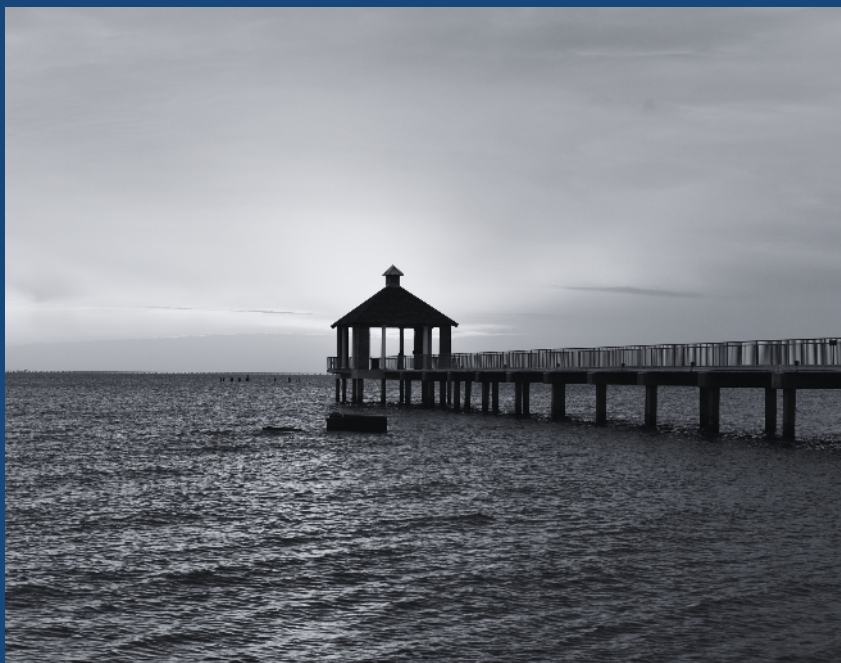




Office of the State Public Defender Policy Manual

Rémy V. Starns, State Public Defender



OFFICE OF THE STATE PUBLIC DEFENDER
POLICY MANUAL

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Office of the State Public Defender

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POWERS, DUTIES, AND RESPONSIBILITIES OF THE STATE PUBLIC DEFENDER
Louisiana Public Defender Act (La R.S. 15:147 (A), (B); 15:152(B))

§147. Powers; duties; responsibilities

A. Except for the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation of the practice of law, the office shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary to such regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana.

B. In addition to the powers and duties provided for in Subsection A of this Section, the office shall:

(1) Employ an executive staff as necessary to carry out the duties of the office and regularly evaluate the performance of the executive staff.

(2) Adopt all rules necessary to implement the provisions of this Part as provided in R.S. 15:148 and in accordance with the Administrative Procedure Act.

(3) Develop and implement the strategic plan and approve budget proposals necessary for the implementation of this Part for coordinating and providing services. The office shall review and approve budget proposals submitted by the district public defenders on behalf of their districts, considering variations in public defense practices, past practices and procedures, and conditions unique to each district in evaluating the strategic plan and budget proposals on the district level.

(4) Make an annual report to the legislature regarding the state of the office's operations and the status of public defender services it regulates. Such report shall include at a minimum:

(a) Recommendations for all needed changes in the law regarding the office or any regulated activity.

(b) A complete report on the receipt and expenditure of all funds received by the office, including district level data.

(c) Comprehensive workload data.

(5)(a) Establish, and modify as necessary, a plan of organization to conduct the business of regulating and controlling the delivery of public defender services under its jurisdiction efficiently and thoroughly.

(b) The plan of organization shall provide for the capacity to:

(i) Administer the granting of contracts.

(ii) Analyze and review investigative and audit reports and findings.

(iii) Provide for enforcement of office rules as is necessary to the efficient and thorough regulation and governance of public defender services under its jurisdiction.

(6) Incur such expenses and obligations, within the fiscal limits available to the office, as are necessary to the efficient and thorough regulation and governance of the delivery of public defender services under its jurisdiction and establish and maintain an accounting system which complies with law.

(7) Approve, prior to its presentation to the legislature and again after appropriation prior to allocation, the budget for the office.

(8) Issue a written response to any formal request from the governor and the legislature or any committee thereof.

(9) Appear before any committee of the legislature upon request of the president of the Senate, the speaker of the House, or the chairman of any legislative committee.

(10) Review any proposal to create permanent staff positions and approve if deemed appropriate.

(11) Prepare and submit to the Joint Legislative Committee on the Budget on or before March first of each year an annual financial report which outlines the expenditures of local, state, and federal funds for the previous calendar year for review by the Joint Legislative Committee on the Budget.

(12) Draft, administer, and furnish reporting forms to the district public defender, which request detailed information of the district's workload, resources, employees, and expenditures for the previous fiscal year based on the uniform definition of a "case" as defined in R.S.

15:174(C).

(13) Collect, prepare, and submit an annual report to the legislative auditor.

(14) Administer the DNA Testing Post-Conviction Relief for Indigents Fund as required under the provisions of Code of Criminal Procedure Article 926.1.

(15) Allocate funding to the public defenders, contract programs, and other entities as necessary for the implementation of this Part.

(16) Adopt rules for the establishment of salary ranges for attorneys and support staff delivering public defender services, taking into consideration variations in public defense practices and procedures in rural, urban, and suburban districts as well as professional experience.

(17) Supervise the activities of staff and apply reasonable controls for the supervision of spending, accounting, and discretionary grants. The office shall seek the assistance of the legislative auditor or an internal auditor to ensure that staff discretion is subject to supervision consistent with the Louisiana Local Government Budget Act, R.S. 39:1301 et seq. The office's supervision shall include reviewing details regarding expert witness funds or other case-specific grants, including the confidential work product of attorneys in litigation, compensation, and records supporting fees of experts and others, and analysis of the efficiency and effectiveness of programs. The attorney-client privilege and confidentiality that applies to counsel in cases shall apply to all staff for the review of case details.

(18) Adopt reasonable procedures in compliance with the Louisiana Rules of Professional Conduct for the review and preservation of confidentiality of privileged materials during and after litigation, including impressions of counsel, strategy of litigation, and results of expert work and opinion.

(19) Adopt procedures necessary to protect strategic choices and confidential work product of the office when the office considers important matters of spending. However, the amounts and general purposes shall remain public record of the office's decisionmaking process.

(20) Enter into a contract or contracts with the University of Louisiana at Monroe for the purpose of providing certain statewide training to attorneys, investigators, social workers, and staff.

* * *

§152. State public defender; qualifications; powers and duties; salary

* * *

B. The state public defender shall:

(1) Establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and financially eligible for, appointed counsel in criminal proceedings at state expense under Louisiana law, the Constitution of Louisiana, and the United States Constitution and consistent with the standards of national justice and those established by the Louisiana Supreme Court.

(2) Develop, present for the board's approval, and implement a strategic plan, standards, and guidelines for the delivery of public defender services.

(3) Implement and ensure compliance with contracts, policies, procedures, standards, and guidelines adopted pursuant to rule or required by statute.

(4) Prepare the budget of the office.

(5) Negotiate contracts, as appropriate, for providing legal services to persons financially eligible for appointed counsel at state expense. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007.

(6) Employ personnel or contract for services as necessary to carry out the responsibilities of this Part. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007.

(7) Supervise the personnel, operation, and activities of the office.

(8) Prepare and submit to the board an annual report of the indigent defender services provided by the districts.

(9) Appear before the Joint Legislative Committee on the Budget and report on the activities of the office.

(10) Actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the system, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.

(11) Assist the board in the adoption of rules as provided for in R.S. 15:148 and in accordance with the Administrative Procedure Act.

(12) Provide services, facilities, and materials necessary for the performance of the duties, functions, and powers of the office.

(13) Establish the policies and procedures for the statewide delivery of indigent defender services in accordance with rules adopted by the office and as required by statute.

(14) Establish administrative management procedures for the office, where applicable.

(15) Review, monitor, and assess the performance of all attorneys, consortia of attorneys, or independent public defender organizations qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants.

* * *

POWERS, DUTIES, AND RESPONSIBILITIES OF THE DISTRICT PUBLIC DEFENDER
Louisiana Public Defender Act (La R.S. 15:161 (E))

§161. District public defender; powers; duties; accounting; audit reporting; existing district public defenders continued; establishment of office of the district public defender

* * *

E. Each district public defender shall:

- (1) Manage and supervise public defender services provided within his judicial district.
- (2) Prepare an operating budget for the district and submit it to the budget officer annually.
- (3) Work in conjunction with the budget officer in developing a uniform method of accounting for all expenditures of the district, including but not limited to the salaries, contracts, acquisition of equipment, and supplies.
- (4) Submit to the budget officer a monthly report of all revenues received and expenditures, including but not limited to salaries, contracts, acquisition of equipment, and supplies for the district.
- (5) Work in conjunction with the compliance officers to ensure that public defender assignments within the judicial district comply with the standards and guidelines adopted pursuant to rule by the office and the Rules of Professional Conduct.
- (6) Supervise the work of the district personnel.
- (7) Employ district personnel, subject to review by the state public defender for compliance with qualifications and standards and guidelines established by statute and by rules adopted by the board.
- (8) Contract for services in accordance with the standards and guidelines adopted by rule by the board.
- (9) Keep a record of all public defender services and expenses in the district and submit the records to the state public defender as requested.
- (10) Implement the standards and guidelines and procedures established by the board and state public defender for the district.
- (11) Maintain a client workload for the office of the district public defender as determined by the state public defender.
- (12) Make recommendations regarding the method of delivery of public defender services for the district for submission to the board for board approval. The board shall consider any delivery model in existence prior to August 15, 2007, as acceptable until that delivery model is proven to not meet the uniform standards and guidelines for the delivery of public defender services in accordance with applicable rules adopted by the board and as required by statute.
- (13) Employ or terminate district personnel, manage and supervise all district level work, including establishment of district personnel salaries, subject to review by the office for compliance with salary guidelines established by the office through the adoption of rules.
- (14) Perform all other duties assigned by the state public defender.

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PUBLIC DEFENDER SYSTEM COMMITMENTS

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6	Sexual Harassment Policy



Office of the State Public Defender

Policy

Anti-Discrimination Statement; Postings

Effective July 01, 2025

The Office of the State Public Defender, guided by the Rules of Professional Conduct (Rule 1.2(b) and Rule 8.4(d),(f)) and by its vision, mission and philosophy of the Office of the State Public Defender prohibits any defender or defender staff member from discriminating against indigent persons on the basis of actual or perceived race, national origin, alienage or citizenship status, ethnicity, class, public benefit, political view, military status, religious affiliation, sex, sexual orientation, gender identity and expression, family structure, prior record of arrest or conviction, genetic predisposition or carrier status, age, disability, or experience as a victim.

District Defenders and Executive Directors are expected to comply with their contract's anti-discrimination clause and ensure that its anti-discrimination statement is prominently posted on its website or, if the office/program does not have a website, that a notice on how to obtain the information is posted in a conspicuous location in each office. Retaliation against an individual who files a complaint of harassment or participates in an investigation of such a complaint is strictly prohibited.

The Office of the State Public Defender is committed to diversity, as it increases the system's strength, capability and adaptability and can bring more varied perspectives, experiences, backgrounds, talents, and interests to the practice of law and the administration of justice.



Office of the State Public Defender

Policy

Sexual Harassment Policy; Postings

Effective July 01, 2025

Each District Defender or Program Office that provides services to indigent persons accused of a crime is required to develop a sexual harassment policy.

THE SEXUAL HARASSMENT POLICY MUST CONSIST OF THE FOLLOWING ELEMENTS:

- A clear statement that harassment of a sexual nature will not be tolerated
- A description of the behavior that the political subdivision defines as inappropriate conduct
 - Unacceptable behaviors
 - Unwelcome sexual advances
 - Requests for sexual favors
 - Other verbal, physical, or inappropriate conduct of a sexual nature
 - Conduct that explicitly or implicitly affects an individual's employment or holding of office
 - Conduct that unreasonably interferes with an individual's work performance
 - Conduct that creates a hostile or offensive work environment
- An effective complaint and grievance process
 - Requires immediate and appropriate action
 - Complaint process should detail who can make a complaint
 - To whom a complaint may be made
 - Provides for alternative designees to receive complaints
 - Requires documentation on all actions taken
- Description of the investigative process
 - Must include requirements for participation by both the alleged sexual harasser and the alleged victim in the investigation
- Clear prohibition against retaliation
- Description of possible disciplinary actions that may be taken

- A description of possible disciplinary actions that may be taken against a complainant of an intentionally false claim
- A statement apprising public servants of applicable federal and state law on sexual harassment

MANDATORY SEXUAL HARASSMENT TRAINING (PURSUANT TO LA R.S. 42:343):

- Training Requirement
 - Each employee or contractor of a Judicial District Office of the District Public Defender is required to receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year
 - The District Public Defender shall require supervisors, and any person designated to investigate a complaint of sexual harassment to receive additional education and training, annually
 - The required education and training may be received either in person or online through education and training materials approved by the District Public Defender
- Notification
 - The District Public Defender shall ensure that every employee or contractor is notified of the district's policy against sexual harassment and the mandatory training requirement on preventing sexual harassment
 - The District Public Defender shall maintain records documenting compliance by each employee and contractor
 - This documentation shall be made available to the Office of the State Public Defender upon request, and shall be considered a public record in accordance with the Public Records Law
- Posting requirement
 - The District Public Defender shall ensure that the office's policy against sexual harassment and its complaint procedure is prominently posted on its website, or if the office does not have a website, that a notice on how to obtain the information is posted in a conspicuous location in each of the district's offices

GENERAL REQUIREMENTS

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Office of the State Public Defender

Policy

Office of the State Public Defender Leadership Training

Effective July 01, 2025

District defenders and executive directors of the 501(c)(3) programs with which the agency contracts are required to attend the Office of the State Public Defender-sponsored Leadership Training program when offered.



Office of the State Public Defender

Policy

Responding to the Office of the State Public Defender in a Timely Manner

Effective July 01, 2025

District Public Defenders and the Executive Director of the 501(c)(3) contract programs are required to respond to requests from the Office of the State Public Defender in a timely manner.

REPORTING REQUIREMENTS

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Office of the State Public Defender

Policy and Procedures

Contract Program Reporting Requirements

Effective July 01, 2025

Any program or individual providing capital trial-level, appellate, writ, and/or post-conviction relief representation is required to submit to their contract monitor, the following reports to the Office of the State Public Defender:

1. Capital Case Trial Reports – (Only applicable to programs or individuals with capital cases) On or before the 5th day of each month each Executive Director of a capital program shall submit a Capital Case Trial Report for indigent capital defendant represented under their contract.
2. Case Status Report - (Only applicable to programs or individuals with non-capital cases) On or before the 5th day of each month counsel shall submit a Case Status Report for each indigent person represented under their contract.
3. Monthly Financial Report – On or before the 15th of each month each program Executive Director shall prepare and submit to the State Public Defender, or his designee, a monthly financial report for the month immediately preceding the report due date. The financial reports must include the Profit and Loss Statement (or Income Statement) and the Balance Sheet as they relate to the funds received under the program's contract in a format approved by the State Public Defender.
4. Timesheets – Program office personnel (independent contractors and employees) and independent counsel shall, at the end of each calendar month, prepare an itemization of all work performed, listing time by date for work performed by hours, down to the tenth of an hour with specific reference to the nature of work performed. These records shall be maintained for confidential inspection by the State Public Defender, or his designee, upon request.
5. Case Management System Data Entry – Program offices and independent counsel shall complete the Express Case Menu in defenderData for each indigent person represented under their contract.



Office of the State Public Defender

Policy and Procedures

District Reporting Requirements

Effective July 01, 2025

District Defenders are required to submit the following reports to the Office of the State Public Defender:

1. Capital Case Trial Reports – (Only applicable to districts with capital cases) On or before the 5th day of each month, each District Defender of a district with capital cases shall submit a Capital Case Trial Report for each capital case in the district.
2. Monthly Financial Report – On or before the 15th of each month, each District Defender shall prepare and submit to *defenderData* the district's monthly financial report.
3. Monthly Financial Report Supporting Documentation – On or before the 15th of each month, each District Defender shall submit the bank statements for all accounts, the district's balance sheet, the profit and loss detailed report, and detailed reconciliation. Supporting documentation should be sent to budget@statepublicdefender.la.gov.
4. Personnel Compensation Report - On or before the 15th of each month, each District Defender shall prepare and submit to *defenderData* the district's monthly personnel compensation report.
5. Independent CPA Audit Report – On or before December 31st of each year, each District Defender shall submit a copy of the district's final Independent CPA Audit report to the Louisiana Legislative Auditor, and the Office of the State Public Defender's Auditor and Director of Compliance & Special Projects.
6. Annual Report Submissions – On or before January 10th of each year, each District Defender shall submit the district's District Narrative to the OSPD website and the Caseload Report to the Chief Information & Technology Officer.
7. Sexual Harassment Incident Report – On or before January 15th of each year, each District Defender shall submit to *defenderData* the district's 12-month Sexual Harassment Incident Report.

8. Proforma Budget - On or before May 1st of each year, each District Defender shall prepare and submit to *defenderData* a proforma comprehensive annual budget presenting a complete financial plan for the district's upcoming fiscal year.
9. Annual Budget - On or before June 15th prior to the start of each fiscal year, the district's regular operating budget shall be prepared and submitted to *defenderData*.
10. Amended Budget - District Defenders shall comply with the Louisiana Local Government Budget Act (*La. R.S. 39:1301, et seq.*) when preparing and amending the regular operating budget and advise the State Public Defender when total revenues are 5% or more below budget, and/or total expenses are in excess of budget by 5% or more, and/or the ending fund balance is expected to be 5% or more below the budget forecast.

All district annual budgets and monthly financial reports that are submitted to the Office of the State Public Defender shall be prepared on a cash-basis. This means that districts shall report revenues only once collected and shall report expenditures only once they are actually paid. Receivables shall not be reported as revenue until payment is received, and expenditures should not be reported as expenditures until payment is made.

Failure of a district to report any funds or to not disclose cash reserves or investments is a violation of the Louisiana Public Defender Act which requires financial reporting. Per the Act, financial information is sent to the Legislature and Legislative Auditor. If it is determined that false information has been provided or that information has been intentionally omitted, that information shall be reported to the appropriate agencies and shall be addressed in accordance with the provisions of the Act.



Office of the State Public Defender

Policy and Procedures

Database Compliance Policy

Effective July 01, 2025

Any entity or attorney providing services to indigent persons accused of a crime is required to enter all defendant contacts of any manner into the statewide database, defenderData.

Contacts are defined as follows:

1. All court appearances
2. All jail visits, either in person at a facility or by video conference, telephone conference, or other media
3. All office visits
4. All status conferences

“Entity” for purpose of this policy includes any district, conflict counsel, or contract program providing services at the district court level.

Any entity providing capital representation is required to utilize and complete, at a minimum, the “Express Case Menu”.

All cases with no recorded activity within 120 days of the last contact shall be reviewed to determine the case status.

Contact entries are confidential pursuant to La. R.S. 14:147(B)(17).

Pursuant to Title 22 of the Administrative and Procedure Act, all incarcerated indigent persons accused of a crime should be seen within seven (7) days of receiving appointment of counsel.

Thereafter, incarcerated defendants should be contacted by their attorney in person, by video, or by phone at least every 60 days.

These requirements are subject to constraints placed on attorneys by restrictions at the facilities in which the indigent person accused of a crime is being held and burdensome travel

distances from the Judicial District Office of the District Public Defender to facilities where some indigent persons may be housed.

Considering the movement of pre-trial defendants to various jails, a list of attorney visitation policies for each facility housing pre-trial clients shall be compiled and maintained by OSPD staff and shared with public defenders upon request.

Meeting an indigent defendant in open court shall not be considered a contact.

An incarcerated defendant visit requires a private secure area. The defendant's refusal to meet with any public defender at any facility shall be reported to the District Defender or program head.

DISTRICT OFFICES OF THE DISTRICT PUBLIC DEFENDER

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Office of the State Public Defender

Policy and Procedures

Client Complaint Policy

Effective July 01, 2025

To ensure the effective delivery of public defender services in accordance with promulgated standards, state law, and the Louisiana and United States Constitutions, each District Defender or Program Office that provides services to indigent persons accused of a crime is required to develop a comprehensive client complaint policy.

THE CLIENT COMPLAINT POLICY MUST CONSIST OF THE FOLLOWING ELEMENTS:

Notice – the policy must outline procedures that will be taken to notify the accused of their attorney’s contact information. The policy must also include how clients can access the client complaint policy.

Process for Complaints – the policy must outline the process that the indigent person or their representative must follow to make a complaint.

Complaint Review Process – the policy must clearly outline the process that will be followed to evaluate and investigate the merits of every complaint received by the office; how confidentiality will be ensured; and set parameters for follow up upon completion of the investigation.

Record Keeping – the policy must describe how records will be maintained.

Complaints to the Office of the Disciplinary Counsel – the policy must include notification requirements for any ethical complaint filed with the Office of Disciplinary Counsel.

RESPONSIBILITIES OF THE OFFICE OF THE STATE PUBLIC DEFENDER:

- The Office of the State Public Defender will provide each District Office with a sample client complaint policy that may be used fully or in part.
- The Office of the State Public Defender will provide each district with a sample client complaint form.

- Any written complaints that are directed to the Office of the State Public Defender will be forwarded to the District Defender in the appropriate district; the state office will also provide a generic client complaint form to any indigent person who requests one.

Upon request, the district's Client Complaint Policy as well as records related to individual complaints shall be provided to the Office of the State Public Defender.



Office of the State Public Defender

Policy

Office of the District Public Defender Personnel as Victims of a Crime

Effective July 01, 2025

It is the policy of the Office of the State Public Defender that if the District Public Defender and/or any member of the office staff (employees and contractors) is/are victim(s) of a crime allegedly committed by an indigent person, the District Public Defender must immediately notify the Office of the State Public Defender of the conflict.



Office of the State Public Defender

Policy and Procedures

Districts Sharing Office Space and Administrative Functions

Effective July 01, 2025

The Office of the State Public Defender encourages fiscal responsibility and efficiency to ensure that the maximum resources possible are directed towards the courtroom and the representation of indigent persons accused of crimes. The state office recognizes shared administrative and personnel expenses between districts that are led by the same District Defender as an appropriate method to achieve such efficiencies.

Districts that share operating expenses shall enter into a Cooperative Endeavor Agreement (CEA) which includes the following elements:

- Every district utilizing the shared office space and administrative functions of the host office shall be a party to the CEA.
- The CEA should include an effective date, ideally July 1st.
- The situations or events that will trigger termination of the CEA.
- The proportion of expenses that each district will be responsible for and on what basis that amount has been determined. Ideally this proportion should be based on the proportion of individuals represented by each district. In assigning financial responsibility, keep in mind that revenues accrued in one district cannot be used to pay the expenses of another.
- The CEA should address how payroll and related tax duties will be handled for shared personnel.

Any CEA between districts must meet the requirements of the Cabela Test (*Board of Directors of the Industrial Development Board of the City of Gonzales, Louisiana, Inc. v. All Taxpayers, Property Owners, Citizens of the City of Gonzales, et. al.*, 2005-2298 (La. 9/6/06); 938 So. 2d 11):

- Expenditure or transfer must be for a public purpose that comports with the governmental purpose which the entity has legal authority to pursue;
- The expenditure or transfer of public funds or property, taken as a whole, does not appear to be gratuitous; and

- Evidence must demonstrate that the public entity has a demonstrable, objective, and reasonable expectation of receiving a benefit or value at least equivalent to the amount expended or transferred.

Invoice requirements:

- The host district shall submit a detailed invoice to the other district(s) itemizing the expenses for reimbursement.
- Invoices should be sufficiently itemized so that a reasonable person with no knowledge of the transaction can understand the applicable dates, exact cost of each good/service being billed, and should include backup documentation which can be in the form of actual vendor invoices, payroll registers, general ledgers, or other reports allocating the costs between the districts.
- Each district providing the reimbursement should accurately report the expenditures in defenderData monthly using the appropriate line items as provided by the Office of the State Public Defender.



Office of the State Public Defender

Policy

Parent Representation Program Policy

Effective July 01, 2025

It is the policy of the Office of the State Public Defender that District Defenders are authorized, at their sole discretion, to provide advice and representation to any parent who presents as under investigation for abuse or neglect by the Department of Children and Family Services and at-risk for having one or more children removed from the home and into foster care, without regard to whether court proceedings have been implemented. Provided, however, such cases shall not be counted as cases for purposes of case counts or client counts, unless a child in need of care petition is subsequently filed.



Office of the State Public Defender

Policy

Child Support Enforcement and Establishment of Paternity Defense

Effective July 01, 2025

Child support enforcement and establishment of paternity are civil matters for which the public defender system does not receive or allocate funds to provide representation. Louisiana Revised Statutes §46:236.5 allows for reimbursement to the public defender office of \$25 per case at the expense of the person represented by a public defender but does not require the Judicial District Office of the District Public Defender to provide representation.

Therefore, it is the policy of the Office of the State Public Defender that the district offices of the district public defender are not required to provide representation in child support enforcement or establishment of paternity cases.



Office of the State Public Defender

Policy

Office of the State Public Defender's Financial Responsibility in the Department of Public Safety and Corrections' Criminal Matters

Effective July 01, 2025

Louisiana Revised Statutes 15:868 provides that it is the responsibility of the Louisiana Department of Public Safety and Corrections to provide an attorney to represent any inmate who is charged with a crime alleged to have been committed while the inmate was in the actual physical custody of the Department of Public Safety and Corrections or when an inmate escapes from the actual physical custody of the department and during the period of escape is charged with committing a crime in the parish where the correctional institution is located.

Therefore, the Office of the State Public Defender shall not assume financial responsibility in trial level Department of Public Safety and Corrections cases.

It is also the agency's policy that payment of appellate fees in capital cases in which the commission of a crime occurs while the defendant is in the actual physical custody of the Department of Public Safety and Corrections is not the responsibility of the Office of the State Public Defender.



Office of the State Public Defender

Policy

Service Responsibilities in Districts with Independent City Courts

Effective July 01, 2025

District Defenders are prohibited from providing public defender services, either directly or by contract, in any city court that has collected funds owed to the judicial indigent defender fund to fund an independent Indigent Defender Board or counsel independent of the local Judicial District Office of the District Public Defender.



Office of the State Public Defender

Policy and Procedures

Service Restriction Policy

Effective July 01, 2025

On March 20, 2012, the Louisiana Public Defender Board Restriction of Services Protocol (LAC 22: XV. Chapter 17) was promulgated through the Administrative Procedures Act. In accordance with promulgated standards, the Office of the State Public Defender (OSPD) has established service restriction policies and procedures.

RESTRICTING SERVICES

The State Public Defender cautions district public defenders that Service Restriction should be the last resort as district public defenders have an obligation to take steps to ensure that the district receives all the revenues that are owed to the district office. District public defenders also have a responsibility to make fiscally responsible decisions that prioritize resources in the courtroom. In instances where restricting services is unavoidable, service restriction plans must be developed and submitted in accordance with LAC 22: XV. Chapter 17.

NOTIFICATION

When a district public defender is facing a deficit that is expected to result in a restriction of services, the district public defender, after consulting the State Public Defender and receiving expressed written approval, must provide notification of the district's financial situation and the impending restriction of services as soon as practicable. District Public Defenders are required to notify the Chief Justice of the Louisiana Supreme Court, president of the Louisiana State Bar Association, the chief and/administrative judge of each court in the district, the sheriff, and the parish president or equivalent head of parish government for each parish.

CONTRACT ADDENDUM

If the District of a District Public Defender restricts services, the District Public Defender is required to execute a contract addendum, as approved by the State Public Defender, to ensure the delivery of quality public defense services during the restriction period. The addendum will include additional requirements, including, but not limited to:

- Regular caseload assessments and reporting

- Weekly financial reporting during the first sixty days of restricted services, with monthly financial reporting thereafter
- Quarterly contract reviews
- Any other terms and conditions deemed appropriate by the State Public Defender

ANNUAL REPORTING

The District Offices of the District Public Defender that remain within service restriction beyond a 12-month calendar period are required to complete annual reporting to the Office of the State Public Defender, justifying the District Public Defender's request to continue restricting services.

EXITING SERVICE RESTRICTION

After consultation with the State Public Defender, districts exiting Service Restriction must provide the Chief Justice of the Louisiana Supreme Court, president of the Louisiana State Bar Association, the chief and/administrative judge of each court in the district, the sheriff, and the parish president or equivalent head of parish government for each parish with written notice of the office's plan to resume typical service delivery.

DISTRICT PUBLIC DEFENDERS

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Office of the State Public Defender

Policy and Procedures

Caseload Enhancement to District Public Defender Compensation

Effective July 01, 2025

The State Public Defender authorizes each District Public Defender to receive a 25% compensation enhancement for maintaining a caseload to represent indigent persons accused of a crime, delinquency offense, or for representing parents involved in a Child in Need of Care (CINC) matter. Cases must be public defender cases and handled within the District Public Defender's district.

Enhancements will be considered prior to the start of each contract year and require submission and approval of the District Public Defender Caseload Enhancement Form.

Caseload enhancements will be granted according to a two-prong test:

- 1) Is the proposed caseload objectively reasonable?
- 2) Would the District Public Defender be required to contract with or hire additional personnel to manage the caseload, if not handled by the District Public Defender?

Any change to the approved caseload must be submitted to the Deputy State Public Defender and Director of Compliance and Special Projects for approval.

The District Public Defender bears the responsibility of informing the Deputy State Public Defender, Director of Special Projects, and General Counsel should he no longer carry the approved caseload and must adjust his or her compensation in accordance with the provisions of the District Public Defender's contract.

The District Public Defender is obligated to report in districtDefender in a timely manner events and actions that demonstrate maintenance of the approved caseload.



Office of the State Public Defender

Policy

Prohibition Against Supplementing District Public Defender Compensation

Effective July 01, 2025

District Public Defenders are permitted to maintain a private practice. However, compensation for services as District Public Defender is set by contract and cannot be increased by other sources.



Office of the State Public Defender

Policy and Procedures

District Public Defenders as City Prosecutors

Effective July 01, 2025

It is the policy of the Office of the State Public Defender that any person serving as a paid employee or independent contractor with any Judicial District Office of the District Public Defender is prohibited from serving as a prosecutor in any court within the judicial district(s) in which they perform services for the Office of the District Public Defender, unless an extraordinary hardship exists.

CONDITIONS REQUIRED FOR APPLICATION OF THE HARDSHIP EXEMPTION:

- The District Defender makes reasonable efforts to hire and/or contract with an attorney who does not function as prosecutor within the judicial district prior to offering a position to a prosecutor.
- The District Defender makes reasonable efforts to hire and/or contract with an attorney who does not function as prosecutor within the Judicial District to take the position currently held by an existing public defender who is also a city prosecutor.
- The public defender assumes no public defender responsibilities for any cases in which the applicable city court(s) have jurisdiction.
- The public defender assumes no public defender responsibilities for any cases arising out of law enforcement contact and/or subject to investigation by any law enforcement agency whose jurisdictional authority includes the applicable city court(s), including, but not limited to, the applicable city police departments.

DISTRICT REQUIREMENTS:

- The District Defender must clearly document, and maintain in the public defender's personnel file, conditions that necessitated hiring/retaining a public defender who is also a city prosecutor.
- Every six months, beginning from the date of hire, the public defender will submit a signed and notarized affidavit to the Office of the District Public Defender attesting that he/she

- has not provided public defense representation to any client in any case in which the applicable city court has jurisdiction, and he/she has not provided public defense representation to any client in any case involving law enforcement action by an agency with authority that is concurrent with the applicable city court.
- Every public defender with the Office of the District Public Defender will receive notice of the public defender's role as a public defender and city prosecutor.
- Every indigent defendant represented by the public defender will receive notice of the public defender's roles as public defender and city prosecutor and an explanation of the safeguards in place to ensure that the client will receive high-quality, conflict-free, ethical legal defense representation.
- A copy of this notice along with documentation justifying the hiring and retention of any public defender who is also a city prosecutor, and all notarized affidavits shall be made available to the Office of the State Public Defender for review and inspection upon request.

BUDGET

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Office of the State Public Defender

Policy

Local Investments in the Office of the District Public Defender

Effective July 01, 2025

District Defenders are strongly encouraged to develop relationships with local decision makers to promote local investment in the Office of the District Public Defender.

Conviction and User Fees and local revenues received in the district shall remain in the district. Locally generated, non-statutorily required funding streams for public defense shall not supplant the district's state supplemental assistance.

Local funds received by an Office of the District Public Defender shall not be paid directly to either the District Defender or any line defender employed by or under contract with the office and shall instead be provided to the Judicial District Indigent Defender Fund to be managed by the District Defender. Nothing in this policy shall prevent the District Defender from entering into agreements or understandings with interested parties providing funding regarding the purpose of funding or access to non-confidential records or accounting, or to discourage the District Defender from entering into appropriate joint endeavors with funders.



Office of the State Public Defender

Policy

Waiver of the \$40 Application Fee

Effective July 01, 2025

District Defenders or their designees, are authorized to waive or reduce the \$40 non-refundable application fee upon a determination that the person does not have the financial resources to pay the application fee based upon the financial information submitted.



Office of the State Public Defender

Policy and Procedures

Protocol for Management of O-Level Funds

Effective July 01, 2025

The purpose of this policy is to establish guidelines and detailed procedures for the application, review, approval, and tracking of requests for O-Level Funds.

1. O-LEVEL FUNDS

O-level funding is hereby established as a special funding level that is accessible by all District Offices of the District Public Defender. O-level funds are the total of all remaining District Assistance Fund (DAF) dollars following the initial fiscal year distribution. These funds are one-time funds and can be used for any non-recurring expenses such as shoring up projected insolvency and equipment.

2. APPLICATION PROCESS

- Districts can apply for O-level funds at any point during the fiscal year.
- Districts requesting O-level funds shall submit a formal written or email request to the State Public Defender, Deputy State Public Defender, and the Assistant to the Deputy State Public Defender.
- The Office of the State Public Defender will evaluate each request based on need and availability of funds.

3. TRACKING O-LEVEL FUND REQUESTS

- The Assistant to the Deputy State Public Defender shall ensure that pertinent information related to the request, the date of receipt, and the amount approved are entered into the O-Level Fund tracking system.
- The Deputy State Public Defender and Assistant to the Deputy State Public Defender shall monitor and track the total amount of approvals. At no time shall the approvals exceed the amount available in the O-Level Fund.

CAPITAL

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Office of the State Public Defender

Policy and Procedures

Capital Case Assignment

Effective July 01, 2025

To ensure the delivery of public defender services to indigent persons accused of a capital eligible crime in a fiscally responsible manner, the Office of the State Public Defender (OSPD) has established capital case assignment procedures in accordance with promulgated standards, state law, and the Louisiana and United State Constitutions.

PROCEDURES UPON NOTIFICATION OF A POTENTIAL CAPITAL CASE

- Initial Review
 - The State Public Defender, Deputy State Public Defender, Executive Director of each trial level capital program, and the relevant District Public Defender shall assess the likelihood of the case becoming a capital case.
 - A line defender assigned by the relevant District Public Defender will be assigned to each case.
- Assessment of Likelihood that Case will Proceed as a Capital Prosecution
 - The local Office of the District Public Defender will retain the case, if the assessment indicates that the District Attorney is not likely to seek the death penalty.
 - The local Office of the District Public Defender will retain the case with additional monitoring from the Office of the State Public Defender, if the assessment indicates that there is some possibility that the District Attorney might seek the death penalty.
 - A capital trial team will be assigned to the case, if the assessment indicates a significant likelihood that the District Attorney will seek the death penalty.
- Conflict and Capacity Checks
 - OSPD staff shall conduct conflict checks with each program.

- OSPD staff shall conduct a capacity check to determine the most appropriate program to receive the assignment.
- Final Assignment
 - The State Public Defender will make the final assignment after consideration of the above factors.



Office of the State Public Defender

Policy and Procedures

Capital Case Timekeeping

Effective July 01, 2025

It is the policy of the Office of the State Public Defender that offices of the district public defender and capital programs are required to log all time spent on capital cases. Personnel (both employees and contractors) are required to itemize all work performed. This itemization should list the time by date for work performed by hours, down to the tenth of an hour with specific reference to the nature of the work performed (e.g. drafting of motions, meeting with indigent defendants, etc.).

District and program offices shall maintain personnel timesheets and provide them for confidential inspection upon the request of the State Public Defender, or his designee.

EXPERT WITNESS FUNDS

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Policy

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Protocol for Management of the Expert Witness Funds



Office of the State Public Defender

Policy and Procedures

Protocol for Management of the Expert Witness Funds

Effective July 01, 2025

The purpose of this policy is to establish clear guidelines and procedures for the application, review, approval, managing, and tracking of requests for Expert Witness Funds.

1. EXPERT WITNESS FUNDS

The Office of the State Public Defender (OSPD) maintains three separate and distinct Expert Witness Funds:

- **Capital Trial Level Expert Witness Fund** – this fund provides expert witness funding in death penalty eligible cases at the trial level.
- **Capital Post-Conviction Expert Witness Fund** – this fund provides expert witness funding for capital cases that are in post-conviction.
- **Non-Capital Expert Witness Fund** – this fund provides expert witness funding for all non-capital cases including Miller & Montgomery matters.

2. APPLICATION PROCESS

- District Public Defenders, line defenders, and program office counsel are eligible to apply for expert witness funding for public defender cases.
- Counsel requesting funds for expert witnesses must complete the designated application form (e.g., capital trial level, capital post-conviction, or non-capital).
- All sections of the application form must be completed in their entirety to ensure proper review. Applications will only be considered if signed and dated.
- Completed application forms and any supporting documentation should be submitted electronically to the Deputy State Public Defender and the Capital Assistant.

3. REVIEW PROCESS

- Upon receipt, all applications are compiled by the Capital Assistant, for initial recordkeeping and tracking.
- The Deputy State Public Defender conducts a preliminary review of each request and makes an initial determination.
- The State Public Defender, Deputy State Public Defender, and Capital Assistant meet regularly to review each application.
- As part of the review, the committee consults with the requesting counsel to determine the following:
 - The merits of the request and its relevance to the case theory.
 - The likelihood that the expert testimony will materially assist in proving or disproving critical aspects of the case.
 - The reasonableness of the requested funds and the qualifications of the proposed expert.
 - That the amount requested does not exceed the amount of available Expert Witness Funds.
- Applications may be approved in full or in part, or subject to requested amendments.
- In certain cases, approval may be deferred until a later stage in the proceedings if additional information is needed or if the timing of the expert's involvement is not yet appropriate.
- If an application is denied, counsel will receive a formal notification letter.

4. TRACKING APPROVED EXPERT WITNESS FUNDS

- The Capital Assistant shall ensure that pertinent case information, the date of approval, and the maximum amount approved are entered into the relevant OSPD Expert Witness Fund tracking system.
- The Deputy State Public Defender and Capital Assistant shall monitor and track the total amount of approvals, at no time shall the approvals exceed the amount available in each Expert Witness Fund.
- Ninety days (90) after approval, the Capital Assistant shall contact lead counsel to determine whether the expert has begun work.
- One hundred and eighty (180) days following approval of an application for expert witness funds, the Deputy State Public Defender 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 relevant expert witness fund.
- Un-invoiced funds are to be released at one hundred and eighty-one (181) days following approval, not upon receipt of a notice letter.
- The Capital Assistant shall note in the OSPD tracking system the date and amount of funds being released and the net difference to the Expert Witness Fund.

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

5. PROCESSING OF INVOICES

- Invoices must be submitted directly by counsel.
- All required documentation must be submitted, including the appropriate Expert Witness Fund Invoice Submission Form.
- Invoices must be submitted for payment within sixty (60) days of the work being performed.
- Any invoice submitted without all appropriate documentation will be returned to counsel for re-submission.
- Invoices submitted/re-submitted after sixty (60) days of work being performed shall be deemed stale and will be paid at the discretion of the State Public Defender.
- If the amount of the invoice approved for payment is less than the initial maximum amount approved for the work, the Capital Assistant shall ensure that counsel has indicated on the Expert Witness Fund Invoice Submission Form whether additional work is expected to be performed by the expert.
- If additional work is expected to be performed by the expert, the Capital Assistant shall make a notation in OSPD's tracking system.
- If additional work is not expected to be performed by the expert, the Deputy State Public Defender and Capital Assistant shall release un-invoiced funds back into the appropriate Expert Witness Fund and notify counsel in writing and by email of the release.

6. CONTINUAL AND CONTEMPORANEOUS TRACKING OF THE EXPERT WITNESS FUNDS

- The Deputy State Public Defender and Capital Assistant shall be responsible for continual and contemporaneous tracking of the Expert Witness Funds, including the balance of approvals for services, invoices pending payment, invoices paid, and total funds remaining available.
- The Deputy State Public Defender shall cease approving applications for expert witness funds should the total amount of approvals plus invoices paid and approved for payment equal to the maximum amount available in the Expert Witness Fund.
- If approvals are ceased pursuant this protocol, the Deputy State Public Defender shall notify any counsel seeking approval for funds that the maximum amount of the fund has

- been reached and that no approvals may be granted by OSPD until and unless additional funds become available.

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