

MCILS

**September 9, 2014
Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

SEPTEMBER 9, 2014
COMMISSION MEETING
JUDICIARY COMMITTEE ROOM, STATEHOUSE, AUGUSTA
AGENDA

- 1) Approval of August 12, 2014 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Budget Discussion
- 4) Rule Discussion
- 5) Public Comment
- 6) Set Date, Time and Location of Next Regular Meeting of the Commission
- 7) Executive Session, if needed (Closed to Public)

(1.)
August 12, 2014
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
August 12, 2014**

Minutes

Commissioners Present: Marvin Glazier, William Logan, Susan Roy, Kenneth Spierer

MCILS Staff Present: John Pelletier, Ellie Brogan

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the July 15, 2014 Commission Meeting Minutes	Copy of minutes received by all Commissioners.	Commissioner Logan moved for the approval of the minutes. Commissioner Roy seconded. All present voted in favor. Approved.
Operations Reports Review	Director Pelletier presented the <u>July 2014 Operations Reports</u> . The number of new cases opened in DefenderData totaled 2,121 – a 42 case decrease from June. 2,324 vouchers were submitted in July, totaling \$1,119,255. This was a 257 voucher and \$152,000 decrease from June. In July, the Commission paid 2,156 vouchers, totaling \$1,047,157, a 357 voucher and \$143,000 decrease from June. July was a moderate month for vouchers and appears to be the new normal for voucher totals. The average price per voucher in July was \$485.55, an increase of \$12.08 per voucher from June. This is well above the yearly average for last year. Appeal and NCR Release Petition cases were the highest average vouchers. Eight vouchers exceeding \$5,000 were paid in July. The July transfer of counsel fees, which reflected June’s collections, totaled \$55,555.85. This was a great start to the fiscal year since at the same time last year, collections started off with a slump.	
Somerset County Contract Discussion	Director Pelletier updated the Commissioners about his discussion with two Somerset County judges about the court’s opinion on the Somerset Contract having three verses four attorneys. A former Superior Court Justice had high praise for the three remaining lawyers in the bidder group and believed that the attorneys would provide an accurate and frank assessment about whether a fourth attorney would be needed. A former District Court Judge also had high praise for the three attorneys. The judge did, however, have concern that 25% of the available attorney resource was now gone. The judge outlined some practical concerns about whether the three attorneys could adequately cover all the	

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	<p>necessary court sessions and also had concern about the increased odds of these remaining attorneys having back-to-back jury trials. While both judges agreed that a trial period would be appropriate, the District Court judge expressed some concern about whether three lawyers would be sufficient for the long term. The judge noted that the attorneys' perspective on needing a fourth attorney might be different from the court's view since the court's focus is on the need to make full use of court time. The judge did not want there to be court down-time due to the inability of the three attorneys to staff scheduled court sessions and trials.</p> <p>Following his discussion with the Acting Director of Purchasing, Director Pelletier crafted a contract provision that would allow the Commission to assess the situation after a trial period and require, if necessary, that a fourth attorney be added. This contract provision will leave this decision solely to the Commission and will not affect the contract price. After a discussion on this new provision, the Commissioners all agreed that the provision provides the Commission with some security should three attorneys prove insufficient. The Commissioners agreed that Director Pelletier should move forward with the contract as revised.</p>	
Attorney Removal Rule Amendment Discussion	<p>Director Pelletier reviewed the changes that were made to the attorney removal rule following the discussions at last month's meeting: (1) an attorney charged with a crime will not automatically have to disclose this fact to all clients in assigned cases. Instead, the decision whether to require the attorney to notify all clients will be made by the Executive Director on a case-by-case basis; (2) the removal or suspension from the roster section was revised to make it more clear but the substance of the provision remained unchanged; and (3) language was added regarding the ability to appeal the Executive Director's decision to the full Commission.</p> <p>Commissioner Glazier expressed concern about information that is disclosed to the Commission during an investigation not being covered under the current confidentially provision in the statute (4 MRS §1806(2)(F)). Director Pelletier noted that if deemed to be part of an "evaluation," it would be covered under the current statute. Alternatively, the Commission could seek to amend the statute to include "investigation" along with "evaluation." Commissioner Glazier prefers having the statute amended to make it clear that any information disclosed during an investigation would be confidential.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>After a brief discussion, it was agreed that Director Pelletier will prepare a proposed statutory language change to address the confidentiality issues surrounding Commission investigations to discuss at the next meeting.</p>	
<p>Specialized Panel Rule Discussion</p>	<p>Director Pelletier reviewed the changes that were made to the specialized panel rule as a result of the discussion at last month's meeting. One major change was the elimination of the reference letter requirement for all case types except homicide and except when the attorney is seeking a waiver. Overall, Commission staff found reference letters not particularly useful except in close cases. The revised rule allows for the Executive Director to request reference letters for applications that present a close case. After a brief discussion, the Commissioners suggested that the reference subsection be broken out into two parts in order to highlight the two instances where reference letters would be required. The other major change was to the juvenile defense panel which removed the civil offense and misdemeanor case types from the specialized panel. For protective custody cases, the time in practice requirement was removed, but the specific experience requirement remained.</p> <p>Commissioner Spirer asked for clarification about why the involuntary commitment panel was removed. Director Pelletier explained that due to the nature of involuntary cases, in that there is no specialized subset of mental health cases – unlike felony and serious violent felony – it makes more sense to make involuntary commitment cases a minimum standards eligible case type rather than a specialized panel.</p> <p>Based on discussions from last month's meeting, Director Pelletier drafted two proposed additions to the specialized panel rule for appellate and post-conviction review case types. For law court appeals, the following requirements were proposed: (1) representation in at least six cases; (2) three writing samples – either law court briefs or substantive trial court motions; and (3) a letter of interest. For post-conviction review cases, the following requirements were proposed: (1) three years of criminal law experience; (2) have been previously qualified to be placed on the trial roster for the case type applicable to the conviction being challenged on post-conviction review; and (3) a letter of interest.</p> <p>These two proposed sections were the result of a discussion by Commission staff with</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>two members of the Law Court and due to the fact that appellate work is a specialized activity. A member of the court expressed a preference that length in practice not be the sole consideration for eligibility on an appellate roster. The draft rule as proposed will be a subjective review of an attorney's appellate skills.</p> <p>Commissioner Glazier questioned whether the requirements for law court appeals were too burdensome. Director Pelletier noted that the law court requested a roster of appellate attorneys and is seeking a rule change to the rules of criminal procedure to stop the current practice of trial counsel automatically handling the case on appeal to a practice where trial counsel is automatically relieved from the case at the end of the trial court phase and would instead have the option of staying on the case if the attorney wants to and if the client consents. Director Pelletier will give the Law Court the opportunity to review and comment on the proposed requirements. Director Pelletier surveyed all rostered attorneys and the overwhelming response was that trial counsel would like the court to remove the mandatory requirement currently in place but also have the option of staying on the case to do the appeal. Due to the substantial difference between trial and appellate skills, Commissioner Spirer questioned why an appellate roster would be limited to just cases where trial counsel does not want to stay on the case, that it should apply in both instances.</p> <p>Director Pelletier will present a final draft of the specialized rule at next month's meeting.</p>	
Budget Discussion	<p>Director Pelletier updated the Commissioners on the status of the supplemental budget request and the biennial budget. He sought guidance from the Commissioners on what should be the proper inflation factor for the biennial budget.</p> <p>In January 2014, the Commission submitted a supplemental request of \$980,000 to cover increasing costs for FY'15. The supplemental budget enacted by the Legislature included half of that requested amount - \$490,000. Director Pelletier told the Commissioners that he does not see a reason or a trend in costs that would cause the Commission to change that earlier requested amount. He suggested asking for the remaining \$490,000.</p> <p>As for the biennial budget, Director Pelletier discussed the need to adjust the biennial</p>	<p>Commissioner Logan moved to include an 8% inflation factor in the biennium budget and to authorize the Executive Director to submit the budget requests as discussed. Commissioner Glazier seconded. All voted in favor.</p>

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	<p>budget request to reflect the proposed hourly rate increase to \$70/hr in FY'16 and \$75/hr in FY'17, as well as to reflect the increasing costs seen over the past four years. For the current biennium, the Commission used an annual inflation adjustment of 3.5%. However, the percentage increase in the Commission's overall budget allotments over the last four years has been: FY'11/FY'12 – 13.6%, FY'12/FY'13 – 3.6%, FY'13/FY'14 – 7.4%. This averages out to an 8.2% yearly increase. When the Judicial Branch ran the system, there was about a 6.5% increase in costs each year. Director Pelletier told the Commissioners that he believes that the increasing costs are due to: (1) an increase in electronic discovery, which require more attorney hours for review; (2) an increase in the number of cases with immigration consequences, which require the use of immigration attorney consultations and interpreters; and (3) the ratio of felony to misdemeanor cases has increased on the felony side.</p>	
Public Comment	None	
Adjournment of meeting	The Commission then voted to adjourn with the next meeting to be on September 9, 2014, at 9:30 am in the Judiciary Committee Room.	Commissioner Logan made a motion to adjourn. Commissioner Glazier seconded. All present voted in favor.

(2.)
Operations Reports
Review

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
SUBJECT: AUGUST 2014 OPERATIONS REPORTS
DATE: SEPTEMBER 3, 2014

Attached you will find the August, 2014 Operations Reports for your review and our discussion at the upcoming Commission meeting on September 9, 2014. A summary of the operations reports follows:

- 2,160 new cases were opened in the DefenderData system in August. This was a 39 case increase over July.
- The number of vouchers submitted electronically in August was 2,347, an increase of 23 vouchers from July, totaling \$1,122,884.78, an increase of \$4,000 from July. In August, we paid 2,331 electronic vouchers totaling \$1,085,230.25. This was a 175 voucher and \$38,000 increase over July.
- There were no paper vouchers submitted or paid in August.
- The average price per voucher in August was \$465.56, down \$19.99 per voucher from July.
- Appeal and Post-Conviction Review cases had the highest average vouchers in August. There were 10 vouchers exceeding \$5,000 paid in August. These cases involved: 1) three vouchers in murder cases, one after a 12 day trial, one an interim voucher for a co-defendant in the 12-day trial whose trial was postponed, and one a guilty plea; 2) a dismissal during trial based on the litigation of a discovery violation issue in an assault with a deadly weapon case; 3) a hung-jury after trial of a child pornography case; 4) an appeal of an elevated aggravated assault conviction after a 7 day trial; 5) a mixed verdict after a two-day trial in a domestic assault case, and 6) three cases in which experienced counsel were dismissed by the client on the eve of trial.

In our All Other Account, the total expenses for the month of August were \$1,199,265.91. Of the amount, \$9,415.99 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$49,475.54 in expenses for the month of August.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of August, which reflects July's collections, totaled \$68,324.36. After two months, collections are off to a strong start for this fiscal year.

In our Conference Account, we collected registration fees for the August involuntary commitment training and the September juvenile training replay and paid expenses for the August involuntary commitment training, bringing the account balance at \$22,819.41.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

8/31/2014

DefenderData Case Type	Aug-14						Fiscal Year 2015			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	14	12	\$ 13,896.75	12	\$ 15,035.17	\$ 1,252.93	27	22	\$ 25,582.42	\$ 1,162.84
Child Protection Petition	171	342	\$ 181,101.67	340	\$ 181,263.48	\$ 533.13	331	706	\$ 373,196.28	\$ 528.61
Drug Court	1	5	\$ 1,612.00	8	\$ 2,709.50	\$ 338.69	2	13	\$ 5,024.50	\$ 386.50
Emancipation	12	10	\$ 2,586.00	6	\$ 1,552.50	\$ 258.75	27	10	\$ 1,962.18	\$ 196.22
Felony	500	505	\$ 429,568.24	471	\$ 376,777.24	\$ 799.95	1,031	929	\$ 762,617.97	\$ 820.90
Involuntary Civil Commitment	78	51	\$ 10,593.08	52	\$ 13,756.64	\$ 264.55	167	113	\$ 23,899.24	\$ 211.50
Juvenile	77	103	\$ 37,880.96	128	\$ 41,813.04	\$ 326.66	195	210	\$ 69,678.36	\$ 331.80
Lawyer of the Day - Custody	244	206	\$ 43,470.86	200	\$ 40,965.09	\$ 204.83	436	397	\$ 78,792.77	\$ 198.47
Lawyer of the Day - Juvenile	51	51	\$ 9,541.20	40	\$ 7,101.48	\$ 177.54	81	73	\$ 13,019.12	\$ 178.34
Lawyer of the Day - Walk-in	150	111	\$ 23,237.13	105	\$ 21,778.56	\$ 207.41	243	173	\$ 34,421.50	\$ 198.97
Misdemeanor	649	594	\$ 206,029.80	628	\$ 234,760.10	\$ 373.82	1,296	1,166	\$ 437,406.96	\$ 375.13
Petition, Modified Release Treatment	3	8	\$ 2,520.79	7	\$ 1,959.01	\$ 279.86	4	13	\$ 3,331.57	\$ 256.27
Petition, Release or Discharge	0	1	\$ 307.25	1	\$ 307.25	\$ 307.25	0	2	\$ 2,867.88	\$ 1,433.94
Petition, Termination of Parental Rights	20	30	\$ 20,632.53	36	\$ 23,845.11	\$ 662.36	45	82	\$ 56,135.50	\$ 684.58
Post Conviction Review	3	7	\$ 7,643.32	5	\$ 5,334.50	\$ 1,066.90	6	9	\$ 10,319.58	\$ 1,146.62
Probation Violation	156	151	\$ 51,876.54	140	\$ 46,876.58	\$ 334.83	321	258	\$ 86,684.43	\$ 335.99
Represent Witness on 5th Amendment	1	1	\$ 154.00	2	\$ 364.00	\$ 182.00	2	3	\$ 464.00	\$ 154.67
Review of Child Protection Order	26	156	\$ 79,574.41	146	\$ 68,263.75	\$ 467.56	57	301	\$ 145,095.98	\$ 482.05
Revocation of Administrative Release	4	3	\$ 658.25	4	\$ 767.25	\$ 191.81	6	7	\$ 1,887.25	\$ 269.61
DefenderData Sub-Total	2,160	2,347	\$ 1,122,884.78	2,331	\$ 1,085,230.25	\$ 465.56	4,277	4,487	\$ 2,132,387.49	\$ 475.24
Paper Voucher Sub-Total	0	0	\$ -	0	\$ -	#DIV/0!	1	1	\$ 163.62	\$ 163.62
TOTAL	2,160	2,347	\$1,122,884.78	2,331	\$1,085,230.25	\$ 465.56	4,278	4,488	\$ 2,132,551.11	\$ 475.17

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
AS OF 08/31/2014

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Professional Services Allotment		\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	
FY15 General Operations Allotment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	\$ 13,949,052.00
Total Expenses	1	\$ (1,141,359.56)	4	\$ -	7	\$ -	10	\$ -	\$ (1,141,359.56)
	2	\$ (1,199,265.91)	5	\$ -	8	\$ -	11	\$ -	\$ (1,199,265.91)
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	\$ -
Encumbrances		\$ (10,125.00)		\$ -		\$ -		\$ -	\$ (10,125.00)
TOTAL REMAINING		\$ 1,317,362.53		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	\$ 11,598,301.53

Q1 Month 2 (as of 08/31/14)

INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (1,085,230.25)
Somerset County	\$ (21,135.00)
Subpoena Witness Fees	\$ (165.92)
Private Investigators	\$ (21,094.91)
Mental Health Expert	\$ (26,826.94)
Transcripts	\$ (19,217.08)
Other Expert	\$ (11,957.16)
Expert Witness Lodging	\$ (414.72)
Process Servers	\$ (791.76)
Interpreters	\$ (855.43)
Misc Prof Fees & Serv	\$ (2,160.75)
SUB-TOTAL ILS	\$ (1,189,849.92)
OPERATING EXPENSES	
Service Center	\$ -
DefenderData	\$ (4,671.50)
Risk Management	\$ -
Mileage/Tolls/Parking	\$ (1,280.42)
Mailing/Postage/Freight	\$ (533.65)
Green Cards	\$ (40.90)
Notary Renewal	\$ (50.00)
Office Supplies/Equip.	\$ (208.83)
Cellular Phones	\$ (114.97)
VDT reimbursements	\$ (381.00)
Office Equipment Rental	\$ (144.41)
OIT/TELCO	\$ (1,990.31)
SUB-TOTAL OE	\$ (9,415.99)
TOTAL	\$ (1,199,265.91)

INDIGENT LEGAL SERVICES

Q1 Allotment	\$ 3,668,113.00
Q1 Remaining Encumbrances	\$ (10,125.00)
Q1 Expenses as of 08/31/14	\$ (2,340,625.47)
Remaining Q1 Allotment as of 08/31/14	\$ 1,317,362.53

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 08/31/14

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
Total Budget Allotments		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Financial Order Adjustment		\$ -	4	\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Collected Revenue from JB	1	\$ 51,555.85	4	\$ -	7	\$ -	10	\$ -	
Promissory Note Payments		\$ 200.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ 68,324.36	5	\$ -	8	\$ -	11	\$ -	
Promissory Note Payments		\$ 200.00		\$ -		\$ -		\$ -	
Donation		\$ 1,500.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Promissory Note Payments		\$ -		\$ -		\$ -		\$ -	
TOTAL REVENUE COLLECTED		\$ 121,780.21		\$ -		\$ -		\$ -	\$ 121,780.21
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
REMAINING ALLOTMENT		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Total Expenses	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
REMAINING CASH		\$ 121,780.21		\$ -		\$ -		\$ -	\$ 121,780.21

Q1 Month 2 (as of 08/31/14)	
DEFENDER DATA COUNSEL PAYMENTS	
	\$ -
SUB-TOTAL ILS	
OVERPAYMENT REIMBURSEMENTS	\$ (1,344.65)
Paper Voucher	\$ -
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
Process Servers	\$ -
SUB-TOTAL OE	\$ (1,344.65)
TOTAL	\$ (1,344.65)

INDIGENT LEGAL SERVICES	
FY14 Allotment	\$ 596,497.00
YTD Collected Revenue	\$ 121,780.21
YTD Expenses	\$ (1,344.65)
YTD Counsel Payments	\$ -
Q4 Remaining Unexpended Cash	\$ 120,435.56

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
AS OF 08/31/2014

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Allotment		\$ 186,226.00		\$ 181,742.00		\$ 169,447.00		\$ 139,222.00	\$ 676,637.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments				\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 186,226.00		\$ 181,742.00		\$ 169,447.00		\$ 139,222.00	\$ 676,637.00
Total Expenses	1	\$ (66,591.80)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (49,475.54)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 70,158.66		\$ 181,742.00		\$ 169,447.00		\$ 139,222.00	\$ 560,569.66

Q1 Month 2 (as of 08/31/14)	
Per Diem Payments	\$ (220.00)
Salary	\$ (23,888.34)
Vacation Pay	\$ (3,286.43)
Holiday Pay	\$ -
Sick Pay	\$ 17.18
Overtime Pay	\$ -
Health Insurance	\$ (8,916.00)
Dental Insurance	\$ (249.48)
Employer Retiree Health	\$ (3,957.51)
Employer Retirement	\$ (1,577.00)
Employer Group Life	\$ (205.03)
Employer Medicare	\$ (385.84)
Retiree Unfunded Liability	\$ (4,656.29)
Retro Pymt	\$ (147.60)
Perm Part Time Full Ben	\$ (2,003.20)
TOTAL	\$ (49,475.54)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 08/31/14

Account 014 95F Z112 02 (Conference Account)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY14 Carry Over		\$ 20,144.41							\$ -
Total Budget Allotments		\$ 4,000.00		\$ 20,000.00		\$ 4,000.00		\$ 4,000.00	\$ 32,000.00
Budget Order Adjustment									
Total Budget Allotments		\$ 4,000.00		\$ 20,000.00		\$ 4,000.00		\$ 4,000.00	\$ 32,000.00
Total Revenue	1	\$ 1,850.00	4	\$ -	7	\$ -	10	\$ -	
Billed Earned Revenue	1	\$ (150.00)	5	\$ -	8	\$ -	11	\$ -	
	2	\$ 975.00	6	\$ -	9	\$ -	12	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
ACTUAL CASH BALANCE		\$ 22,819.41		\$ -		\$ -		\$ -	\$ 22,819.41
Total Expenses	1	\$ (76.04)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (3,293.26)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 19,600.11		\$ 20,000.00		\$ 4,000.00		\$ 4,000.00	\$ 31,923.96

Q1 Month 2 (as of 08/31/14)

Collected Revenue	\$ 975.00
Travel Expenses	\$ (73.64)
Training Manuals Printing	\$ (203.89)
Training Refreshments/Meals	\$ (664.00)
Speaker Fees	\$ (951.23)
Videographer	\$ (1,350.00)
Refund for non-attendance	\$ (50.00)
Cost Allocation	\$ (0.50)
TOTAL EXPENSES	\$ (3,293.26)

FY15 Allotment	\$ 32,000.00
FY14 Carry Over	\$ 20,144.41
FY15 Collected Revenue	\$ 2,775.00
FY15 Expenses	\$ (3,319.30)
Unexpended Cash	\$ 19,600.11

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

8/31/2014

Court	Aug-14						Fiscal Year 2014			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	131	158	\$ 110,042.37	150	\$ 101,421.61	\$ 676.14	260	313	\$ 206,273.44	\$ 659.02
AUBSC	91	88	\$ 56,976.66	69	\$ 52,041.31	\$ 754.22	181	135	\$ 114,536.01	\$ 848.41
AUGDC	85	115	\$ 38,989.76	102	\$ 37,448.27	\$ 367.14	153	176	\$ 66,765.88	\$ 379.35
AUGSC	92	125	\$ 66,426.74	125	\$ 73,438.33	\$ 587.51	184	213	\$ 115,643.09	\$ 542.93
BANDC	62	94	\$ 31,990.23	104	\$ 40,455.05	\$ 388.99	142	197	\$ 70,043.19	\$ 355.55
BANSC	5	2	\$ 1,259.50	4	\$ 2,271.50	\$ 567.88	6	7	\$ 4,605.20	\$ 657.89
BATSC	4	5	\$ 2,849.94	6	\$ 3,297.75	\$ 549.63	9	10	\$ 4,649.47	\$ 464.95
BELDC	31	38	\$ 13,644.33	36	\$ 15,337.77	\$ 426.05	61	67	\$ 27,719.76	\$ 413.73
BELSC	15	21	\$ 9,834.22	14	\$ 6,536.46	\$ 466.89	30	29	\$ 16,512.14	\$ 569.38
BIDDC	121	78	\$ 31,372.44	77	\$ 38,205.77	\$ 496.18	198	168	\$ 81,336.69	\$ 484.15
BRIDC	24	20	\$ 8,064.44	19	\$ 7,884.39	\$ 414.97	31	45	\$ 21,949.32	\$ 487.76
CALDC	10	24	\$ 8,028.99	32	\$ 13,066.34	\$ 408.32	32	46	\$ 21,705.85	\$ 471.87
CARDC	9	24	\$ 13,887.73	31	\$ 16,977.03	\$ 547.65	31	64	\$ 28,576.52	\$ 446.51
CARSC	24	25	\$ 13,175.35	37	\$ 16,593.99	\$ 448.49	65	65	\$ 28,997.44	\$ 446.11
DOVDC	11	19	\$ 3,789.90	17	\$ 4,673.00	\$ 274.88	16	26	\$ 6,283.40	\$ 241.67
DOVSC	0	1	\$ 115.50	0			1	0		
ELLDC	11	25	\$ 12,388.90	37	\$ 19,402.60	\$ 524.39	34	85	\$ 51,534.60	\$ 606.29
ELLSC	6	5	\$ 1,072.00	10	\$ 10,500.50	\$ 1,050.05	11	14	\$ 12,168.00	\$ 869.14
FARDC	3	8	\$ 5,501.01	15	\$ 9,074.57	\$ 604.97	12	29	\$ 20,635.98	\$ 711.59
FARSC	1	2	\$ 768.22	2	\$ 768.22	\$ 384.11	4	9	\$ 3,467.82	\$ 385.31
FORDC	3	7	\$ 2,141.44	5	\$ 1,248.44	\$ 249.69	10	14	\$ 4,569.40	\$ 326.39
HOUDC	32	44	\$ 14,542.69	40	\$ 10,635.95	\$ 265.90	77	93	\$ 24,728.65	\$ 265.90
HOUSC	10	12	\$ 5,886.42	3	\$ 1,457.93	\$ 485.98	27	25	\$ 20,078.63	\$ 803.15
LEWDC	170	148	\$ 62,555.93	125	\$ 46,168.30	\$ 369.35	321	278	\$ 105,086.69	\$ 378.01
LINDC	9	29	\$ 5,846.44	12	\$ 3,107.18	\$ 258.93	25	26	\$ 8,784.52	\$ 337.87
MACDC	17	23	\$ 9,655.25	40	\$ 17,309.20	\$ 432.73	48	70	\$ 25,975.57	\$ 371.08
MACSC	12	5	\$ 1,163.00	16	\$ 4,251.00	\$ 265.69	21	28	\$ 8,971.60	\$ 320.41
MADDC	0	0		1	\$ 288.86	\$ 288.86	2	1	\$ 288.86	\$ 288.86
MILDC	3	2	\$ 435.00	2	\$ 632.50	\$ 316.25	7	8	\$ 1,839.42	\$ 229.93
NEWDC	25	24	\$ 7,188.56	38	\$ 8,256.50	\$ 217.28	54	59	\$ 17,189.35	\$ 291.34
PORDC	67	120	\$ 54,765.23	124	\$ 49,744.14	\$ 401.16	148	236	\$ 99,407.15	\$ 421.22
PORSC	4	4	\$ 7,869.50	5	\$ 11,859.14	\$ 2,371.83	8	9	\$ 14,335.14	\$ 1,592.79
PREDC	25	54	\$ 23,561.72	58	\$ 15,998.97	\$ 275.84	51	88	\$ 27,206.95	\$ 309.17
ROCDC	48	63	\$ 21,676.07	70	\$ 26,292.65	\$ 375.61	90	106	\$ 36,923.35	\$ 348.33
ROSC	35	25	\$ 17,557.96	24	\$ 13,290.74	\$ 553.78	55	51	\$ 28,224.82	\$ 553.43
RUMDC	24	20	\$ 8,797.52	13	\$ 5,146.50	\$ 395.88	45	30	\$ 14,017.00	\$ 467.23
SKODC	11	43	\$ 18,232.82	45	\$ 15,063.95	\$ 334.75	28	90	\$ 33,104.05	\$ 367.82
SKOSC	0	2	\$ 418.70	0			0	2	\$ 205.50	\$ 102.75
SOUDC	37	42	\$ 8,581.43	43	\$ 13,261.21	\$ 308.40	63	72	\$ 20,732.65	\$ 287.95
SOUSC	29	24	\$ 10,371.80	24	\$ 10,628.45	\$ 442.85	88	60	\$ 25,021.12	\$ 417.02
SPRDC	88	62	\$ 27,131.53	47	\$ 22,722.46	\$ 483.46	146	100	\$ 48,498.48	\$ 484.98
Law Ct	8	9	\$ 11,207.51	10	\$ 13,705.39	\$ 1,370.54	20	18	\$ 21,555.64	\$ 1,197.54
PENCD	164	179	\$ 118,264.68	199	\$ 85,020.20	\$ 427.24	362	397	\$ 218,698.73	\$ 550.88
SAGCD	20	23	\$ 9,270.60	34	\$ 19,313.98	\$ 568.06	48	52	\$ 31,026.44	\$ 596.66
PISCD	12	11	\$ 2,358.50	12	\$ 1,780.00	\$ 148.33	32	30	\$ 4,666.50	\$ 155.55
HANCD	47	23	\$ 7,150.53	24	\$ 9,080.73	\$ 378.36	66	47	\$ 19,737.73	\$ 419.95
FRACD	37	41	\$ 17,608.58	38	\$ 20,071.82	\$ 528.21	94	56	\$ 28,329.96	\$ 505.89
CUMCD	322	268	\$ 151,869.20	235	\$ 129,910.07	\$ 552.81	584	449	\$ 236,492.20	\$ 526.71
SOMCD	0	2	\$ 4,477.30	1	\$ 3,708.90	\$ 3,708.90	0	2	\$ 3,864.90	\$ 1,932.45
WATDC	49	67	\$ 23,424.89	67	\$ 18,864.31	\$ 281.56	99	112	\$ 32,973.48	\$ 294.41
WESDC	37	37	\$ 12,568.56	31	\$ 10,919.28	\$ 352.23	57	60	\$ 19,817.10	\$ 330.29
WISDC	34	25	\$ 7,244.77	27	\$ 9,879.01	\$ 365.89	57	50	\$ 15,618.83	\$ 312.38
WISSC	26	21	\$ 12,403.79	20	\$ 11,283.22	\$ 564.16	48	42	\$ 20,297.68	\$ 483.28
YORDC	19	11	\$ 6,478.63	11	\$ 4,934.81	\$ 448.62	35	28	\$ 10,715.60	\$ 382.70
TOTAL	2,160	2,347	\$ 1,122,884.78	2,331	\$ 1,085,230.25	\$ 465.56	4,277	4,487	\$ 2,132,387.49	\$ 475.24

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Number of Attorneys Rostered by Court

8/31/2014

Court	Rostered Attorneys
Alfred Superior Court	109
Auburn Superior Court	118
Augusta District Court	93
Augusta Superior Court	87
Bangor District Court	62
Belfast District Court	49
Belfast Superior Court	43
Biddeford District Court	136
Bridgton District Court	106
Calais District Court	12
Caribou District Court	16
Caribou Superior Court	19
Dover-Foxcroft District Court	27
Ellsworth District Court	49
Farmington District Court	28
Fort Kent District Court	8
Houlton District Court	16
Houlton Superior Court	18
Lewiston District Court	147
Lincoln District Court	31
Machias District Court	19
Machias Superior Court	15
Madawaska District Court	9

Court	Rostered Attorneys
Millinocket District Court	25
Newport District Court	41
Portland District Court	155
Presque Isle District Court	14
Rockland District Court	50
Rockland Superior Court	43
Rumford District Court	29
Skowhegan District Court	28
South Paris District Court	71
South Paris Superior Court	67
Springvale District Court	123
Unified Criminal Docket Bangor	63
Unified Criminal Docket Bath	86
Unified Criminal Docket Dover Foxcroft	26
Unified Criminal Docket Ellsworth	43
Unified Criminal Docket Farmington	29
Unified Criminal Docket Portland	146
Unified Criminal Docket Skowhegan	17
Waterville District Court	54
West Bath District Court	114
Wiscasset District Court	78
Wiscasset Superior Court	70
York District Court	114

(3.)
Budget Discussion

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: BUDGET MEMO
DATE: September 3, 2014

After the August Commission meeting, I set about preparing budget submissions that were due before September 1, 2014. While working on the budget projections for FY'15, I determined that to cover our projected costs, the supplemental request for FY'15 would need to be larger than discussed at the August meeting. I submitted the larger figure after discussing my findings with Chair Carey.

The biennial budget request was submitted in accord with the prior discussion.

Attached is a budget justification memo explaining both requests, along with supporting documents, that I submitted to the budget office and to the Governor's counsel. More detail on the FY'15 supplemental request is contained therein.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MELISSA GOTT, STATE BUDGET OFFICER
CARLISLE McLEAN, ESQ., CHIEF LEGAL COUNSEL TO THE GOVERNOR

FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR

SUBJECT: MCILS BUDGET JUSTIFICATION
FY'15 SUPPLEMENTAL BUDGET REQUEST
FY'16-17 BIENNIAL BUDGET REQUEST

DATE: SEPTEMBER 2, 2014

FY'15 SUPPLEMENTAL BUDGET REQUEST - \$818,000

Unmet Supplemental Request from January, 2014 - \$490,000

In January, 2014, the Commission submitted a supplemental budget request to the Legislature in the amount of \$980,000 based on trend data showing increasing costs for indigent legal services during the first half of FY'14. In response, the Legislature appropriated an additional \$490,000 for MCILS for FY'15. Cost data for the second half of FY'14 were consistent with the increase seen earlier in the year. As a result, the Commission continues to be in need of the full amount requested in January, i.e. an additional \$490,000.

Moreover, the Commission now projects that it will need an additional \$328,000 over the amount set forth above to cover costs projected for FY'15. That amount is broken down as follows:

Excess carryover from FY'14 - \$252,000

Due to the payment schedule for attorney vouchers submitted to the Commission (vouchers submitted during the final two weeks of any quarter are paid during the subsequent quarter), each year costs incurred in one fiscal year are paid during the next. At the end of FY'14, the Commission carried forward into the current fiscal year \$252,000 more in attorney vouchers than had been carried forward from FY'13 into FY'14. This excess carryover did not cause a substantial delay in payments at the end of FY'14 because a large supplemental appropriation at the end of FY'13 had allowed the Commission to carry an unusually small amount into FY'14. The excess carryover, however, when included in projections for FY'15, would cause a substantial delay in payments at the end of FY'15. Accordingly, the Commission needs \$252,000 to cover the excess carryover from FY'14.

Specific Increased Cost Items – \$76,000

The Commission recently put the longstanding contract for indigent legal services in Somerset County out to bid by RFP. Only the incumbent provider submitted a bid, and that bid reflected a

10% increase over the previous contract amount, which mirrors the recent 10% increase in the hourly rate paid to attorneys on individual assigned cases. The increased Somerset contract cost for FY'15 equals \$20,625.

As noted in the supplemental request the Commission made in January, costs for non-counsel services necessary for effective representation have risen significantly as the number of serious cases and the complexity of cases in general has increased. Moreover, the Legislature has approved a \$5/hr. increase in the rate paid to private investigators (\$25/hr. to \$30.00) effective January 1, 2015, and the Commission projects that the new rate will be applied to more investigator hours than originally predicted. The increased non-counsel cost projected for FY'15 equals \$39,000.

The Legislature authorized new financial screener positions that have increase our operating expenses, as has the renewal at a slightly higher rate of our contract for the attorney voucher payment system. Accordingly, we project operational expenses to increase by \$16,000.

Finally, note that the Commission has had increasing success collecting reimbursements from people ordered to pay some or all of the cost of their representation. In FY'14, the Commission collected \$654,406, the highest amount since the Commission's inception. The amounts stated above, however, remain necessary despite improving collections.

BIENNIAL BUDGET REQUEST - FY'16 – 17

FY'16 - \$ 6,168,602

FY'17 - \$9,283,804

The amounts set forth above reflect funds requested in addition to the Commission's baseline budget for FY'16 and FY'17. The requested increases are based on two principal components: 1) the history of the increasing cost for indigent legal services, both since the inception of the Commission and previously when these costs were borne by the Judicial Branch; and 2) the Commission's belief that the current hourly rate of \$55/hr. paid to assigned counsel is inadequate and should be raised to \$70/hr. for FY'16 and \$75/hr. for FY'17.

Increasing Costs

Since the Commission's inception, the cost of providing indigent legal services has increased each year. The percentage increases have been as follows: FY'11/12 – 13.6%; FY12/13 – 3.6%; FY'13/14 – 7.4% (see attached document entitled Four Year Cost Trend). The trend is not dissimilar to the trend that existed when these costs were borne by the Judicial Branch (see attached Judicial Branch 10-year cost data). The average yearly increase for the first four years of the Commission's existence equals 8.2%. In August, the Commission decided that based on this history, Commission budget projections for FY'16 and FY'17 should reflect 8% cost increases for each year.

Increased Hourly Rate

As stated above, the Commission believes that the current hourly rate of \$55/hr. paid to assigned

counsel is inadequate and should be raised to \$70/hr. for FY'16 and \$75/hr. for FY'17. Toward that end, the Commission has adopted an amendment to its Fee Schedule rule to raise the rate as just described. The Commission understands that the Legislature has recently made the Fee Schedule a major substantive rule and that any actual increase will require the approval of and funding by the Legislature. The Commission's budget request reflects the amounts needed to fund the proposed hourly rate increase.

The attached projection spreadsheets and summary of our "All Other Need" reflect separately the amounts necessary to meet our increased projected costs and the amounts necessary to fund the proposed rate increase.

I look forward to discussing these budget requests with you and will be glad to provide any additional information you may request.

Changes - All Budget Items

Change Group: I Change Type:A Change Number:All Include:Yes One Time:Included

Emergency Supplemental FY 15 From/To

IND00 MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Change Package: I-A-8 Priority: Include: Yes

Description: Provides funding for increased counsel and non-counsel indigent legal services in the 2014-2015 biennium.

Justification: The Commission is required to provide quality legal services to indigent people who are entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine. In January, 2014, the Commission submitted a supplemental budget request to the Legislature for fiscal year 2015 in the amount \$980,000 based on trend data showing increased costs. In response, the Legislature appropriated \$490,000. Commission cost trends reflect a continuing need for the additional \$490,000. In addition, due to the payment schedule for attorney vouchers submitted to the Commission, each year costs incurred during one fiscal year are paid during the next. At the end of fiscal year 2014, the Commission carried forward into the current fiscal year \$252,000 more in attorney voucher costs than had been carried from fiscal year 2013 into fiscal year 2014. This amount is needed to cover the additional costs carried forward into fiscal year 2015. Finally, the Commission will incur \$76,000 in increased costs based on 1) increased costs for experts, investigators, interpreters and transcripts; 2) increased costs for our voucher payment system contract and the contract for attorney services in Somerset County; and 3) increased operational costs for new employee positions. For all of these reasons, the Commission's total supplemental need equals \$818,000.

01095FZ11201 MAINE COMMISSION - INDIGENT LEGAL SVCS

Appropriations and Allocations

All Other

000200	ALL OTHER	818,000
	Total All Other	818,000
	Total Appropriations and Allocations	818,000

Expenditures

All Other

400000	PROF. SERVICES, NOT BY STATE	818,000
	Total All Other	818,000
	Total Expenditures	818,000

Changes - All Budget Items

Change Group: C Change Type:A Change Number:All Include:Yes One Time:Included

Part A Initiatives & Other FY 16 Part A Initiatives & From/To Other FY 17

IND00 MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Change Package: C-A-1 Priority: Include: Yes

Description: Increases funding for the Maine Commission on Indigent legal Services.

Justification: The Commission is required to provide quality legal services to indigent people who are entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine. Representation is provided by private assigned counsel who are compensated at a rate of \$55/hr. The Commission believes that an increase in the hourly rate is necessary to provide counsel with the resources necessary to provide quality representation and to maintain an adequate supply of qualified counsel. In addition, since the Commission's inception, the cost for indigent legal services has risen each year, as it did when this system was part of the Judicial Branch. This initiative provides funds necessary to meet the increased cost of indigent legal services and to increase the hourly rate paid to assigned counsel to \$70/hr. in FY16 and \$75/hr. in FY17.

01095FZ11201 MAINE COMMISSION - INDIGENT LEGAL SVCS

Appropriations and Allocations

All Other

000200	ALL OTHER	6,168,602	9,283,804
	Total All Other	6,168,602	9,283,804
	Total Appropriations and Allocations	6,168,602	9,283,804

Expenditures

All Other

404000	COURT APPOINTED ATTORNEYS	6,168,602	9,283,804
	Total All Other	6,168,602	9,283,804
	Total Expenditures	6,168,602	9,283,804

MCILS BUDGET SUMMARY

FY14 AO Final Allocation	\$12,767,799		
	FY15	FY16	FY17
AO Baseline	\$13,949,052	\$13,949,052	\$13,949,052
AO need \$55/hr	\$14,767,052	\$15,948,416	\$17,224,289
		8% projected increase over '15	8% projected increase over '16
Vouchers @ \$55/hr	\$14,161,013	\$15,287,221	\$16,523,578
Voucher increase @ \$70/hr		\$4,169,238	
Voucher increase @ \$75/hr			\$6,008,568
AO need with increase		\$20,117,654	\$23,232,856
Biennial Budget Change Request		\$6,168,602	\$9,283,804

Fiscal year 2016
\$15,948,416.00 (\$14,767,052*1.08) BASELINE BUDGET

15948416.16

FY' 16, QUARTER 1	
95F Z112 010 ALL OTHER Allotment:	\$ 3,961,562.00
95F Z112 014 Collected REVENUE:	\$ 169,960.00
TOTAL Q1 ALLOTMENT:	\$ 4,131,522.00
Contract Counsel:	\$ (68,062.50)
Operating Expenses:	\$ (34,560.00)
Non-Counsel Indigent Legal Services:	\$ (232,636.00)
Balance of FY15 Q4 Vouchers	\$ (536,527.74)
Q1 Counsel Vouchers:	\$ (3,055,548.26)
TOTAL Q1 EXPENSES:	\$ (3,927,334.50)
Q1 ENDING BALANCE OF ACCTS:	\$ 204,187.50
Q1 Counsel Vouchers Submitted:	\$ 3,587,180.34
Q1 Counsel Vouchers Paid:	\$ (3,055,548.26)
VOUCHER BALANCE FORWARD TO Q2:	\$ 531,632.08

14

FY' 16, QUARTER 2	
95F Z112 010 ALL OTHER Allotment:	\$ 3,579,831.00
95F Z112 014 Collected REVENUE:	\$ 169,960.00
TOTAL Q2 ALLOTMENT:	\$ 3,749,791.00
Operating Expenses:	\$ (34,560.00)
Non-Counsel Indigent Legal Services:	\$ (232,636.00)
Balance of Q1 Counsel Vouchers:	\$ (531,632.08)
Q2 Counsel Vouchers:	\$ (2,950,962.92)
TOTAL Q2 EXPENSES:	\$ (3,749,791.00)
Q2 ENDING BALANCE OF ACCTS:	\$ (0.00)
Q2 Counsel Vouchers Submitted:	\$ 3,484,035.91
Q2 Counsel Vouchers Paid:	\$ (2,950,962.92)
VOUCHER BALANCE FORWARD TO Q3:	\$ 533,072.99

14

FY' 16, QUARTER 3	
95F Z112 010 ALL OTHER Allotment:	\$ 4,136,547.00
95F Z112 014 Collected REVENUE:	\$ 169,960.00
TOTAL Q3 ALLOTMENT:	\$ 4,306,507.00
Operating Expenses:	\$ (34,560.00)
Non-Counsel Indigent Legal Services:	\$ (232,636.00)
Balance of Q2 Counsel Vouchers:	\$ (533,072.99)
Q3 Counsel Vouchers:	\$ (3,506,238.01)
TOTAL Q3 EXPENSES:	\$ (4,306,507.00)
Q3 ENDING BALANCE OF ACCTS:	\$ -
Q3 Counsel Vouchers Submitted:	\$ 4,022,278.57
Q3 Counsel Vouchers Paid:	\$ (3,506,238.01)
VOUCHER BALANCE FORWARD TO Q4:	\$ 516,040.56

16

FY' 16, QUARTER 4	
95F Z112 010 ALL OTHER Allotment:	\$ 4,270,475.00
95F Z112 014 Collected REVENUE:	\$ 169,960.00
TOTAL Q4 ALLOTMENT:	\$ 4,440,435.00
Operating Expenses:	\$ (34,560.00)
Non-Counsel Indigent Legal Services:	\$ (232,636.00)
Balance of Q3 Counsel Vouchers:	\$ (516,040.56)
Q4 Counsel Vouchers:	\$ (3,657,198.44)
TOTAL Q4 EXPENSES:	\$ (4,440,435.00)
Q4 ENDING BALANCE OF ACCTS:	\$ (0.00)
Q4 Counsel Vouchers Submitted:	\$ 4,195,505.45
Q4 Counsel Vouchers Paid:	\$ (3,657,198.44)
VOUCHER BALANCE FORWARD TO FY14:	\$ 538,307.01

14

Counsel Vouchers Submitted

Q1	\$ 3,587,180.34
Q2	\$ 3,484,035.91
Q3	\$ 4,022,278.57
Q4	\$ 4,195,505.45

Counsel Vouchers Paid

Q1	\$ (536,527.74)	
Q2	\$ (3,055,548.26)	
Total	\$	(3,592,076.00)
Q3	\$ (531,632.08)	
Q4	\$ (2,950,962.92)	
Total	\$	(3,482,595.00)
Q3	\$ (533,072.99)	
Q4	\$ (3,506,238.01)	
Total	\$	(4,039,311.00)
Q4	\$ (516,040.56)	
Total	\$	(4,173,239.00)
Grand Total	\$	(15,287,221.00)

Voucher Component @ \$70/hr. (*1.272727) \$ (19,456,458.93)
 Difference \$ (4,169,237.92)

All Other Need @ \$70/hr. (\$15,948,416.00 + \$4,169,237.92)

\$ 20,117,653.92

FY 17, QUARTER 1	
95F Z112 010 ALL OTHER Allotment:	\$ 4,278,487.00
95F Z112 014 Collected REVENUE:	\$ 178,956.80
TOTAL Q1 ALLOTMENT:	\$ 4,457,443.80
Contract Counsel:	\$ (68,062.50)
Operating Expenses:	\$ (37,325.00)
Non-Counsel Indigent Legal Services:	\$ (251,247.14)
Balance of FY16 Q4 Vouchers	\$ (538,307.01)
Q1 Counsel Vouchers:	\$ (3,358,314.65)
TOTAL Q1 EXPENSES:	\$ (4,253,256.30)
Q1 ENDING BALANCE OF ACCTS:	\$ 204,187.50
Q1 Counsel Vouchers Submitted:	\$ 3,874,154.77
Q1 Counsel Vouchers Paid:	\$ (3,358,314.65)
VOUCHER BALANCE FORWARD TO Q2:	\$ 515,840.12

FY 17, QUARTER 2	
95F Z112 010 ALL OTHER Allotment:	\$ 3,866,218.00
95F Z112 014 Collected REVENUE:	\$ 178,956.80
TOTAL Q2 ALLOTMENT:	\$ 4,045,174.80
Operating Expenses:	\$ (37,325.00)
Non-Counsel Indigent Legal Services:	\$ (251,247.14)
Balance of Q1 Counsel Vouchers:	\$ (515,840.12)
Q2 Counsel Vouchers:	\$ (3,240,762.54)
TOTAL Q2 EXPENSES:	\$ (4,045,174.80)
Q2 ENDING BALANCE OF ACCTS:	\$ 0.00
Q2 Counsel Vouchers Submitted:	\$ 3,762,758.79
Q2 Counsel Vouchers Paid:	\$ (3,240,762.54)
VOUCHER BALANCE FORWARD TO Q3:	\$ 521,996.25

FY 17, QUARTER 3	
95F Z112 010 ALL OTHER Allotment:	\$ 4,467,471.00
95F Z112 014 Collected REVENUE:	\$ 178,956.80
TOTAL Q3 ALLOTMENT:	\$ 4,646,427.80
Operating Expenses:	\$ (37,325.00)
Non-Counsel Indigent Legal Services:	\$ (251,247.14)
Balance of Q2 Counsel Vouchers:	\$ (521,996.25)
Q3 Counsel Vouchers:	\$ (3,835,859.41)
TOTAL Q3 EXPENSES:	\$ (4,646,427.80)
Q3 ENDING BALANCE OF ACCTS:	\$ 0.00
Q3 Counsel Vouchers Submitted:	\$ 4,344,060.86
Q3 Counsel Vouchers Paid:	\$ (3,835,859.41)
VOUCHER BALANCE FORWARD TO Q4:	\$ 508,201.45

FY 17, QUARTER 4	
95F Z112 010 ALL OTHER Allotment:	\$ 4,612,113.00
95F Z112 014 Collected REVENUE:	\$ 188,956.80
TOTAL Q4 ALLOTMENT:	\$ 4,801,069.80
Operating Expenses:	\$ (37,325.00)
Non-Counsel Indigent Legal Services:	\$ (251,247.14)
Balance of Q3 Counsel Vouchers:	\$ (508,201.45)
Q4 Counsel Vouchers:	\$ (4,004,296.21)
TOTAL Q4 EXPENSES:	\$ (4,801,069.80)
Q4 ENDING BALANCE OF ACCTS:	\$ 0.00
Q4 Counsel Vouchers Submitted:	\$ 4,531,145.89
Q4 Counsel Vouchers Paid:	\$ (4,004,296.21)
VOUCHER BALANCE FORWARD TO FY18:	\$ 526,849.68

Counsel Vouchers Submitted	
Q1	\$ 3,874,154.77
Q2	\$ 3,762,758.79
Q3	\$ 4,344,060.86
Q4	\$ 4,531,145.89
Counsel Vouchers Paid	
Q1	\$ (538,307.01)
Q2	\$ (3,358,314.65)
Total	\$ (3,896,621.66)
Q2	\$ (515,840.12)
Q3	\$ (3,240,762.54)
Total	\$ (3,756,602.66)
Q3	\$ (521,996.25)
Q4	\$ (3,835,859.41)
Total	\$ (4,357,855.66)
Q4	\$ (508,201.45)
Total	\$ (4,512,497.66)
Grand Total	\$ (16,523,577.64)

Voucher Component @ 75/hr. (*1.363636)	\$ (22,532,145.32)
All Other Need @ \$75/hr. (\$17,224,289.00 + \$6,008,567.68)	\$ (6,008,567.68)
Total	\$ 23,232,856.68

Fiscal year 2015
 \$14,767,052.00 (\$13,949,052 + \$818,000 supplemental need) BASELINE BUDGET

FY 15, QUARTER 1	
95F Z112 010 ALL OTHER Allotment:	\$ 3,668,113.00
95F Z112 014 Collected REVENUE:	\$ 162,000.00
TOTAL Q1 ALLOTMENT:	\$ 3,830,113.00
Contract Counsel:	\$ (63,937.50)
Operating Expenses:	\$ (32,000.00)
Non-Counsel Indigent Legal Services:	\$ (214,478.00)
Balance of FY13 Q4 Vouchers	\$ (541,069.00)
Q1 Counsel Vouchers:	\$ (2,774,441.00)
TOTAL Q1 EXPENSES:	\$ (3,625,925.50)
Q1 ENDING BALANCE OF ACCTS:	\$ 204,187.50
Q1 Counsel Vouchers Submitted:	\$ 3,321,463.28
Q1 Counsel Vouchers Paid:	\$ (2,774,441.00)
VOUCHER BALANCE FORWARD TO Q2:	\$ 547,022.28

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FY 15, QUARTER 2	
95F Z112 010 ALL OTHER Allotment:	\$ 3,314,658.00
95F Z112 014 Collected REVENUE:	\$ 162,000.00
TOTAL Q2 ALLOTMENT:	\$ 3,476,658.00
Operating Expenses:	\$ (32,000.00)
Non-Counsel Indigent Legal Services:	\$ (214,478.00)
Balance of Q1 Counsel Vouchers:	\$ (547,022.28)
Q2 Counsel Vouchers:	\$ (2,683,157.72)
TOTAL Q2 EXPENSES:	\$ (3,476,658.00)
Q2 ENDING BALANCE OF ACCTS:	\$ -
Q2 Counsel Vouchers Submitted:	\$ 3,225,959.18
Q2 Counsel Vouchers Paid:	\$ (2,683,157.72)
VOUCHER BALANCE FORWARD TO Q3:	\$ 542,801.46

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FY 15, QUARTER 3	
95F Z112 010 ALL OTHER Allotment:	\$ 3,737,544.00
95F Z112 014 Collected REVENUE:	\$ 162,000.00
TOTAL Q3 ALLOTMENT:	\$ 3,899,544.00
Operating Expenses:	\$ (32,000.00)
Non-Counsel Indigent Legal Services:	\$ (214,479.00)
Balance of Q2 Counsel Vouchers:	\$ (542,801.46)
Q3 Counsel Vouchers:	\$ (3,110,263.54)
TOTAL Q3 EXPENSES:	\$ (3,899,544.00)
Q3 ENDING BALANCE OF ACCTS:	\$ -
Q3 Counsel Vouchers Submitted:	\$ 3,724,322.01
Q3 Counsel Vouchers Paid:	\$ (3,110,263.54)
VOUCHER BALANCE FORWARD TO Q4:	\$ 614,058.47

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FY 15, QUARTER 4	
95F Z112 010 ALL OTHER Allotment:	\$ 3,228,737.00
95F Z112 014 Collected REVENUE:	\$ 162,000.00
Supplemental Appropriation	\$ 818,000.00
TOTAL Q4 ALLOTMENT:	\$ 4,208,737.00
Operating Expenses:	\$ (32,000.00)
Non-Counsel Indigent Legal Services:	\$ (214,479.00)
Balance of Q3 Counsel Vouchers:	\$ (614,058.47)
Q4 Counsel Vouchers:	\$ (3,348,199.53)
TOTAL Q4 EXPENSES:	\$ (4,208,737.00)
Q4 ENDING BALANCE OF ACCTS:	\$ -
Q4 Counsel Vouchers Submitted:	\$ 3,884,727.27
Q4 Counsel Vouchers Paid:	\$ (3,348,199.53)
VOUCHER BALANCE FORWARD TO FY14:	\$ 536,527.74

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Fiscal year 2014
\$11,907,049 BASELINE BUDGET Final Allotment \$12,767,799

FY 14, QUARTER 1	
95F Z112 010 ALL OTHER Allotment:	\$ 2,941,839.00
95F Z112 014 Collected REVENUE:	\$ 116,791.19
TOTAL Q1 ALLOTMENT:	\$ 3,058,630.19
Contract Counsel:	\$ (61,875.00)
Operating Expenses:	\$ (30,055.55)
Non-Counsel Indigent Legal Services:	\$ (187,563.02)
Balance of FY13 Q4 Vouchers	\$ (288,169.14)
Q1 Counsel Vouchers:	\$ (2,305,342.48)
TOTAL Q1 EXPENSES:	\$ (2,873,005.19)
Q1 ENDING BALANCE OF ACCTS:	\$ 185,625.00
Q1 Counsel Vouchers Submitted:	\$ 2,926,399.37
Q1 Counsel Vouchers Paid:	\$ (2,305,342.48)
VOUCHER BALANCE FORWARD TO Q2:	\$ 621,056.89

FY 14, QUARTER 2	
95F Z112 010 ALL OTHER Allotment:	\$ 2,795,913.00
95F Z112 014 Collected REVENUE:	\$ 138,088.93
TOTAL Q2 ALLOTMENT:	\$ 2,934,001.93
Operating Expenses:	\$ (25,546.35)
Non-Counsel Indigent Legal Services:	\$ (181,899.72)
Balance of Q1 Counsel Vouchers:	\$ (621,056.89)
Q2 Counsel Vouchers:	\$ (2,105,498.97)
TOTAL Q2 EXPENSES:	\$ (2,934,001.93)
Q2 ENDING BALANCE OF ACCTS:	\$ -
Q2 Counsel Vouchers Submitted:	\$ 2,842,254.78
Q2 Counsel Vouchers Paid:	\$ (2,105,498.97)
VOUCHER BALANCE FORWARD TO Q3:	\$ 736,755.81

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FY 14, QUARTER 3	
95F Z112 010 ALL OTHER Allotment:	\$ 3,082,224.53
95F Z112 014 Collected REVENUE:	\$ 200,651.46
Financial Order Allotment	\$ 430,350.00
TOTAL Q3 ALLOTMENT:	\$ 3,713,225.99
Operating Expenses:	\$ (25,309.06)
Non-Counsel Indigent Legal Services:	\$ (235,990.99)
Balance of Q2 Counsel Vouchers:	\$ (736,755.81)
Q3 Counsel Vouchers:	\$ (2,707,006.83)
TOTAL Q3 EXPENSES:	\$ (3,705,062.69)
Q3 ENDING BALANCE OF ACCTS (Insufficient Rev. Allot):	\$ 8,163.30
Q3 Counsel Vouchers Submitted:	\$ 3,281,340.98
Q3 Counsel Vouchers Paid:	\$ (2,707,006.83)
VOUCHER BALANCE FORWARD TO Q4:	\$ 574,334.15

FY 14, QUARTER 4	
95F Z112 010 ALL OTHER Allotment:	3,087,471.71
Collected REVENUE plus \$8,163.30 suplus from Q3	203,379.68
Q3 FO Adjustment	(430,000.00)
Q4 FO Adjustment - Appropriation	810,000.00
Q4 FO Adjustment - Transfer from PS	50,000.00
TOTAL Q4 ALLOTMENT:	3,720,851.39
Operating Expenses:	\$ (33,121.86)
Non-Counsel Indigent Legal Services:	\$ (231,797.18)
Balance of Q3 Counsel Vouchers:	\$ (574,334.15)
Q4 Counsel Vouchers:	\$ (2,881,598.20)
TOTAL Q4 EXPENSES:	\$ (3,720,851.39)
Q4 ENDING BALANCE OF ACCTS:	\$ -
Q4 Counsel Vouchers Submitted:	\$ 3,422,667.20
Q4 Counsel Vouchers Paid:	\$ (2,881,598.20)
VOUCHER BALANCE FORWARD TO FY14:	\$ 541,069.00

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\$ 2,652,983.31		\$ (2,593,511.02)	
\$ 2,754,537.37		\$ (2,726,555.86)	Paid
\$ 3,040,848.53	Projected Paid	\$ (3,443,762.04)	
\$ 3,045,698.71		\$ (3,455,932.35)	
\$ 11,494,045.92		\$ (12,219,762.47)	
\$ 31,490.54		\$ (33,478.80)	
\$ 2,723,670.00		\$ 2,926,399.37	
\$ 2,784,032.12	Projected Submitted	\$ 2,842,254.78	Submitted
\$ 3,070,342.25		\$ 3,281,340.98	
\$ 3,070,342.62		\$ 3,422,667.20	
\$ 11,648,386.99		\$ 12,472,662.33	
\$ 34,171.68			

MAINE JUDICIAL BRANCH
EXPENDITURES FOR INDIGENT LEGAL SERVICES, Attorneys & Other expenses TREND, FY'00 - FY'09

KEY:	
TOTAL EXPENDITURES	REIMBURSEMENTS
GEN FUND EXPEND	NON-ATTY. COSTS

ILS-1 - Trend
FY'00- FY'09
AOC/saw 10.1.09
% change
1 yr. '08-'09

ADULT CRIMINAL & JUVENILE OFFENSES (includes "Lawyer of the Day")

	FY'00	FY'01	FY'02	FY'03	FY'04	FY'05	FY'06	FY'07	FY'08 (1.)	FY'09 (2.)
LAW COURT: expenditures	\$51,441	\$35,010	\$50,834	\$39,809	\$42,532	\$52,456	\$44,022	\$59,078	\$42,655	\$72,395
LAW COURT: # vouchers	99	58	74	58	63	77	61	71	57	95
Avg Cost per Law Ct vouch:	\$520	\$604	\$687	\$686	\$675	\$681	\$722	\$832	\$745	\$766
SUPERIOR COURT: expenditures	\$2,036,328	\$2,131,982	\$2,516,220	\$2,907,249	\$3,086,462	\$2,909,544	\$3,480,002	\$3,728,155	\$4,457,238	\$4,419,832
SUPERIOR COURT: # vouchers	4,456	4,126	4,580	5,556	6,119	5,916	6,589	7,602	9,031	9,009
Avg Cost per Super Ct vouch:	\$457	\$517	\$549	\$523	\$504	\$492	\$528	\$490	\$494	\$491
Unified Crim Docket: expenditures										\$230,794
SUPERIOR COURT: # vouchers										690
Avg Cost per Super Ct vouch:										\$334
NOTE: UCD, which opened in Nov. 2008, includes all Criminal cases in Cumberland County. These cases would have been previously filed in Portland District or Superior.										
DISTRICT COURT Expenditures:	\$1,744,991	\$2,142,646	\$2,314,435	\$2,505,356	\$2,352,169	\$2,437,730	\$2,381,694	\$2,373,701	\$2,526,152	\$2,378,723
DISTRICT COURT # vouchers:	8,816	9,160	9,664	10,329	9,812	9,770	9,314	9,348	9,677	9,392
Avg Cost per Dist Ct vouch:	\$198	\$234	\$239	\$243	\$240	\$250	\$256	\$254	\$261	\$253
Contracts with coalitions of attorneys in Somerset County (and Franklin County in FY'05-06 only), for representation in all criminal cases in the District & Superior Courts in those counties:										
CONTRACTED COUNSEL:	\$174,000	\$194,000	\$201,800	\$201,800	\$218,646	\$244,840	\$262,040	\$223,706	\$225,000	\$254,583
SUBTOT. ALL CR & JV:	\$4,006,760	\$4,503,638	\$5,083,289	\$5,654,213	\$5,699,809	\$5,644,570	\$6,167,767	\$6,384,640	\$7,251,046	\$7,356,326
REIMBURSEMENTS:	-\$439,954	-\$367,827	-\$463,113	-\$474,711	-\$494,149	-\$392,211	-\$421,020	-\$425,681	-\$446,447	-\$506,697
% of costs reimbursed:	11.0%	8.2%	9.1%	8.4%	8.7%	6.9%	6.8%	6.7%	6.2%	6.9%
NET COST TO GEN FUND FOR CR & JV At	\$3,740,806	\$4,329,811	\$4,821,976	\$5,381,302	\$5,424,306	\$5,497,199	\$6,008,777	\$6,182,765	\$7,029,598	\$7,104,312
NOTE: Reimbursements paid by defendants ordered to pay part of their defense costs are used as funds to pay court-appointed attorneys (off-setting costs to General Fund)										

CHILD PROTECTIVE:

	FY'00	FY'01	FY'02	FY'03	FY'04	FY'05	FY'06	FY'07	FY'08	FY'09
DISTRICT COURT Expenditures:	\$3,667,536	\$4,282,998	\$4,647,351	\$5,161,370	\$5,471,555	\$5,421,921	\$5,058,990	\$5,043,455	\$5,160,705	\$4,734,387
DISTRICT COURT # vouchers:	9,510	10,319	10,223	10,793	11,561	11,136	10,586	10,202	10,415	9,911
LAW COURT Expenditures:	\$51,530	\$33,125	\$26,368	\$19,950	\$25,752	\$25,007	\$30,796	\$27,342	\$23,683	\$40,194
LAW COURT # vouchers:	74	51	33	28	34	30	39	31	32	52
TOTAL CP \$	\$3,719,066	\$4,316,122	\$4,673,719	\$5,181,320	\$5,497,307	\$5,446,928	\$5,089,786	\$5,070,797	\$5,184,388	\$4,774,581
Avg Cost per CP voucher	\$388	\$416	\$456	\$479	\$474	\$488	\$479	\$496	\$496	\$479

(see next page for Detail by Child, Parent or Other representation)

MENTAL HEALTH

DIST. CT. MH Expenditures:	\$62,448	\$58,233	\$62,059	\$60,875	\$59,008	\$72,837	\$82,380	\$110,227	\$110,709	\$124,066
DIST. CT. # MH vouchers:	589	511	568	593	574	594	584	703	694	767
Avg Cost per Dist Ct MH vouch:	\$106	\$114	\$109	\$103	\$103	\$123	\$141	\$157	\$160	\$162

TOTAL EXPENDITURES FOR ATTORNEYS:

District Court	\$5,474,975	\$6,483,877	\$7,023,844	\$7,727,601	\$7,882,732	\$7,932,489	\$7,523,063	\$7,527,383	\$7,797,566	\$7,237,175
Superior Court	\$2,036,328	\$2,131,982	\$2,516,220	\$2,907,249	\$3,086,462	\$2,909,544	\$3,480,002	\$3,728,155	\$4,457,238	\$4,419,832
Unified Crim Docket/Cumb. County										\$230,794
Law Court	\$102,972	\$68,134	\$77,202	\$59,758	\$68,284	\$77,463	\$74,817	\$86,420	\$66,338	\$112,589
Contract Counsel	\$174,000	\$194,000	\$201,800	\$201,800	\$218,646	\$244,840	\$262,040	\$223,706	\$225,000	\$254,583
COUNTING RECONCILIATION (a.):	-\$11,369	-\$487	-\$12,956	-\$5,568	-\$3,431	-\$69,533	\$10,343	-\$13,028	\$82,617	\$19,044
TOTAL	\$7,788,274	\$8,877,993	\$9,819,066	\$10,896,408	\$11,256,124	\$11,164,335	\$11,339,923	\$11,565,664	\$12,546,142	\$12,254,973
REIMBURSEMENTS (b.):	-\$439,954	-\$367,827	-\$463,113	-\$474,711	-\$494,149	-\$392,211	-\$421,020	-\$425,681	-\$446,447	-\$506,697
NET COST TO GEN FUND FOR ATTY'S (c.)	\$7,359,689	\$8,510,653	\$9,368,909	\$10,427,265	\$10,765,408	\$10,841,657	\$10,908,660	\$11,153,111	\$12,182,312	\$11,729,332
NON-ATTORNEY COSTS (d.)	\$1,108,600	\$1,197,820	\$1,307,027	\$1,087,779	\$1,069,846	\$1,121,561	\$1,154,685	\$1,232,991	\$1,515,060	\$1,350,392
GRAND TOTAL (inc. reimburse.) (e)	\$8,896,874	\$10,075,813	\$11,128,093	\$11,984,187	\$12,325,970	\$12,285,896	\$12,494,608	\$12,798,655	\$14,061,202	\$13,605,365
GRAND TOTAL: NET GEN.FUND (f)	\$8,468,289	\$9,708,473	\$10,675,936	\$11,515,044	\$11,835,252	\$11,963,218	\$12,063,245	\$12,386,102	\$13,697,372	\$13,079,724

NOTES:

	<u>FY'11</u>	<u>FY'12</u>	<u>FY'13</u>	<u>FY'14</u>
<u>All Other Allotment</u>	\$10,097,996.00	\$11,473,123	\$11,882,677	\$12,767,799
		+13.6%	+3.6%	+7.4%
Vouchers Paid	25,041	27,626	28,153	28,117
Cost per Voucher	\$389.63	\$404.89	\$407.88	\$434.60
Reimbursements	\$400,227	\$640,827	\$595,444	\$654,406

THE MAINE COMMISSION ON INDIGENT LEGAL SERVICES

VOUCHER TRENDS – FY'13 -- FY'14

	FY'13	FY14	Change
General			
Vouchers Submitted	27,933	28,815	+3.2%
Cost per Voucher	\$407.88	\$434.60	+6.5%
Felony vouchers	6,011	6,305	+4.9%
Misdemeanor Vouchers	7,767	7,249	-6.7%
Child Protective Vouchers	5,659	6,263	+10.7%
Juvenile Vouchers	1,531	1,237	-19.2%
Serious Crime Categories			
Homicide	69	67	-2.9
Serious Violent Felony	846	910	+7.6
Sex Offense	281	307	+9.2
Specific Serious Crimes			
Murder	53	54	+1.9%
Robbery	247	211	-14.6%
Gross Sexual Assault	231	200	-13.4%
Aggravated Assault	361	416	+15.2%
Burglary	1501	1345	-10.4%
Aggravated Trafficking	245	297	+21.2%
Trafficking	500	546	+9.2%

	FY13	FY14
Expert Witness	\$ 142,519.77	\$ 178,865.84
Interpreter Services	\$ 7,285.20	\$ 17,964.38
Private Investigators	\$ 168,826.26	\$ 231,109.80
Process Servers	\$ 8,399.43	\$ 10,551.92
Transcripts	\$ 156,361.37	\$ 195,532.27
Mental Health Experts	\$ 109,846.55	\$ 155,995.14
Subpoena Witness Fees	\$ 692.46	\$ 312.74
Misc Prof Fees & Srvc	\$ 36,497.19	\$ 18,868.91
Witness Air & Bus Fare	\$ 460.78	
Airfare-out of state		\$ 378.60
	\$ 630,889.01	\$ 809,579.60
	\$ 150,811.08	\$ 187,693.06
	\$ 147,817.01	\$ 181,269.72
	\$ 158,213.85	\$ 234,960.99
	\$ 149,530.72	\$ 230,172.18
	\$ 630,889.01	\$ 809,579.60

(4.)
Rule Discussion

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: RULES DISCUSSION
DATE: SEPTEMBER 4, 2014

Updated draft amendments of two rules that were discussed at the August meeting are attached.

As a result of that discussion, the draft of Chapter 2: Standards For Qualifications Of Assigned Counsel has been amended to add the requirement that rostered attorneys maintain malpractice insurance. No other changes have been made from the draft reviewed in August.

The draft of Chapter 3: Eligibility Requirements for Specialized Case Types has been amended to 1) in the paragraphs referring to letters of reference, place the requirement that letters be submitted if requested by the Executive Director in a separate paragraph from the requirement that letters be submitted if a waiver is requested; and 2) add sections creating specialized panels for appeal cases and post-conviction review cases. The latter two sections were reviewed in August, and the only change from those drafts is the addition of a letter of reference requirement for waiver requests that was inadvertently omitted from the previous draft of the appeal section. No other changes have been made from the draft reviewed in August.

These amendments are in order for a vote to send them out for public comment. In fact, such a vote has already occurred with respect to Chapter 3. The current draft, however, contains additions since the earlier vote. If the Commission wishes to send attached draft out for comment, it should reconsider its earlier vote and proceed with a vote on the current draft.

Chapter 3: ELIGIBILITY REQUIREMENTS FOR SPECIALIZED CASE TYPES

Summary: Chapter 2 of the Commission’s Rules sets out the minimum eligibility requirements to be rostered to accept appointments from the Maine Commission on Indigent Legal Services (“MCILS”). The Rules in this Chapter are promulgated to establish the eligibility requirements to be rostered on specialty panels for specific types of cases.

SECTION 1. Definitions. For purposes of this Chapter, the following terms are defined as follows:

1. **Contested Hearing.** “Contested Hearing” means a hearing at which a contested issue is submitted to the court for resolution after evidence is taken or witnesses are presented.
2. **Domestic Violence.** “Domestic Violence” means:
 - A. Offenses denominated as Domestic Violence under 17-A M.R.S.A. §§ 207-A, 209-A, 210-B, 210-C, and 211-A;
 - B. Any class D or E offense alleged to have been committed against a family or household member or dating partner;
 - C. The class D offense of stalking under 17-A M.R.S.A. § 210-A;
 - D. Violation of a protection order under 17-A M.R.S.A. § 506-B.
 - E. “Domestic Violence” includes crimes involving substantially similar conduct in another jurisdiction.
 - F. “Domestic Violence” also includes Criminal Conspiracy under 17-A M.R.S.A. § 151, Criminal Attempt under 17-A M.R.S.A. § 152, and Criminal Solicitation under 17-A M.R.S.A. § 153 to commit any of the offenses listed above.
3. **Serious Violent Felony.** “Serious Violent Felony” means:
 - A. An offense under 17-A M.R.S.A. §§ 152-A (Aggravated Attempted Murder), 208

- (Aggravated Assault), 208-B (Elevated Aggravated Assault), 208-C (Elevated Aggravated Assault on a Pregnant Person), 301 (Kidnapping), 401(1)(B)(1), (2), or (3) (Burglary with a Firearm, Burglary with Intent to Inflict Bodily Harm, and Burglary with a Dangerous Weapon), 651 (Robbery), 802 (Arson), 803-A (Causing a Catastrophe), 1105-A (Aggravated Trafficking of Scheduled Drugs), 1105-B (Aggravated Trafficking of Counterfeit Drugs), and 1105-C (Aggravated Furnishing of Scheduled Drugs).
- B. “Serious Violent Felony” includes crimes involving substantially similar conduct in another jurisdiction.
- C. “Serious Violent Felony” also includes Criminal Conspiracy under 17-A M.R.S.A. § 151, Criminal Attempt under 17-A M.R.S.A. § 152, and Criminal Solicitation under 17-A M.R.S.A. § 153 to commit any of the offenses listed above.
4. Sex Offense. “Sex Offense” means:
- A. An offense under 17-A M.R.S.A. §§ 251-259-A (Sexual Assaults), §§ 281-285 (Sexual Exploitation of Minors), § 556 (incest), § 511(1)(D) (Violation of Privacy); § 852 (Aggravated Sex Trafficking); and § 855 (Patronizing Prostitution of Minor or Person with Mental Disability).
- B. “Sex Offense” includes crimes involving substantially similar conduct in another jurisdiction.
- C. “Sex Offense” also includes Criminal Conspiracy under 17-A M.R.S.A. § 151, Criminal Attempt under 17-A M.R.S.A. § 152, and Criminal Solicitation under 17-A M.R.S.A. § 153 to commit any of the offenses listed above.
5. Specialized Case Types. “Specialized Case Types” means those cases that are complex in nature due to the allegations against the person as well as the severity of the consequences if a conviction occurs. They include the following case types:
- A. Homicide, including OUI manslaughter
- B. Sex offenses
- C. Serious violent felonies
- D. Operating under the influence
- E. Domestic violence
- F. Juvenile defense
- G. Protective custody matters
- H. Involuntary commitment

SECTION 2. Powers and Duties of the Executive Director

1. The Executive Director, or his or her designee, shall develop an application process for an attorney seeking appointment(s) in Specialized Case Types to demonstrate the minimum qualifications necessary to be placed on Specialized Case Type Rosters. An applicant for a Specialized Case Type Roster must present additional information beyond the minimum requirements of this Chapter if requested by the Executive Director, or his or her designee.
2. The Executive Director, or his or her designee, shall have the sole discretion to make the determination if an attorney is qualified to be placed on a Specialized Case Type Roster. In addition, the Executive Director, or his or her designee, shall have the sole discretion, to grant or deny a waiver pursuant to, and in accordance with, Section 4.
3. The Executive Director, or his or her designee, may, in his or her sole discretion, remove an attorney from a Specialized Case Type Roster at any time if the attorney is not meeting the minimum qualifications and standards as determined by the Executive Director, or his or her designee.
4. This subsection does not exempt an attorney from satisfying the requirements of this Chapter at any time thereafter or limit the authority of the Executive Director, or his or her designee, to remove an attorney from any Specialized Case Type Roster at any time.

SECTION 3. Minimum Eligibility Requirements for Specialized Case Types.

1. **Homicide**. In order to be rostered for homicide cases an attorney must:
 - A. Have at least five years of criminal law practice experience;
 - B. Have tried before a judge or jury as first chair at least five felony cases within the last ten years, at least two of which were serious violent felony, homicide, or Class C or higher sex offense cases, AND at least two of which were jury trials;
 - C. Have tried as first chair a homicide case in the last fifteen years, OR have tried as second chair at least one homicide case with an experienced homicide defense attorney within the past five years;

- D. Demonstrate a knowledge and familiarity with the evidentiary issues relevant to homicide cases, including but not limited to forensic and scientific issues relating to DNA testing and fingerprint analysis, mental health issues, and eyewitness identification;
 - E. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with homicide; and
 - F. Have submitted to the Commission three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent individuals charged with homicide, including OUI manslaughter. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
2. **Sex Offenses.** In order to be rostered for sex offense cases an attorney must:
- A. Have at least three years of criminal law practice experience;
 - B. Have tried before a judge or jury as first chair at least three felony cases in the last ten years, at least two of which were jury trials; and
 - C. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a sex offense.
 - D. If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent individuals charged with a sex offense. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
 - E. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.
3. **Serious Violent Felonies.** In order to be rostered for serious violent felony cases an attorney must:
- A. Have at least two years of criminal law practice experience;
 - B. Have tried as first chair at least four criminal or civil cases in the last ten years, at least two of which were jury trials and at least two of which were criminal trials; and
 - C. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a serious violent felony.

- D. If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent individuals charged with a serious violent felony. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
 - E. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.
4. **Operating Under the Influence.** In order to be rostered for OUI cases an attorney must:
- A. Have at least one year of criminal law practice experience;
 - B. Have tried before a judge or jury as first chair at least two criminal cases, and conducted at least two contested hearings within at least the last ten years;
 - C. Have obtained in the last three years at least four hours of CLE credit on topics relevant particularly to OUI defense; and
 - D. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with an OUI.
 - E. If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent individuals charged with an OUI. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
 - F. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.
5. **Domestic Violence.** In order to be rostered for domestic violence cases an attorney must:
- A. Have at least one year of criminal law practice experience;
 - B. Have tried before a judge or jury as first chair at least two criminal cases and conducted at least two contested hearings within at least the last ten years;
 - C. Have obtained in the last three years at least four hours of CLE credit on topics related to domestic violence defense which included training on the collateral consequences of such convictions; and
 - D. Provide a letter explaining reasons for interest in and qualifications for

representing individuals charged with a domestic violence crime.

- E. If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent individuals charged with a domestic violence crime. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
- F. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.

6. **Juvenile Defense.** In order to be rostered for felony, sex offense, and bind-over juvenile defense cases an attorney must:

- A. For felony cases and sex offense cases:
 - 1) Have at least one year of juvenile law practice experience;
 - 2) Have handled at least 10 juvenile cases to conclusion;
 - 3) Have tried at least 5 contested juvenile hearings (including but not limited to: detention hearings, evidentiary hearings, adjudication hearings, and dispositional hearings);
 - 4) Have attended in the last three years at least four hours of CLE credit on two or more of the following topics related to juvenile defense including training and education regarding placement options and dispositions, child development, adolescent mental health diagnosis and treatment, and the collateral consequences of juvenile adjudications; and
 - 5) Provide a letter explaining reasons for interest in and qualifications for representing juveniles in felony and sex offense cases.
 - 6) If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent juveniles in felony and sex offenses cases. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
 - 7) Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.
 - 8) Upon notice from the State, whether formal or informal, that it may be seeking bind-over in the case, the attorney must immediately notify the Executive Director.

- B. For Bind-over Hearings:
- 1) Have at least two years of juvenile law practice experience;
 - 2) Have handled at least 20 juvenile cases to conclusion in the past ten years;
 - 3) Have tried at least 10 contested juvenile hearings (including but not limited to: detention hearings, evidentiary hearings, adjudication hearings, and dispositional hearings in the past ten years);
 - 4) Have attended in the last three years at least eight hours of CLE credit that cover all of the following topics devoted to juvenile defense including training and education regarding placement options and dispositional alternatives, child development, adolescent mental health diagnosis and treatment, issues and case law related competency, bind-over procedures, and the collateral consequences of juvenile adjudications; and
 - 5) Provide a letter explaining reasons for interest in and qualifications for representing juveniles in competency and bind-over hearings.
 - 6) If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent juveniles in bind-over hearings. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.
 - 7) Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.
7. **Protective Custody Matters.** In order to be rostered to represent parents in protective custody cases an attorney must:
- A. Have conducted at least four contested hearings in civil or criminal cases within the last five years;
 - B. Have attended in the last three years at least four hours of CLE credit on topics related to the representation of parents in protective custody proceedings;
 - C. Provide a letter explaining reasons for interest in and qualifications for representing parents in protective custody proceedings; and
 - D. If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to represent parents in protective custody cases. The letters of reference must be submitted directly to the Executive Director, or

his or her designee, by the author.

- E. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.
- F. If a Petition to Terminate Parental Rights is filed and the attorney of record has not previously tried as a first or second chair a termination of parental rights hearing, or has less than 6 months of child protection experience, then the attorney of record must file a request with the MCILS for a more experienced attorney to serve as a second chair to assist the attorney of record in preparation of and with the termination of parental rights hearing.

8. **Law Court Appeals.** In order to be rostered for appeals to the Law Court an attorney must:

- A. Have provided representation to the conclusion of six cases. “Conclusion” means:
 - 1) In criminal and juvenile cases, the entry of sentence or disposition either after plea or trial or the entry into a deferred disposition;
 - 2) In child protective cases, the issuance of an order on a stage of the case that constitutes a disposition under Commission Rule 94-649 Chapter 301, Section 6(1)(B);
- B. Applicants having provided representation in three or more appeals, including appeals to the Law Court and Rule 80B or Rule 80C appeals to the Superior Court, must submit copies of briefs that they have filed in the three appeals most closely pre-dating the date of their application for placement on the appellate roster.
- C. Applicants who have not provided representation in three or more appeals must submit copies of any briefs that they have filed in an appeal, together with copies of a sufficient number of memoranda of law submitted to any court so that the submissions total three.
- D. Submit a letter explaining the applicant’s interest in and qualifications for providing representation on appeals; including a description of the applicant’s experience with appeals, representative examples of issues raised on appeal, and a summary of the results of those appeals; and
- E. If the applicant seeks for a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to provide representation in post-conviction cases. The letters of reference must be submitted directly to the Executive Director, or

his or her designee, by the author.

F. Letters of reference shall be submitted upon the request of the Executive Director, or his or her designee.

9. **Post-Conviction Review.** In order to be rostered for post-conviction review cases an attorney must:

A. Have at least three years of criminal law experience;

B. Have previously qualified to be placed on the trial roster for the case type applicable to the conviction being challenged on post-conviction review;

C. Submit a letter explaining the applicant's interest in and qualifications for providing representation in post-conviction review cases, including a description of the applicant's criminal law experience generally and how that experience prepared the applicant to address the issues applicable to post-conviction review cases; and

D. If the applicant seeks for a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice, that assert that the applicant is qualified to provide representation in post-conviction cases. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author.

E. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.

SECTION 4. Waiver of Certain Eligibility Requirements

1. An attorney who wishes to receive assignments for one or more of the specialized case types listed above but who does not meet both requirements of: (1) years of practice experience; and (2) trial or litigation experience, may seek a waiver of either, but not both, requirements. An attorney seeking a waiver must provide the Executive Director, or his or her designee, with written information explaining the need for a waiver and the attorney's experience and qualifications to provide representation to the indigent people whose charges or litigation matters are covered by this rule.

2. An attorney may apply for a conditional waiver if additional time is needed to meet CLE requirements.

3. The Executive Director, or his or her designee, may consider other litigation

experience, total years of practice, and regional conditions and needs in granting or denying a waiver to any particular attorney.

AUTHORITY: 4 M.R.S.A. §§ 1804(2)(B), (2)(G), (3)(E) and (4)(D)

Chapter 2: STANDARDS FOR QUALIFICATIONS OF ASSIGNED COUNSEL

Summary: This chapter establishes the standards prescribing minimum experience, training and other qualifications for contract counsel and assigned counsel to be eligible to accept appointments to represent indigent people, who are eligible for a constitutionally-required attorney.

SECTION 1. Application

All attorneys wishing to accept case assignments by the Commission must complete an application in the manner prescribed by the Commission. The Commission will not act on an application until it is complete. No attorney will be assigned a case until that attorney completes an application and is placed on the roster of attorneys eligible to receive assignments.

SECTION 2. Minimum Experience, Training And Other Eligibility Requirements

Any attorney wishing to accept case assignments from the Commission, serve as contract counsel or otherwise be approved by the Commission to accept assignments must satisfy the following conditions.

1. Licensed To Practice

- a.) The attorney must be licensed to practice law in the State of Maine and be in good standing with the Maine Board of Overseers of the Bar.
- b.) The attorney must promptly inform the Commission, in writing, of any complaint against the attorney filed with the Maine Board of Overseers of the Bar that has been set for a grievance panel hearing or hearing before a single justice of the Supreme Judicial Court. Failure to comply with this requirement is grounds for removal from the roster.
- c.) The attorney must promptly inform the Commission, in writing, of any criminal charge filed against the attorney in any jurisdiction and promptly inform the Commission of any disposition of such charge. Failure to comply with this requirement is grounds for removal from the roster.

2. Attorney Cooperation with Procedures and Monitoring

The attorney must register with the Commission annually in a manner prescribed by the Commission. The attorney must comply with all applicable Commission rules and procedures. The attorney must comply with Commission monitoring and performance evaluations. The attorney must also comply with any Commission investigation of complaints, billing discrepancies, or other information that, in the view of the Executive Director, concerns the question whether the attorney is fit to remain on the roster. Except as pertains to indigent cases assigned to the attorney, the Executive Director cannot

require an attorney to disclose information that is privileged or made confidential by statute, by court rule or by court order.

3. Malpractice Insurance

The attorney must maintain malpractice insurance.

SECTION 3. Office, Telephone, and Electronic Mail

The attorney must maintain an office or have the use of space that is reasonably accessible to clients and that permits the private discussion of confidential and other sensitive matters.

The attorney must maintain a telephone number, which shall be staffed by personnel available for answering telephone calls or an answering service, an answering machine or voicemail capability that ensures client confidentiality.

The attorney must maintain a confidential working e-mail account as a means of receiving information from and providing information to the Commission.

The attorney must keep the Commission and the courts in which the attorney represents indigent clients apprised of the attorney's work telephone number and postal electronic mail addresses. The attorney must ensure that the court has the ability to contact the attorney by mail and by telephone.

SECTION 4. Experience and Proficiency

The attorney shall demonstrate the necessary and sufficient experience and proficiency required to accept assignments as provided below.

1. Any attorney not previously having been accepted to receive assignments from the Commission must satisfactorily complete a Commission-sponsored or Commission-approved training course for the area of the law for which the attorney is seeking to receive assignments, including but not limited to, criminal defense, juvenile defense, civil commitment, child protective, or emancipation prior to being placed on the roster and receiving assignments; or
2. An attorney may be accepted for placement on the roster and receive assignments from the Commission without completing a Commission-sponsored or Commission-approved training course as provided above if the attorney demonstrates to the Commission a commitment to and proficiency in the practice of the area of law for which the Attorney is willing to accept assignments over the course of at least the three years prior to receiving assignments from the Commission.

SECTION 5. Training

The attorney shall annually complete 8 hours of continuing legal education (CLE) approved by the Commission.

The attorney shall meet any specific training requirements of any specialized panels, which may include but are not limited to homicide, child protective, or involuntary commitment, as is required by those panels.

SECTION 6. Removal or Suspension from the Roster

The Executive Director may remove indefinitely or suspend an attorney from the roster completely or from the roster for certain case types and court locations for any failure to comply with this or any other Commission rule. In addition, the Executive Director may remove indefinitely or suspend an attorney from the roster completely or from the roster for certain case types and court locations if the Executive Director determines that the attorney is no longer qualified to provide quality indigent legal services based on the nature of any criminal charge or on investigation by the Executive Director or the Executive Director's designee of any complaint or other information. The Executive Director's decision to remove or suspend an attorney from the roster shall be in writing and shall reflect the Executive Director's reasoning in a manner sufficient to inform the attorney and the public of the basis for the Executive Director's action.

Attorneys removed indefinitely must re-apply to the Commission if they wish to receive assignments in the future. Attorneys suspended from the roster need not re-apply, but must demonstrate compliance with any conditions made part of a suspension. Removal or suspension may also include a requirement that the attorney immediately identify to the Commission all open assigned cases and file a motion to withdraw in each case.

The Executive Director's decision to remove or suspend an attorney may be appealed to the full Commission pursuant to 4 M.R.S.A. § 1804(3)(J) and Commission Rule 94-649 Chapter 201.

STATUTORY AUTHORITY: 4 M.R.S.A. § 1804, 1805