,009
Louisiana Capital Assistance Center (LCAC)	\$982,825	\$1,184,292.54	\$ 982,825	\$ 1,184,292	\$ 1,184,292	\$ 599,153	\$ 1,198,306	\$ 1,298,305	\$ 1,298,305	\$ 1,102,000	\$ 1,110,009	\$ 1,165,009
Capital Appeals Project (CAP)	\$989,858	\$1,016,514.94	\$ 989,858	\$ 1,096,515	\$ 1,096,515	\$ 1,092,852	\$ 1,092,852	\$ 1,092,852	\$ 1,092,852	\$ 1,090,000	\$ 1,110,009	\$ 1,110,009
Louisiana Appellate Project (LAP)	\$1,300,000	\$1,866,213.79	\$ 1,838,750	\$ 1,896,250	\$ 1,896,250	\$ 1,898,144	\$ 1,898,144	\$ 1,901,468	\$ 1,904,864	\$ 1,523,891	\$ 1,523,891	\$ 1,523,891
Louisiana Appellate Project (EW) transferred to CPCPL in FY 18	\$ -	\$301,762.55	\$ 500,000	\$ 600,000	\$ 600,000	\$ 600,000	\$ 1,031,000	\$ 855,000	\$ 651,603	\$ 385,000	\$ 250,000	\$ 250,000
Capital Post-Conviction Project of Louisiana (EW)	\$600,000	\$600,000	\$ 520,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 485,000	\$ 250,000	\$ 250,000
Capital Post-Conviction Project of Louisiana (CPCPL)	\$2,306,000	\$2,306,000	\$ 2,306,000	\$ 2,306,000	\$ 2,306,000	\$ 2,361,750	\$ 2,361,750	\$ 2,361,750	\$ 2,461,750	\$ 1,166,109	\$ 1,110,009	\$ 1,110,009
Innocence Project of New Orleans (IPNO)	\$141,000	\$400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 400,000	\$ 360,000	\$ 360,000	\$ 360,000
La Center for Childrens' Rights (LCCR)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 510,000	\$ 510,000	\$ 510,000	\$ 510,000	\$ 460,000	\$ 460,000	\$ 460,000
TOTALS	\$10,081,678	\$11,865,997	\$ 11,299,428	\$ 11,786,112	\$ 11,938,266	\$ 12,260,057	\$ 12,358,525	\$ 12,562,745	\$ 12,812,744	\$ 8,603,200	\$ 8,393,936	\$ 8,558,936