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Louisiana Public Defender Board
301 Main Street, Suite 700
Baton Rouge, LA 70825

Dear Members of the Board,

I write today to ask you to pay special attention to the Lafayette Public Defender Office, where funding cuts slated for this week will render the office wholly incapable of providing effective representation as required by the Constitution. I am aware that debilitating funding shortfalls are being felt throughout Louisiana, but one cannot overstate the importance of providing essential funding to the Lafayette Public Defender Office and fulfilling the promise of fairness and equal justice for Lafayette's poor.

Unless this Board immediately acts, the Lafayette Public Defender Office will cease to function as a law office. This office, which is already relying on client "waiting lists" because of understaffing and underfunding, will be forced to shed over half of its full-time attorney positions (ten of eighteen are projected to be indefinitely furloughed), and all of its contract attorney positions if slated funding cuts move forward this week. Each of the office's remaining eight attorneys will be responsible for approximately 1,000 felony cases per year. These projected caseloads are not only unconscionable, but ripe for litigation. Indeed, a federal court in Washington State recently concluded that indigent defendants represented by attorneys carrying comparable caseloads were "systematically deprived of the assistance of counsel" and entitled to counsel who did not labor under crushing caseloads.¹

As members of the Louisiana Public Defender Board, you are statutorily empowered with "regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana."² As self-described "leaders in in the delivery of client-centered legal representation services,"³ the Board cannot ignore the crisis currently engulfing Lafayette. The public defenders and residents of Lafayette are relying on the Board to act immediately to safeguard existing attorney positions and the rights of Lafayette's poor.

¹ Memo. of Decision at 2-6, *Wilbur v. City of Mount Vernon*, No. C11-1100RSL (W.D. Wash. 2013).

² La. Stat. Ann. § 15:147(A).

³ Louisiana Public Defender Board Mission and Values, <http://lpdb.la.gov/About/Mission%20and%20Vision.php> (last visited Feb. 15, 2016).

Immediate action is essential to avoid a return to a not-to-distant time when the 15th Judicial Circuit's indigent defense system routinely skirted its duties under the Sixth Amendment. In a report commissioned by this Board to evaluate indigent defense services in the 15th Judicial Circuit found that attorneys representing the poor carried excessive caseloads, rarely filed motions, and, consequently, seldom subjected the prosecution's case to adversarial testing.⁴

By all accounts, the meet 'em and plead 'em culture spurred by these systemic deficiencies is gone in Lafayette. Today, the public defender's office is lauded as an indigent defense leader because of the exceptional representation its attorneys provide. These gains will vanish if essential funds are not restored.

In a recent Statement of Interest, the United States Department of Justice made clear that a government does not fulfill its duties under the Sixth Amendment by mere appointment of counsel. Indeed, an indigent defendant is deprived of representation when the office tasked to represent him "face[s] severe structural limitations, such as a lack of resources, high workloads, and understaffing."⁵ These systemic failures, in the DOJ's view, often eviscerate "the traditional markers of representation . . . such as timely and confidential consultation, appropriate investigation, and meaningful adversarial testing of the prosecution's case."⁶ Thus, the Board may be liable for any deprivations of counsel resulting from its failure to adequately fund the Lafayette Public Defender Office.

Without adequate funding, the Lafayette Public Defender Office will go from being an exceptional leader in indigent defense to a statewide embarrassment. It is this Board's responsibility and duty to avoid this result. I implore you to take appropriate action right away.

I thank you in advance for your immediate attention to this urgent matter.

Sincerely,



Sara Totonchi
H. Lee Sarokin Executive Director

⁴ National Legal Aid & Defender Association, *Effective Assistance of Counsel: Implementing the Louisiana Public Defender Act of 2007 – Evaluation of Public Defense Services and Operations in Louisiana's 15th Judicial District Indigent Defense System 3-7* (June 2010).

⁵ Statement of Interest of the United States at 7, *Hurrell-Harring v. State*, No. 8866-07 (N.Y. Sup. Ct. Aug. 14, 2013).

⁶ *Id.*