

**MCILS**

**September 28, 2022  
Commissioner's Meeting  
Packet**

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MAINE COMMISSION ON INDIGENT LEGAL SERVICES

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SEPTEMBER 28, 2022  
COMMISSION MEETING  
AGENDA

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- 1) Review of proposed decision, *In re Patrick Gordon*
- 2) Public Hearing on proposed Chapter 303
- 3) Approval of the August 22, 2022 Commission Meeting Minutes
- 4) Report of the Executive Director
  - a. Operations report
  - b. GOC update
  - c. Case staffing status report
  - d. Legislative committee updates
  - e. Westlaw award
  - f. Clearbrief proposal
- 5) Update on Rural Defender Unit positions
- 6) Supplemental budget discussion
- 7) Approval of amicus oral argument in *Winchester v State of Maine*
- 8) Rulemaking discussion, Caseload Standards
- 9) Set Date, Time and Location of Next Regular Meeting of the Commission
- 10) Public Comment
- 11) Executive Session

**Chapter 303: PROCEDURES REGARDING LEGAL RESEARCH ACCESS AND MATERIALS**

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**Summary:** This Chapter establishes the procedures for attorneys to request access to legal research services and to request reimbursement for the purchase of legal research materials.

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**SECTION 1. DEFINITIONS**

1. **Executive Director.** "Executive Director" means the Executive Director of the Maine Commission on Indigent Legal Services or the Executive Director's decision-making designee.
2. **MCILS or Commission.** "MCILS" or "Commission" means the Maine Commission on Indigent Legal Services.
3. **Legal Research Services.** "Legal Research Services" means a subscription based online provider of access to primary and/or secondary legal research materials. For the purpose of this rule, "Legal Research Services" are limited to the provider(s), if any, with which MCILS has contracted to provide those materials.
4. **Legal Research Materials.** "Legal Research Materials" means other written or electronic materials an eligible attorney deems necessary to support the representation of a consumer of indigent legal services.
5. **Eligible Attorney.** For the purpose of this rule, "Eligible Attorney" means a Maine licensed attorney in good standing with the Board of Overseers of the Bar, to whom is or was assigned a consumer of indigent legal services in a matter approved by MCILS.
6. **Consumer of Indigent Legal Services.** "Consumer of Indigent Legal Services" means a person entitled to representation at state expense under the United States Constitution or the Constitution or laws of Maine and who has been found indigent or partially indigent by a state court or by MCILS.

**SECTION 2. ACCESS TO LEGAL RESEARCH SERVICES**

1. Any eligible attorney may apply to MCILS for access to legal research services. If MCILS grants that eligible attorney access to legal research services, those services shall be used exclusively for the benefit of consumers of indigent legal services.
2. Access to legal research services may be granted from month to month and shall be limited to those eligible attorneys who bear present professional responsibility for one or more matters on behalf of at least one consumer of indigent legal services.

3. Eligible attorneys shall not access MCILS contracted legal research services when an attorney does not bear present professional responsibility for one or more matters on behalf of at least one consumer of indigent legal services.
4. Eligible attorneys who have received access to MCILS contracted legal research services shall inform MCILS if an attorney no longer bears present professional responsibility for one or more matters on behalf of at least one consumer of indigent legal services within seven calendar days. At that time, MCILS may terminate access to its legal research provider for that attorney.
5. As a condition of use of MCILS contracted legal research services, each eligible attorney agrees to log the client for whom that attorney accesses that service in the manner prescribed by MCILS, including through the service itself, if so directed.
6. Eligible attorneys who wish to be granted access to MCILS contracted legal research services shall apply in the manner directed by the Executive Director, which may include a prescribed form and may also include a directive to apply through the MCILS secure website.

### **SECTION 3. APPLICATION FOR REIMBURSEMENT OF LEGAL RESEARCH MATERIALS**

1. Any eligible attorney may apply to MCILS in the manner prescribed by the Executive Director for permission to purchase legal research materials that attorney deems necessary to support the representation of a consumer of indigent legal services.
2. The Executive Director may approve the purchase of legal research materials by an eligible attorney if the Executive Director finds that that proposed purchase is reasonably necessary to support the representation of a consumer of indigent legal services.
3. The application for permission to purchase legal research materials shall be made in writing in the manner directed by the Executive Director, which may include a prescribed form and may also include a directive to apply through the MCILS secure website.
4. The Executive Director shall review the application and the grounds therefore and, in the Executive Director's sole discretion, shall either grant the funds applied for, in whole or in part, or deny the application. When granting an application in whole or in part, the Executive Director may condition the expenditure of funds as set forth in MCILS Rule Chapter 301, *Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel*, and other MCILS procedures. The determination of the Executive Director shall be in writing and may be communicated to the applicant by electronic means.
5. Eligible attorney who wish to be reimbursed for the purchase of legal research materials for which permission has been granted by the Executive Director shall seek reimbursement by providing the following documents in .pdf form:
  - a. The request upon which the Executive Director acted;
  - b. The decision of the Executive Director;
  - c. Either payment confirmation from the vendor specifying the product purchased and the amount paid; or an invoice and proof of payment.

6. Retroactive requests for reimbursement shall not be granted except in extraordinary circumstance on a showing that for reasons outside of that attorney's control a timely request could not be made.
7. Purchases made prior to the effective date of this rule shall not be subject to reimbursement.

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STATUTORY AUTHORITY:

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

EFFECTIVE DATE:

**Maine Commission on Indigent Legal Services – Commissioners Meeting  
August 22, 2022**

**Minutes**

**Commissioners Present:** Donald Alexander, Ronald Schneider, Joshua Tardy, Roger Katz, Meegan Burbank

**MCILS Staff Present:** Justin Andrus, Ellie Maciag, Jenn Breau

<b>Agenda Item</b>	<b>Discussion/Outcome</b>
Approval of the July 19, 2022 Commission Meeting Minutes	No discussion. Commissioner Katz moved to approve. Commissioner Schneider seconded. All voted in favor. Approved.
Report of the Executive Director	<p>Operations Report – Director Andrus reported that with 2,535 new cases opened in July, there has been a steady increase in the rate of cases opened since then. He indicated that the annualized number is 32,990 open, which is higher than the last year concern of reaching 32,000 cases. Director Andrus pointed out that that is the expected number of cases opened this year and does not include the 23,500 cases that are persisting from previous years. Director Andrus pointed out that the budget is roughly \$22,750,000 in attorney costs, with some cases still at the \$60/hr rate.</p> <p>Justice Works – Director Andrus explained an issue that arose with the upgrade to defenderData that is in the works. He explained that in May, MCILS was given sole source authority to move forward with the upgrade path, notice of intent to proceed was published with no challenges, and MCILS was ready to move forward with Justice Works. Renewing the contract was necessary, due to the timeline of the upgrade cycle, and permission was granted to sign, and it was sent to procurement. Deputy Director Maciag reached out to procurement August 18<sup>th</sup>, to find out what happened, and MCILS learned that the sole source authority was rescinded, and the matter needed to go to RFP. Director Andrus explained that due to the sole source authority being rescinded, MCILS credibility with Justice Works has been damaged, there is no guaranty that Justice Works will put forth a bid to make the new program we need, and the timeline we originally had in place is now no longer accurate.</p>

Agenda Item	Discussion/Outcome
	<p>Case Staffing Status Report – Director Andrus explained that data from 2018 through 2022 shows that attorneys have been leaving the program at a consistent rate and that the number of new cases has been steadily increasing, since before the Covid pandemic. He further explained that additional data shows that 4% of renewed attorneys have 26% of the case load and 13% of attorneys are serving half the caseload.</p> <p>Director Andrus indicated that MCILS can no longer guarantee successfully staffing of all cases. Data indicates that there are at least 10 people in Aroostook County who are currently unrepresented. He stressed, however, that MCILS does not know if this is a concern across the state, or if it is limited to only Aroostook County. He explained that Aroostook was put in the spotlight due to press coverage in April, and that there is not enough funding or manpower to investigate the rest of the state in a similar fashion.</p> <p>An update was requested regarding the status of the 5 public defenders. Director Andrus explained that in May, Deputy Director Maciag began drafting the Functional Job Analyses for the positions, working with HR contacts to be sure that what was submitted would be acceptable. They were submitted in early June, with no response back. Late July, early August MCILS requested an update and was informed that the job descriptions, which are accurate to the jobs, would not support the classifications that they are based on. HR asserted that the legislative enactment did not authorize the salaries to be equivalent to district attorney positions.</p> <p>A discussion ensued regarding the age of the current rostered attorneys and how best to get younger, and newly barred attorneys to join the roster. Director Andrus indicated that in speaking with current law students, he found there was a great interest from them in practicing criminal defense, but that the low rate of pay, lack of mentorship and lack of benefits means there is less interest in signing up.</p>
Biennial Budget Discussion and Vote	The Commissioners discussed each of the 12 proposed biennial budget initiatives. Following straw votes on each initiative, the vote on the previously tabled motion to approve the staff’s recommendations for the biennial budget was 3 in favor (Chair Tardy, Commissioner Katz, Commissioner Schneider), and 1 against (Commissioner Alexander).
Rulemaking Discussion	Chapter 303, Procedure regarding legal research access and materials. Director Andrus explained that the rule requires that attorneys use the legal research software MCILS provides them solely for MCILS cases, and that when attorneys no longer have MCILS cases, the attorney’s individual account

Agenda Item	Discussion/Outcome
	<p>will be closed. Commissioner Schneider moved to move forward with the proposed rule, Commissioner Alexander seconded. The motion passed unanimously.</p> <p>Caseload Standards. A discussion ensued regarding whether Director Andrus should move forward to speak with rostered attorneys to review the qualitative caseloads that that they are currently burdened with. Director Andrus indicated that the main point would be to check in on the health and wellbeing of those attorneys, and to verify that they are not overburdened.</p>
<p>Reimbursement Request for Civil Matter Defense Representation</p>	<p>Director Andrus explained a matter involving a rostered attorney who represented a client with mental health concerns. Said client filed a PFH (protection from harassment) against the attorney. The attorney asked Director Andrus if MCILS would pay for their defense, as the attorney’s malpractice carrier instructed them to not defend themselves. Director Andrus indicated that this is a matter of paying for the reimbursement of retained counsel of a rostered attorney. The majority of the Commission expressed concern regarding paying for counsel for any future attorney matters that may arise out of a rostered attorney’s representation of indigent clients. Director Andrus indicated he would consider drafting a policy to use as a future guide.</p>
<p>Public Comment</p>	<p>Robert Cummins: Attorney Cummins thanked the Commission for approving the budget. He also indicated that the numbers presented greatly show the need for full public defender offices across the state.</p> <p>Robert Ruffner: Attorney Ruffner indicated that with his past conversations with clerks in the courts, that there is a great concern that the system is reaching a breaking point.</p> <p>Tom Harnett: Representative Harnett indicated his frustration regarding the mobile unit. He expressed his frustration of the bureaucracy stalling the filling of the positions for the mobile unit, as it was passed through the Judiciary Committee with bipartisan support. He also indicated his desire to be kept in the loop of how things progress regarding the mobile unit in the future.</p>
<p>Adjournment of meeting</p>	<p>The next meeting will be held on Wednesday, September 28, 2022, at 2 pm.</p>



## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

**TO:** MCILS COMMISSIONERS  
**FROM:** JUSTIN ANDRUS, EXECUTIVE DIRECTOR  
**SUBJECT:** OPERATIONS REPORTS  
**DATE:** September 23, 2022

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Attached you will find the August 2022, Operations Reports for your review and our discussion at the Commission meeting on September 28, 2022. A summary of the operations reports follows:

- 2,552 new cases were opened in the DefenderData system in August. This was a 17 case increase from July. Year to date, new cases are down by approximately 6.5% from 5,438 at this time last year to 5,084 this year.
- The number of vouchers submitted electronically in August was 3,032, an increase of 245 vouchers from July, totaling \$1,766,234, an increase of \$161,512 from July. Year to date, the number of submitted vouchers is up by approximately 4.5%, from 5,536 at this time last year to 5,790 this year, with the total amount for submitted vouchers up approximately 19.5%, from \$2,804,364 at this time last year to \$3,353,773 this year.
- In August, we paid 2,532 electronic vouchers totaling \$1,429,422, representing a decrease of 745 vouchers and a decrease of \$466,830 compared to July. Year to date, the number of paid vouchers is up approximately 3.8%, from 4,887 at this time last year to 5,084 this year, and the total amount paid is up approximately 34%, from \$2,475,415 this time last year to \$3,325,675 this year.
- We paid no paper vouchers in August.
- The average price per voucher in August was \$564.54, down \$14.12 per voucher from July. Year to date, the average price per voucher is up approximately 13%, from \$506.53 at this time last year to \$572.50 this year.
- Post-Conviction Review and Appeal cases had the highest average voucher in August. There were 17 vouchers exceeding \$5,000 paid in August. See attached addendum for details.
- In August, we issued 117 authorizations to expend funds: 67 for private investigators, 36 for experts, and 14 for miscellaneous services such as interpreters and transcriptionists. In August, we paid \$158,067 for experts and investigators, etc. No requests for funds were denied.
- MCILS investigative activity in August focused on assessing the overall state of attorney workload, rather than on specific instances of attorney performance.

- In our All Other Account, the total expenses for the month of August were \$1,607,416. During August, approximately \$19,926 was devoted to the Commission's operating expenses.
- In the Personal Services Accounts, we had \$157,171 in expenses for the month of August.
- In the Revenue Account, the transfer from the Judicial Branch for August, reflecting July's collections, totaled \$33,135, an increase of approximately \$33,135 from the previous month.
- Exceptional results – see attached addendum.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY23 FUND ACCOUNTING**  
AS OF 08/31/2022

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Professional Services Allotment		\$ 6,173,605.54		\$ 3,080,749.00		\$ 3,080,749.00		\$ 3,080,747.00	\$ 15,415,850.54
FY23 General Operations Allotment		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00	\$ 192,000.00
FY22 Encumbered Balance Carry Forward		\$ 506,889.06		\$ -		\$ -		\$ -	\$ 506,889.06
Budget Order Adjustment		\$ -		\$ 179,034.00		\$ 178,980.00		\$ 178,981.00	\$ 536,995.00
Budget Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Unencumbered Balance Fwd		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 6,221,605.54</b>		<b>\$ 3,307,783.00</b>		<b>\$ 3,307,729.00</b>		<b>\$ 3,307,728.00</b>	<b>\$ 16,651,734.60</b>
Total Expenses	1	\$ (1,935,083.89)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (1,607,416.71)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Encumbrances (Justice Works)		\$ -		\$ -		\$ -		\$ -	\$ -
Encumbrances (B Taylor)		\$ (17,680.00)		\$ -		\$ -		\$ -	\$ (17,680.00)
Encumbrances (CTB for non attorney expenses)		\$ (1,222,140.22)		\$ -		\$ -		\$ -	\$ (1,222,140.22)
Encumbrances (business cards, batteries & address stamps)		\$ (17.14)		\$ -		\$ -		\$ -	\$ (17.14)
FY22 CTB Balance Carry Forward		\$ (86,108.40)		\$ -		\$ -		\$ -	\$ -
<b>TOTAL REMAINING</b>		<b>\$ 1,353,159.18</b>		<b>\$ 3,307,783.00</b>		<b>\$ 3,307,729.00</b>		<b>\$ 3,307,728.00</b>	<b>\$ 11,783,288.24</b>

**Q1 Month 2**

<b>INDIGENT LEGAL SERVICES</b>	
Counsel Payments	\$ (1,429,422.42)
Interpreters	\$ (5,401.25)
Private Investigators	\$ (23,466.97)
Mental Health Expert	\$ (40,775.00)
Misc Prof Fees & Serv	\$ (790.00)
Transcripts	\$ (36,659.50)
Other Expert	\$ (49,927.50)
Process Servers	\$ (876.33)
Subpoena Witness Fees	\$ (170.90)
Interpreter & Transcript on p-card	\$ -
<b>SUB-TOTAL ILS</b>	<b>\$ (1,587,489.87)</b>
<b>OPERATING EXPENSES</b>	
Periodicals	\$ (136.00)
Business Cards for screeners	\$ (137.50)
Employee Lodging & meals for orientation	\$ (116.64)
Mileage/Tolls/Parking	\$ (1,130.85)
Mailing/Postage/Freight	\$ (37.45)
West Publishing Corp	\$ (226.80)
Office Equipment Rental	\$ -
Office Supplies/Equip.	\$ (65.00)
Cellular Phones	\$ (427.34)
OIT/TELCO	\$ (10,054.81)
Parking Fees	\$ -
Barbara Taylor monthly fees	\$ (4,420.00)
Notary Fees	\$ (50.00)
Service Center	\$ (1,829.25)
Air fare or expert witness	\$ (1,295.20)
<b>SUB-TOTAL OE</b>	<b>\$ (19,926.84)</b>
<b>TOTAL</b>	<b>\$ (1,607,416.71)</b>

<b>INDIGENT LEGAL SERVICES</b>	
Q1 Allotment	\$ 6,221,605.54
Q1 Encumbrances for Justice Works contract	\$ -
Barbara Taylor Contract	\$ (17,680.00)
CTB Encumbrance for non attorney expenses	\$ (1,222,140.22)
Q1 Encumbrances for business cards, rubber stamps, ink, batteries	\$ (17.14)
Q1 Expenses to date	\$ (3,542,500.60)
FY22 CTB Balance Carry Forward	\$ (86,108.40)
Remaining Q1 Allotment	<b>\$ 1,353,159.18</b>

<b>Non-Counsel Indigent Legal Services</b>	
Monthly Total	\$ (158,067.45)
Total Q1	\$ 177,859.78
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
Fiscal Year Total	<b>\$ 177,859.78</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY23 FUND ACCOUNTING**  
AS OF 08/31/2022

<b>Account 010 95F Z112 01 (Personal Services)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY23 Total</b>
FY23 Allotment		\$ 285,269.00		\$ 263,599.00		\$ 285,269.00		\$ 115,478.00	\$ 949,615.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ 71,107.00		\$ 213,321.00		\$ 213,321.00		\$ 206,733.00	\$ 704,482.00
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 356,376.00</b>		<b>\$ 476,920.00</b>		<b>\$ 498,590.00</b>		<b>\$ 322,211.00</b>	<b>\$ 1,654,097.00</b>
Total Expenses	1	\$ (65,524.90)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (96,169.15)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 194,681.95</b>		<b>\$ 476,920.00</b>		<b>\$ 498,590.00</b>		<b>\$ 322,211.00</b>	<b>\$ 1,492,402.95</b>

<b>Q1 Month 2</b>	
Per Diem	\$ -
Salary	\$ (61,038.78)
Vacation Pay	\$ (1,776.48)
Holiday Pay	\$ -
Sick Pay	\$ (883.25)
Empl Hlth SVS/Worker Comp	\$ -
Health Insurance	\$ -
Dental Insurance	\$ (248.20)
Employer Retiree Health	\$ (6,322.68)
Employer Retirement	\$ (4,313.20)
Employer Group Life	\$ (509.88)
Employer Medicare	\$ (1,021.22)
Retiree Unfunded Liability	\$ (12,872.15)
Longevity Pay	\$ (144.00)
Perm Part Time Full Ben	\$ (7,039.31)
Retro Lump Sum Pymt Contract	\$ -
Standard Overtime	\$ -
<b>TOTAL</b>	<b>\$ (96,169.15)</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**FY23**

**FUND ACCOUNTING**

AS OF 08/31/2022

<b>Account 014 95F Z112 01 (OSR Personal Services Revenue)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY23 Total</b>
FY23 Allotment		\$ 211,632.00		\$ 194,116.00		\$ 211,632.00		\$ 105,856.00	\$ 723,236.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 211,632.00</b>		<b>\$ 194,116.00</b>		<b>\$ 211,632.00</b>		<b>\$ 105,856.00</b>	<b>\$ 723,236.00</b>
Total Expenses	1	\$ (49,018.85)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (61,002.05)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 101,611.10</b>		<b>\$ 194,116.00</b>		<b>\$ 211,632.00</b>		<b>\$ 105,856.00</b>	<b>\$ 613,215.10</b>

<b>Q1 Month 2 PERMANENT</b>	
Per Diem	\$ -
Salary	\$ (32,378.12)
Vacation Pay	\$ (1,646.80)
Holiday Pay	\$ -
Sick Pay	\$ (316.17)
Limited Period Regular	\$ -
Health Insurance	\$ -
Dental Insurance	\$ (146.00)
Employer Retiree Health	\$ (3,950.83)
Employer Retirement	\$ (3,455.43)
Employer Group Life	\$ (480.06)
Employer Medicare	\$ (634.89)
Retiree Unfunded Liability	\$ (8,043.35)
Longevity Pay	\$ -
Perm Part Time Full Ben	\$ -
Retro Pay Contract	\$ -
Retro Lump Sum Pymt	\$ -
<b>TOTAL</b>	<b>\$ (51,051.65)</b>

<b>Q1 Month 2 LIMITED PERIOD</b>	
Limited Period Regular	\$ (9,763.83)
Limit Per Holiday Pay	\$ -
Limit Per Sick Pay	\$ (186.57)
<b>TOTAL</b>	<b>\$ (9,950.40)</b>

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23 FUND ACCOUNTING

As of 08/31/2022

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY22 Total
<b>Original Total Budget Allotments</b>		\$ 3,221,844.00		\$ 2,147,897.00		\$ 2,147,896.00		\$ 2,147,896.00	\$ 9,665,533.00
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	\$ -
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Budget Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment		\$ -	6	\$ -	9	\$ -	12	\$ -	
Budget Order Adjustment	3	\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		\$ 3,221,844.00		\$ 2,147,897.00		\$ 2,147,896.00		\$ 2,147,896.00	\$ 9,665,533.00
Cash Carryover from Prior Quarter		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Collected Revenue from JB	2	\$ 33,135.69	5	\$ -	8	\$ -	11	\$ -	
Collected Revenue from JB	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Collected for reimbursement of counsel fees		\$ -		\$ -		\$ -		\$ -	
Asset Forfeiture		\$ -		\$ -		\$ -		\$ -	
Victim Services Restitution		\$ -		\$ -		\$ -		\$ -	
Collected for reimbursement of counsel fees		\$ -		\$ -		\$ -		\$ -	
Refund to KENCD for bail to be applied to fines		\$ -		\$ -		\$ -		\$ -	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		\$ 33,135.69		\$ -		\$ -		\$ -	\$ 33,135.69
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -		\$ -		\$ -	
Counsel Payments	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
State Cap for period 1	*	\$ (168.11)	**	\$ -	***	\$ -		\$ -	
State Cap for period 3	*	\$ -	**	\$ -	***	\$ -		\$ -	
State Cap for period 4	*	\$ -	**	\$ -	***	\$ -		\$ -	
<b>REMAINING ALLOTMENT</b>		\$ 3,221,675.89		\$ 2,147,897.00		\$ 2,147,896.00		\$ 2,147,896.00	\$ 9,665,364.89
Overpayment Reimbursements	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>REMAINING CASH Year to Date</b>		\$ 32,967.58		\$ -		\$ -		\$ -	\$ 32,967.58

Collections versus Allotment	
Monthly Total	\$ 33,135.69
Total Q1	\$ 33,135.69
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
Expenses to Date	\$ (168.11)
Cash Carryover from Prior Year	\$ -
<b>Fiscal Year Total</b>	<b>\$ 32,967.58</b>

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23

FUND ACCOUNTING

AS OF 08/31/2022

<b>Account 014 95F Z112 02 (Conference Account)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY23 Total</b>
FY23 Allotment		\$ -		\$ 57,000.00		\$ -		\$ -	\$ 57,000.00
Carry Forward		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ -</b>		<b>\$ 57,000.00</b>		<b>\$ -</b>		<b>\$ -</b>	<b>\$ 57,000.00</b>
Total Expenses	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ -</b>		<b>\$ 57,000.00</b>		<b>\$ -</b>		<b>\$ -</b>	<b>\$ 57,000.00</b>

<b>Q1 Month 2</b>	
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
<b>TOTAL</b>	<b>\$ -</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY23 FUND ACCOUNTING**  
AS OF 08/31/2022

Account 023 95F Z112 02 (ARA)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Allotment		\$ 4,000,000.00		\$ -		\$ -		\$ -	\$ 4,000,000.00
Operating Transfer		\$ -		\$ -		\$ -		\$ -	\$ 250,000.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 4,000,000.00</b>		<b>\$ -</b>		<b>\$ -</b>		<b>\$ -</b>	<b>\$ 4,000,000.00</b>
Total Expenses	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 4,000,000.00</b>		<b>\$ -</b>		<b>\$ -</b>		<b>\$ -</b>	<b>\$ 4,000,000.00</b>

Q1 Month 2	
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
<b>TOTAL</b>	<b>\$ -</b>



**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

8/31/2022

DefenderData Case Type	Aug-22						Fiscal Year 2023			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	13	16	\$25,857.53	12	\$ 18,323.53	\$1,526.96	24	26	\$ 53,264.24	\$2,048.62
Child Protection Petition	162	383	\$298,460.22	301	\$ 229,236.37	\$761.58	331	682	\$ 539,739.28	\$791.41
Drug Court	2	11	\$16,741.90	11	\$ 15,052.80	\$1,368.44	8	24	\$ 30,682.80	\$1,278.45
Emancipation	7	6	\$2,742.10	4	\$ 2,096.10	\$524.03	8	6	\$ 3,552.10	\$592.02
Felony	608	647	\$584,588.10	540	\$ 439,228.52	\$813.39	1,244	1,260	\$ 1,028,355.56	\$816.16
Involuntary Civil Commitment	103	88	\$25,123.03	96	\$ 27,392.57	\$285.34	189	186	\$ 58,419.97	\$314.09
Juvenile	80	85	\$43,641.23	62	\$ 35,973.63	\$580.22	132	136	\$ 112,723.32	\$828.85
Lawyer of the Day - Custody	262	252	\$88,587.20	230	\$ 79,377.60	\$345.12	486	537	\$ 183,375.93	\$341.48
Lawyer of the Day - Juvenile	24	19	\$4,685.50	12	\$ 3,527.30	\$293.94	43	42	\$ 13,989.04	\$333.07
Lawyer of the Day - Walk-in	141	168	\$56,573.55	157	\$ 53,254.32	\$339.20	313	327	\$ 112,572.71	\$344.26
Misdemeanor	953	996	\$380,340.98	790	\$ 307,931.72	\$389.79	1,919	1,883	\$ 707,327.90	\$375.64
Petition, Modified Release Treatment	0	5	\$2,984.77	5	\$ 2,984.77	\$596.95	2	9	\$ 13,031.89	\$1,447.99
Petition, Release or Discharge	1	1	\$400.00	1	\$ 400.00	\$400.00	2	2	\$ 1,179.80	\$589.90
Petition, Termination of Parental Rights	34	78	\$78,838.58	68	\$ 74,041.95	\$1,088.85	57	121	\$ 134,356.35	\$1,110.38
Post Conviction Review	2	1	\$3,254.00	5	\$ 8,995.00	\$1,799.00	7	9	\$ 13,372.80	\$1,485.87
Probate	3	1	\$160.00	2	\$ 1,904.00	\$952.00	7	7	\$ 8,626.35	\$1,232.34
Probation Violation	103	101	\$49,766.48	94	\$ 48,508.57	\$516.05	205	218	\$ 120,732.73	\$553.82
Represent Witness on 5th Amendment	1	0		0			1	2	\$ 940.80	\$470.40
Resource Counsel Criminal	0	2	\$612.00	2	\$ 452.00	\$226.00	0	5	\$ 844.00	\$168.80
Resource Counsel Juvenile	0	0		0			0	1	\$ 32.00	\$32.00
Resource Counsel Protective Custody	0	1	\$328.00	1	\$ 328.00	\$328.00	0	1	\$ 328.00	\$328.00
Review of Child Protection Order	51	168	\$101,436.97	135	\$ 79,084.92	\$585.81	102	318	\$ 186,447.06	\$586.31
Revocation of Administrative Release	2	3	\$1,112.75	4	\$ 1,328.75	\$332.19	4	7	\$ 1,780.75	\$254.39
<b>DefenderData Sub-Total</b>	<b>2,552</b>	<b>3,032</b>	<b>\$1,766,234.89</b>	<b>2,532</b>	<b>\$1,429,422.42</b>	<b>\$564.54</b>	<b>5,084</b>	<b>5,809</b>	<b>\$3,325,675.38</b>	<b>\$572.50</b>
<b>Paper Voucher Sub-Total</b>										
<b>TOTAL</b>	<b>2,552</b>	<b>3,032</b>	<b>\$1,766,234.89</b>	<b>2,532</b>	<b>\$1,429,422.42</b>	<b>\$ 564.54</b>	<b>5,084</b>	<b>5,809</b>	<b>\$ 3,325,675.38</b>	<b>\$ 572.50</b>

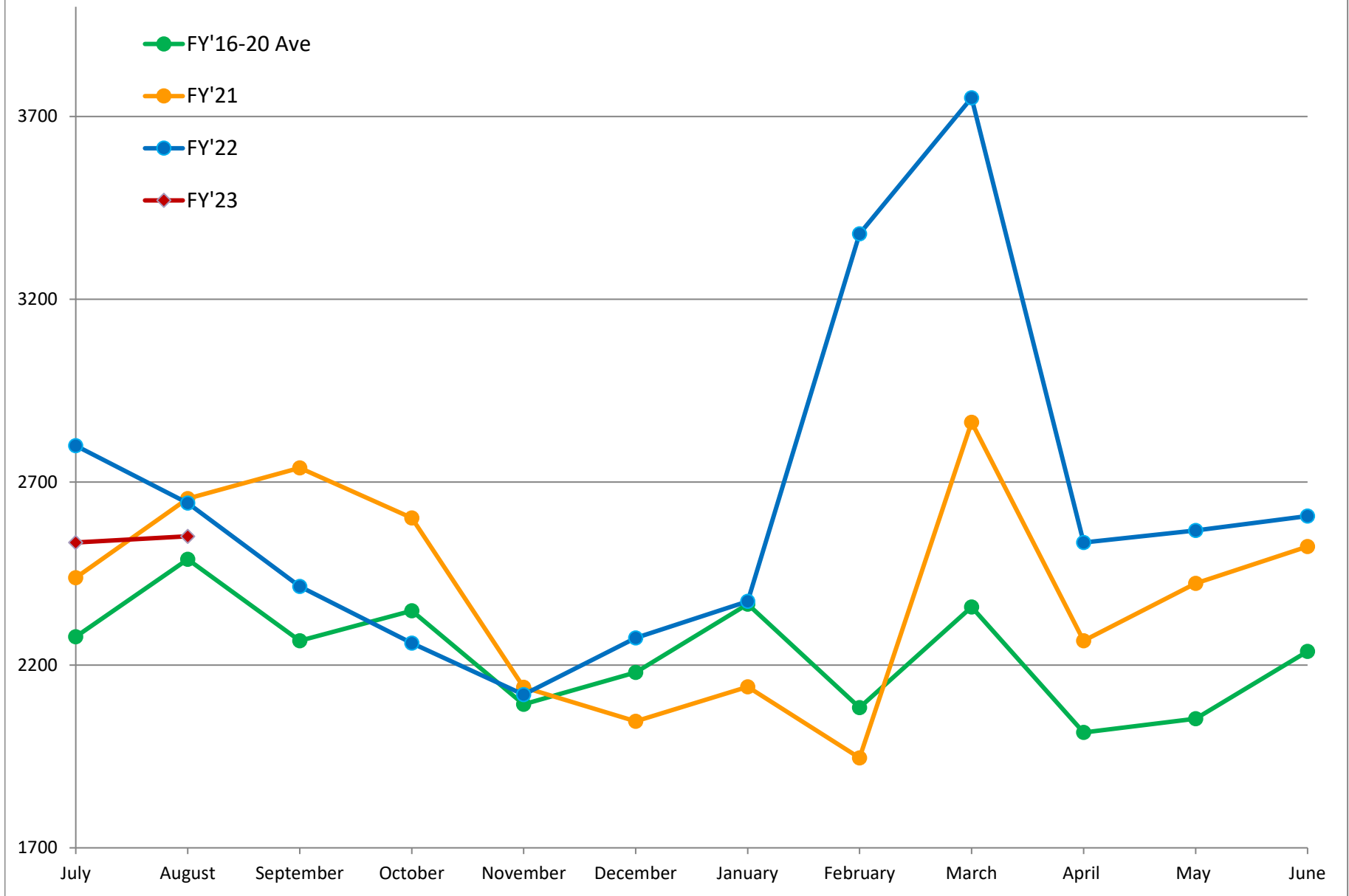
MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

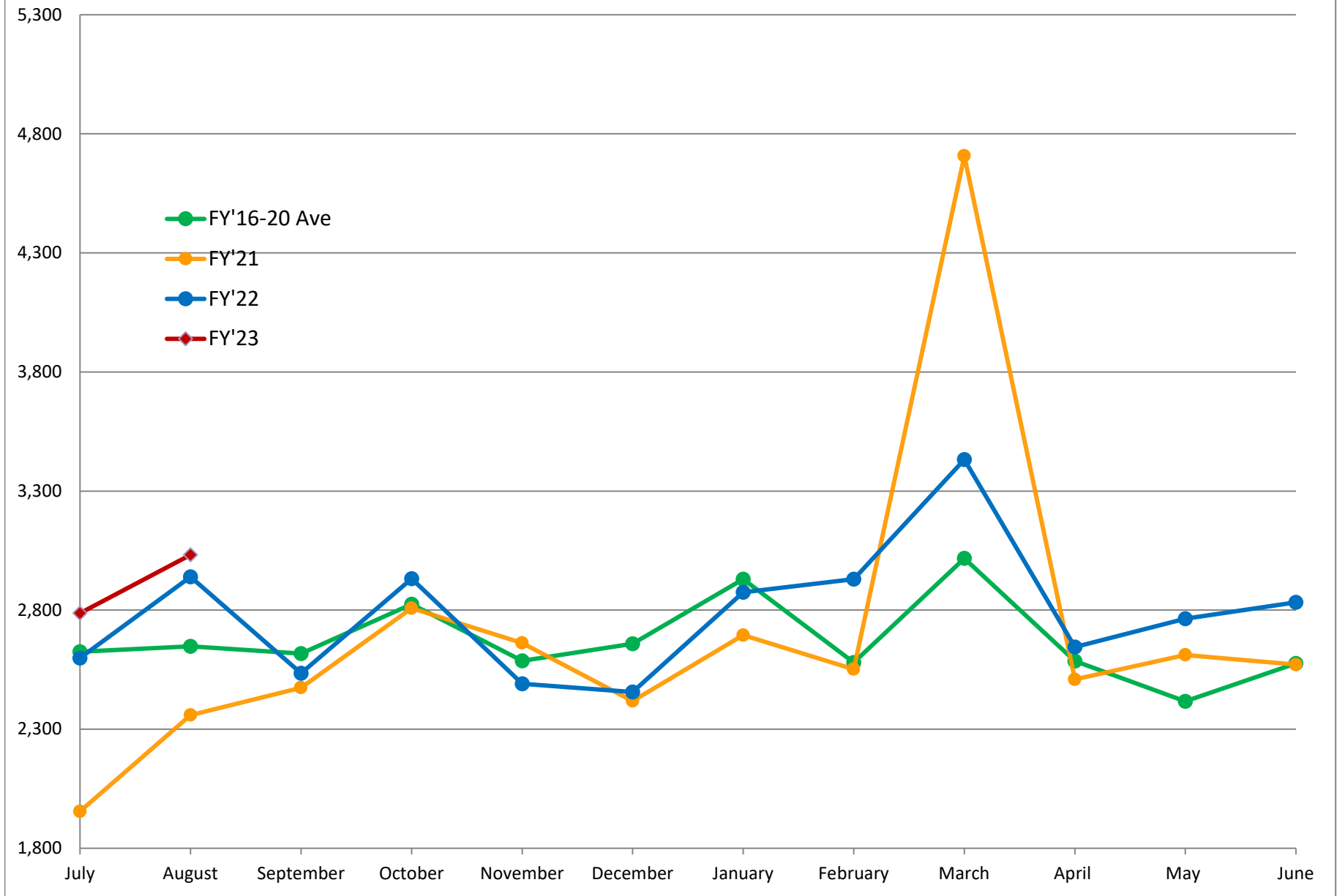
8/31/2022

Court	Aug-22						Fiscal Year 2023			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	1	0		0			2	2	\$ 1,886.00	\$943.00
AUBSC	0	2	\$ 1,760.00	1	\$ 920.00	\$ 920.00	0	2	\$ 1,120.00	\$560.00
AUGDC	35	59	\$ 49,687.05	55	\$ 47,606.65	\$ 865.58	78	105	\$ 89,061.22	\$848.20
AUGSC	2	5	\$ 2,960.77	5	\$ 2,960.77	\$ 592.15	5	10	\$ 13,787.69	\$1,378.77
BANDC	44	105	\$ 55,133.03	97	\$ 45,010.10	\$ 464.02	82	175	\$ 78,271.10	\$447.26
BANSC	0	0		0			0	1	\$ 616.00	\$616.00
BATSC	1	0		0			2	0		
BELDC	14	21	\$ 11,776.49	17	\$ 9,900.11	\$ 582.36	31	32	\$ 20,519.00	\$641.22
BELSC	1	0		0			1	0		
BIDDC	32	28	\$ 18,666.80	23	\$ 17,416.80	\$ 757.25	60	88	\$ 67,181.36	\$763.42
BRIDC	5	11	\$ 4,394.70	6	\$ 2,448.40	\$ 408.07	10	20	\$ 9,407.89	\$470.39
CALDC	3	0		2	\$ 1,848.00	\$ 924.00	3	6	\$ 3,552.00	\$592.00
CARDC	5	23	\$ 13,768.00	18	\$ 9,960.00	\$ 553.33	8	30	\$ 19,650.30	\$655.01
CARSC	1	0		0			2	0		
DOVDC	3	11	\$ 6,320.95	11	\$ 4,476.70	\$ 406.97	6	19	\$ 9,191.80	\$483.78
DOVSC	0	0		0			0	0		
ELLDC	17	44	\$ 29,816.15	36	\$ 26,774.15	\$ 743.73	31	59	\$ 49,928.45	\$846.24
ELLSC	0	0		0			0	0		
FARDC	14	10	\$ 7,778.00	5	\$ 4,690.00	\$ 938.00	20	23	\$ 19,105.88	\$830.69
FARSC	0	0		1	\$ 800.00	\$ 800.00	0	1	\$ 800.00	\$800.00
FORDC	2	15	\$ 12,025.80	9	\$ 5,972.00	\$ 663.56	6	25	\$ 17,056.10	\$682.24
HOUDC	11	23	\$ 15,666.88	16	\$ 9,810.88	\$ 613.18	20	41	\$ 27,671.06	\$674.90
HOUSC	0	0		0			1	0		
LEWDC	37	105	\$ 65,070.35	80	\$ 46,670.95	\$ 583.39	88	209	\$ 129,082.95	\$617.62
LINDC	2	14	\$ 6,588.45	18	\$ 9,624.05	\$ 534.67	13	33	\$ 20,782.45	\$629.77
MACDC	0	2	\$ 4,999.10	3	\$ 2,978.50	\$ 992.83	1	6	\$ 4,574.50	\$762.42
MACSC	0	0		0			0	0		
MADDc	1	3	\$ 1,428.50	0			2	0		
MILDc	3	3	\$ 904.00	6	\$ 3,056.55	\$ 509.43	6	9	\$ 4,040.55	\$448.95
NEWDC	14	28	\$ 15,004.00	20	\$ 11,288.00	\$ 564.40	25	29	\$ 16,070.70	\$554.16
PORDC	83	78	\$ 47,535.44	75	\$ 44,726.51	\$ 596.35	136	183	\$ 140,168.42	\$765.95
PORSC	1	1	\$ 364.00	1	\$ 32.00	\$ 32.00	1	3	\$ 944.00	\$314.67
PREDc	3	21	\$ 9,747.50	20	\$ 7,451.50	\$ 372.58	12	36	\$ 16,415.50	\$455.99
RODC	14	19	\$ 7,580.65	15	\$ 5,818.85	\$ 387.92	21	27	\$ 16,171.82	\$598.96
ROSC	4	7	\$ 2,120.00	5	\$ 1,632.00	\$ 326.40	8	5	\$ 1,632.00	\$326.40
RUMDC	22	32	\$ 25,816.90	32	\$ 31,678.90	\$ 989.97	37	54	\$ 51,369.85	\$951.29
SKODC	48	72	\$ 57,321.80	42	\$ 37,038.50	\$ 881.87	78	92	\$ 77,173.00	\$838.84
SKOSC	0	0		0			0	0		
SOUDC	10	18	\$ 12,202.00	14	\$ 10,544.20	\$ 753.16	21	40	\$ 28,590.60	\$714.77
SOUSC	0	0		0			0	0		
SPRDC	15	31	\$ 20,726.00	26	\$ 16,590.00	\$ 638.08	26	59	\$ 47,019.16	\$796.93
Law Ct	12	11	\$ 16,302.17	7	\$ 9,401.57	\$ 1,343.08	22	18	\$ 36,278.28	\$2,015.46
YORCD	316	314	\$ 154,118.96	275	\$ 133,813.20	\$ 486.59	659	707	\$ 345,022.47	\$488.01
AROCD	148	186	\$ 141,077.69	165	\$ 95,349.66	\$ 577.88	353	362	\$ 177,239.14	\$489.61
ANDCD	175	173	\$ 127,834.13	158	\$ 97,390.42	\$ 616.40	371	394	\$ 228,115.72	\$578.97
KENCD	168	164	\$ 66,835.67	142	\$ 67,209.25	\$ 473.30	362	323	\$ 174,553.17	\$540.41
PENCD	328	338	\$ 133,740.04	304	\$ 151,725.70	\$ 499.10	611	612	\$ 310,090.33	\$506.68
SAGCD	43	37	\$ 15,454.58	41	\$ 22,740.13	\$ 554.64	87	79	\$ 34,187.75	\$432.76
WALCD	77	50	\$ 29,078.07	39	\$ 24,369.78	\$ 624.87	145	111	\$ 65,893.54	\$593.64
PISDC	25	16	\$ 6,929.60	19	\$ 10,057.93	\$ 529.36	42	35	\$ 13,139.38	\$375.41
HANCD	78	60	\$ 35,582.00	47	\$ 29,570.00	\$ 629.15	147	108	\$ 71,725.14	\$664.12
FRACD	45	32	\$ 12,650.72	19	\$ 7,428.72	\$ 390.99	77	48	\$ 25,024.68	\$521.35
WASCD	20	51	\$ 68,609.79	36	\$ 18,741.60	\$ 520.60	62	89	\$ 47,652.85	\$535.43
CUMCD	318	353	\$ 221,333.90	315	\$ 179,176.08	\$ 568.81	636	777	\$ 423,202.27	\$544.66
KNOCD	66	64	\$ 33,419.00	52	\$ 21,814.20	\$ 419.50	133	132	\$ 67,812.17	\$513.73
SOMCD	91	123	\$ 49,464.17	74	\$ 30,214.63	\$ 408.31	176	183	\$ 80,596.87	\$440.42
OXFCD	105	143	\$ 52,957.55	75	\$ 35,688.14	\$ 475.84	191	152	\$ 77,138.32	\$507.49
LINCD	43	41	\$ 21,243.87	44	\$ 21,669.52	\$ 492.49	75	93	\$ 43,897.34	\$472.01
WATDC	23	36	\$ 25,144.47	26	\$ 14,423.92	\$ 554.77	47	77	\$ 45,043.51	\$584.98
WESDC	14	29	\$ 22,946.00	21	\$ 19,090.00	\$ 909.05	31	54	\$ 36,587.50	\$677.55
WISDC	6	11	\$ 15,617.40	7	\$ 12,339.10	\$ 1,762.73	10	13	\$ 17,090.40	\$1,314.65
WISSC	0	2	\$ 1,616.00	1	\$ 936.00	\$ 936.00	0	1	\$ 936.00	\$936.00
YORDC	2	7	\$ 7,115.80	6	\$ 6,547.80	\$ 1,091.30	3	17	\$ 21,607.20	\$1,271.01
<b>TOTAL</b>	<b>2,552</b>	<b>3,032</b>	<b>\$ 1,766,234.89</b>	<b>2,532</b>	<b>\$ 1,429,422.42</b>	<b>\$ 564.54</b>	<b>5,084</b>	<b>5,809</b>	<b>\$3,325,675.38</b>	<b>\$572.50</b>

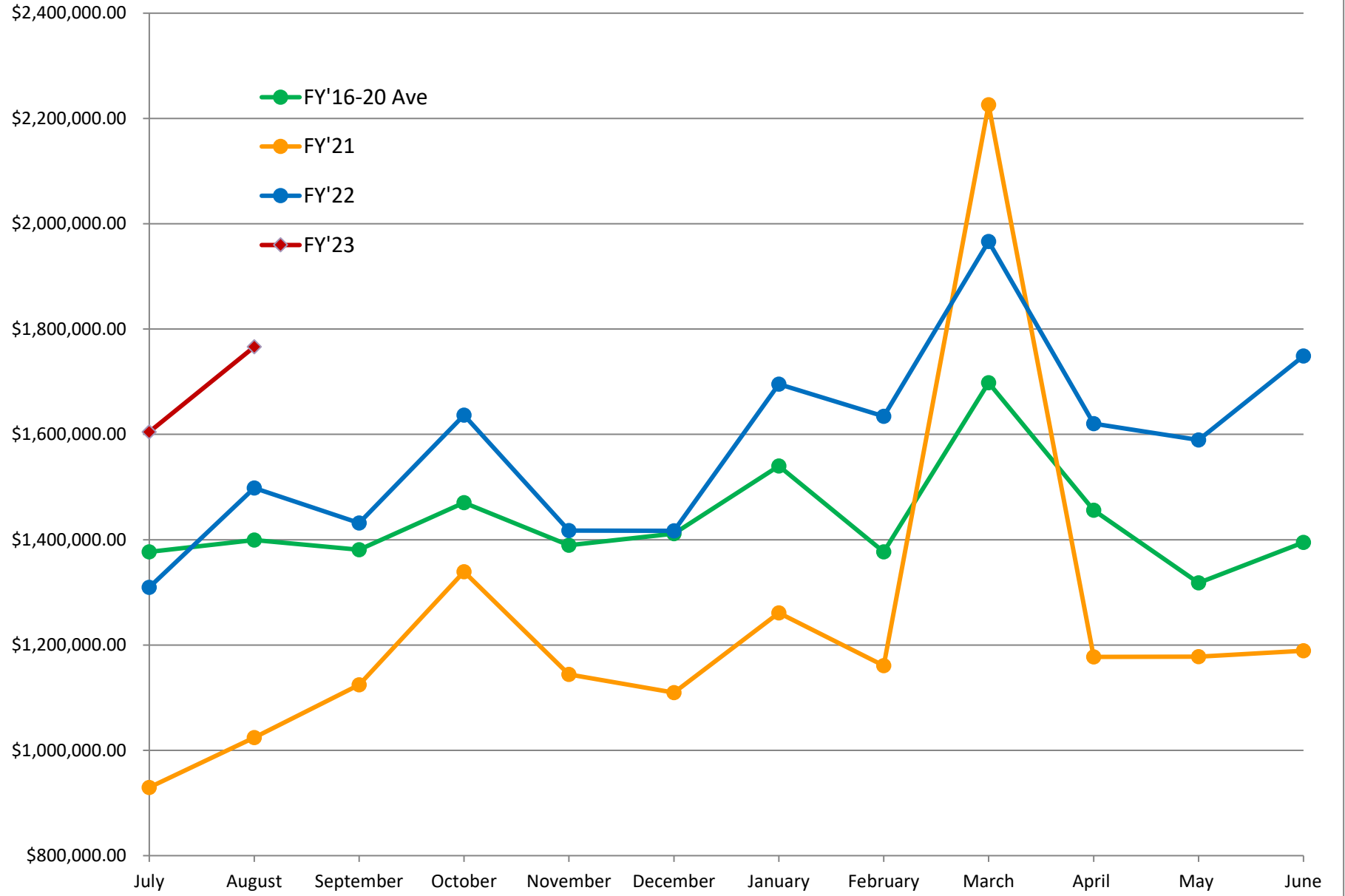
# NEW CASES



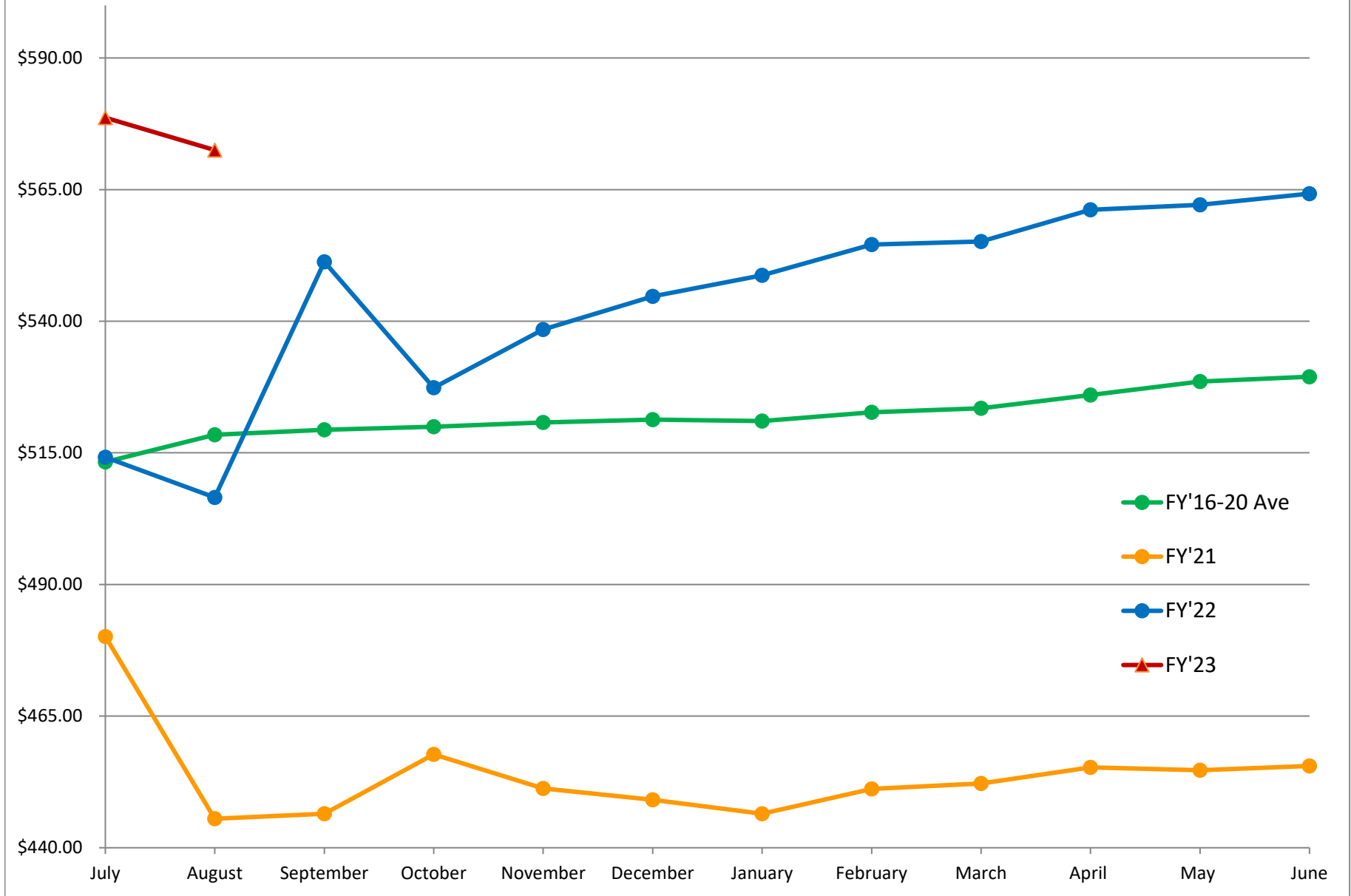
# Submitted Vouchers



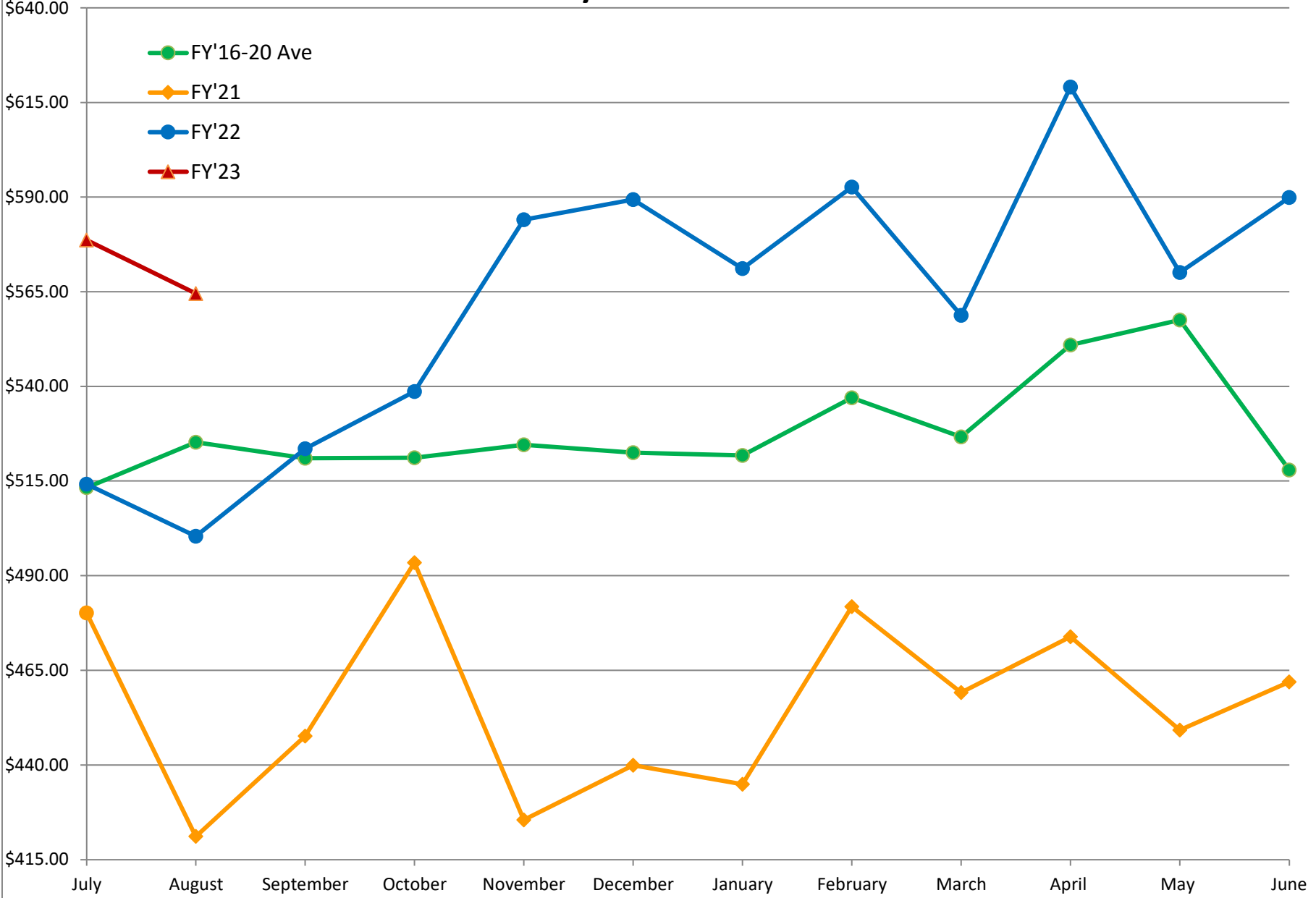
# Submitted Voucher Amount



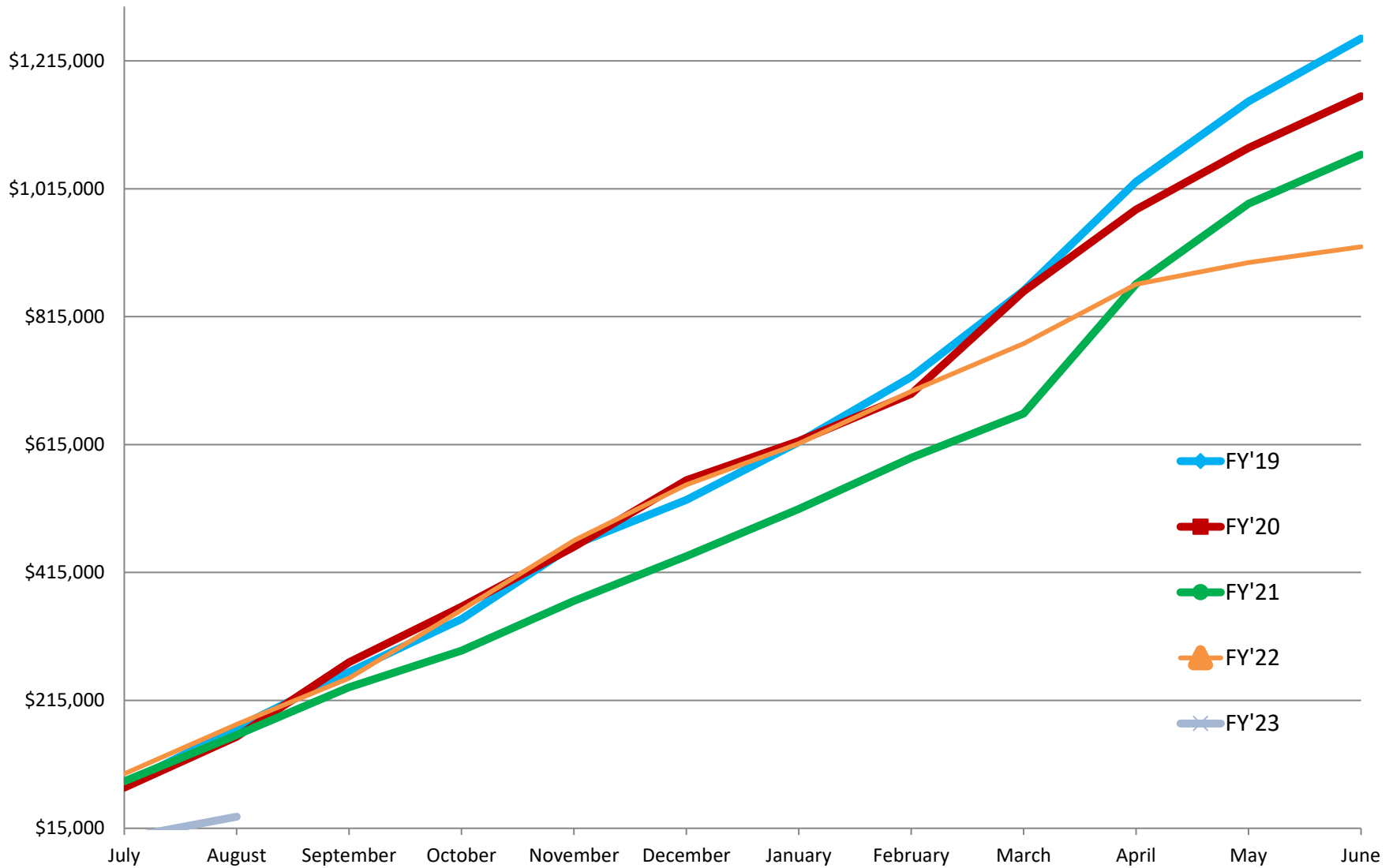
# Average Voucher Price Fiscal Year to Date



# Monthly Price Per Voucher



### COLLECTION TOTALS FY'19 to FY'23





## Good Outcomes

Review Date	Attorney	Charge	Disposition
8/1/2022	MacLean, Jason	1 ct. Burglary, 1 ct. Theft by Unauthorized Taking, 1 ct. Criminal Trespass	Jury Trial: NG-Burglary and Trespass; G-Theft (admin. rel.)
8/1/2022	McMorran, Kelly	1 ct. Theft by Unauthorized Taking, 1 ct. VCR	Filing
8/2/2022	Howaniec, James	1 cr. Theft by Deception (priors)	Dismissal
8/2/2022	Pelletier, John	2 cts. PFA Violation	Deferred GO = Dismissal
8/2/2022	Peters, Chelsea	Child Protection Petition	Dismissal through PRR
8/2/2022	Cavanagh, Kimberly	Child Protection Petition	Dismissal
8/2/2022	Edwards, Andrew	2 cts. Assault	Dismissal
8/2/2022	Ward, Robert	Child Protection Petition	Dismissal
8/2/2022	Wright, Andrew	Child Protection Petition	Dismissal
8/2/2022	Berner, Seth	1 ct. burglary, 1 ct. Theft by Unauthorized Taking	NG Verdict
8/2/2022	Cohen, Jennifer	2 cts. Unlawful Trafficking in Schedule Drugs	Dismissal
8/2/2022	Yamartino, Gina	1 ct. Operating w/o a License, 1 ct. VCR, 1 ct. Failure to Give Correct Name, Address, or DOB	Dismissal
8/11/2022	McGarry, Amy	Child Protection Petition	Dismissal through PRR
8/11/2022	Hainke, Harold	Child Protection Petition	Dismissal
8/11/2022	Davidson, Jeffrey	Impersonating a Public Servant	Dismissal
8/11/2022	Davidson, Jeffrey	Operating w/o a License	Dismissal
8/11/2022	Boyd, Dylan; Fey, Zachary	2 ct. Forgery, 1 ct. VCR, 1 ct. Misuse of ID	Dismissal
8/11/2022	Mekonis, Josph	DVA w/ Priors	Dismissal
8/11/2022	Glynn, Sarah	Operating after Habitual Offender Revocation	Dismissal
8/11/2022	Shain, Rodney	1 ct. Assault, 1 ct. Criminal Trespass	DD GO = Dismissal
8/11/2022	Hatch, Wendy	Child Protection Petition	Dismissal
8/11/2022	Rice, Curtis	Operating after H/O Revocation	DD GO = Dismissal
8/11/2022	Hanson, Allan	Assault, VCR	NG Verdict--on both counts
8/11/2022	Hoffman, Charlene	Unlawful Poss. (misdemeanor)	Dismissal
8/18/2022	Hornblower, Don	Theft by Unauthorized Taking or Transfer	Deferred GO = Dismissal
	Bobrow, David	Burglary/Theft	Dismissal
8/19/2022	Ledwick, Christopher	Theft by Unauthorized Taking or Transfer	Dismissal
8/19/2022	Stephens, Bronson	Child Protection Petition	Dismissal through PRR

## Good Outcomes

8/19/2022	Hanson, Allan	Child Protection Petition	Dismissal
8/19/2022	Gale, Jon	Theft by Unauthorized Taking or Transfer	Filing
8/19/2022	Paris, David	Child Protection Petition	Dismissal through PRR
8/19/2022	Geller, David	1 ct. Burglary, 1 ct. Theft by Unauthorized Taking or Transfer	Dismissal
8/19/2022	McKechnie, Kathy	Operate Vehicle w/o License	Dismissal
8/19/2022	Woodbury, Eric	Child Protection Petition	Dismissal
8/19/2022	Kaynor, Peter	Misuse of 911 System	Filing
8/19/2022	Kaynor, Peter	1 ct. OUI (Drugs or Combo), 1 ct. DTE	Dismissal after Counsel discovered Giglio facts
8/19/2022	Hanson, Allan	Child Protection Petition	Dismissal
8/30/2022	Lodsin, Julia	Child Protection Petition	Dismissal
8/30/2022	Toothaker, Jeffrey	Gross Sexual Assault	NG Verdict
8/26/2022	Chester, Edwin	Assault (JUV)	Dismissal
8/31/2022	Derstine, Tucker	2 cts. Violating Protection from Abuse Order	Dismissal
8/31/2022	Handelman, Jonathan	OAS-OUI	Dismissal
8/31/2022	Bos, C. Peter	Child Protection Petition	Dismissal through PRR
8/31/2022	Coolidge, Max	Possession of Meth	Dismissal
8/31/2022	Helfrich, Charles	Child Protection Petition	Dismissal through PRR
8/31/2022	Bos, C. Peter	Child Protection Petition	Dismissal through PRR
8/31/2022	Kenney, Michele	DVA	Deferred GO = Dismissal
8/31/2022	Avantaggio, William	1 ct. DTE, 1 ct. Operating w/o License	Dismissal
8/31/2022	Hatch, Wendy	Child Protection Petition	Dismissal
8/31/2022	Day, Randy	Child Protection Petition	Dismissal

**Vouchers over \$5,000**

<b>Comment</b>	<b>Voucher Total</b>	<b>Case Total</b>
Homicide	\$ 21,982.80	\$ 21,982.80
Gross Sexual Assault	\$ 14,784.00	\$ 14,784.00
Domestic Violence Aggravated Assault	\$ 10,176.00	\$ 10,176.00
OUI	\$ 9,732.13	\$ 9,732.13
Aggravated Trafficking	\$ 9,634.00	\$ 9,634.00
Domestic Violence Aggravated Assault	\$ 8,112.00	\$ 8,112.00
OAS	\$ 7,575.41	\$ 8,796.41
Termination of Parental Rights	\$ 6,632.00	\$ 6,632.00
Termination of Parental Rights	\$ 6,616.00	\$ 15,050.00
Aggravated Attempted Murder	\$ 2,168.00	\$ 12,502.00
Domestic Violence Assault	\$ 6,559.10	\$ 6,559.10
Appeal - guardianship	\$ 6,168.91	\$ 6,168.91
Aggravated Assault	\$ 5,663.70	\$ 5,663.70
Manslaughter	\$ 5,424.00	\$ 5,424.00
Aggravated Trafficking	\$ 5,415.20	\$ 12,303.32
Aggravated Trafficking	\$ 5,408.25	\$ 5,408.25
Unlawful Possession of Scheduled Drugs	\$ 5,406.00	\$ 5,406.00

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**MCILS TRAINING AND SUPERVISION DIVISION**

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**TO:** GOC

**FROM:** JUSTIN ANDRUS / T&S DIRECTOR GUILLORY

**SUBJECT:** TRAINING AND SUPERVISION ACTIVITIES

**DATE:** 9/20/2022

**CC:** COMMISSION, INTERESTED PARTIES

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Since commencing its work on or about December 1, 2021, some of the activities of the Training and Supervision Division have included:

- Processed 17,792 eligible case assignments between 12/1/2021 and 9/8/2022.
- Detected and addressed 230 ineligible assignments of counsel, 31 of which resulted in counsel applying and becoming rostered for the relevant specialty panel.
- Processed 105 applications for initial indigent case assignments and specialty panels.
- Hosted 6 original continuing legal education presentations, including two with an ethics component at no cost to rostered attorneys.
- Hosted multiple presentations of our Minimum Standards Trainings.
- Approved 29 third party CLE's for MCILS credit.
- Provided assigned counsel with free and unlimited access to the NAPD online training library.
- Created and implemented a policy and procedure for handling complaints received by Training and Supervision Staff.
- Performed 27 Training and Supervision assessments in response to received complaints, including, where appropriate, remediation through the Resource Counsel program.
- Designed workflow and rules for implementation of a Duty Lawyer of the day program. Designed protocols for pre-arraignment assignments of counsel to correspond to that program.

- Created a phone line for use with the Duty Lawyer of the day program and general MCILS assistance for the public.
- Received and logged 603 calls to the Duty Lawyer of the Day/Helpline between 2/14/2022 and 9/8/2022.
- Authorized 58 assignments of counsel utilizing MCILS's internal assignment of counsel mechanism.
- Located counsel for hand placement of cases through the courts.
- Tracked assignment issues across multiple counties aggregating data on cases resulting in denial of counsel to clients.
- Collaborated in authoring a billing and case entry guidance document.
- Revised initial and specialty panel applications.
- Developed Training and Supervision policy roadmap for presentation to the Commission.
- Conducted CLE survey of assigned counsel to identify training needs and opportunities.
- Developed draft policies for Caseload Limits, conducting supporting research on various systems and other states methodologies.
- Drafted supporting memoranda for advancing caseload limits including multiple iterations of data analysis generated from internal data and comparative analysis against other information generated through research and development.
- Developed draft policies for structuring both assigned counsel and public defender systems.
- Developed draft supervision policies for both assigned counsel and public defender systems.
- Developed draft policies regarding assignment of counsel systems.
- Developed draft policies for training programs and policies.
- Developed draft policies for amending standards of practice.
- Developed draft policy for annual attorney evaluations.
- Developed draft policy for replacing the current rostering and specialty panel system.

- Complete research projects assigned by the Commissioners regarding proposed policies. Most recently staff compiled over 2200 pages of research in response to a request for information by a Commissioner.
- Developed a pilot program for matching counsel seeking trial experience and counsel seeking attorneys willing to act as second chairs at trials.

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**MCILS AUDIT DIVISION**

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**TO:** GOC

**FROM:** JUSTIN ANDRUS / AUDIT COUNSEL WASHER

**SUBJECT:** AUDIT DIVISION ACTIVITIES

**DATE:** 9/20/2022

**CC:** COMMISSION, INTERESTED PARTIES

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Since commencing its work on or about December 1, 2021, some of the activities of the Audit Division have included:

Data Review and Processing

- Developed and implemented supervision workflow to address high daily hours alerts using a risk-based approach to prioritize alerts most likely to contain misstatements whether due to fraud or error.
- Reviewed and recorded approximately 2,309 high daily hours alerts since October 26, 2021, including 254 alerts for days with hours reported over 16 hours.
- Reviewed and processed 28,472 individual vouchers representing approximately \$16,438,465.16 in contract counsel fees and reimbursements.
- Of those 28,472 individual vouchers, we have sent approximately 4,187 back to the relevant attorney for further information or correction.
- Recorded approximately 90 data entry errors since March 11, 2022, that resulted in contract counsel reducing the hours originally reported. Those errors total approximately 269 attorney work hours.
- Implemented an interim billing scheme which increased the quality of agency data by providing closer in time information regarding the services provided to indigent Mainers.
- Developed and implemented a scheme for recording desirable or positive outcomes contract counsel have obtained for their indigent clients.
- Recorded desirable outcomes since March 11, 2022.

#### Data Management and Report Generation

- Developed the capability to restructure and produce systems data in new ways not previously possible.
- Developed 35 persistent SQL queries to generate reports using the data housed in the agency's case management software that are otherwise not available.
- Developed a query that reliably tracks attorney caseloads according to the May 2022 proposed caseload standard through thorough and iterative testing.
- Developed the ability to generate and retain local back-ups of agency data stored by our external case management software provider.
- Established a system for generating redundant back-ups of systems data.
- Reduced manual effort necessary to conduct data analysis by designing reports responsive to the Training and Supervision Division's needs.
- The agency updated and modernized the website using a modular, open-source content management system that provides greater flexibility as the agency grows and changes.
- Prepared a site redesign that contemplates agency workflow changes to streamline current processes and provides new content delivery methods to provide contract counsel with more accessible resources and training content.

#### Audit Structure

- Developed draft risk-based audit program incorporating random statistical sampling and non-statistical sampling procedures to provide reasonable assurance that agency billing data is free from material misstatements.
- Engaged in self-directed education regarding audit standards and procedures.
- Regularly review and test systems data to take corrective action where necessary and to provide greater assurance that the data is free from misstatements.

#### Rules Application and Implementation

- Developed and implemented comprehensive written billing guidance to standardize attorney billing practices across a diverse group of contract counsel.
- Revised how the annual renewal is managed by using our modular content management system to manage the forms and data collected.
- Individually reviewed and processed 354 attorney renewal applications resulting in over 270 successful attorney renewals.
- Strictly implemented Chapter 301 (fee rule) by consistently enforcing the various nuances of that rule resulting in greater assurance that the agency, as well as contract counsel, are in compliance with the tenets of that rule.



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**MCILS ATTORNEY AVAILABILITY**

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**TO:** GOC

**FROM:** JUSTIN ANDRUS, EXECUTIVE DIRECTOR

**SUBJECT:** MCILS ATTORNEY AVAILABILITY

**DATE:** 9/20/2022

**CC:** COMMISSION, INTERESTED PARTIES

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Table 1: MCILS counsel available to staff cases through completion (excludes counsel who serve only in Lawyer of the Day; Treatment Courts; or, similar)

<b>MCILS Case Available Counsel</b>		
May 2019		410
January 2022		280
June 2 2022		234
September 13 2022		171
September 20 2022		163

Table 2: Pending UCD caseload as of 9/9/2022 (excludes civil violations)

	<u>2022</u>	<u>2021</u>	<u>2019</u>
Felony	7,648	7,103	4,373
Misdemeanor	19,956	19,403	12,615
Total	27,604	26,506	16,988
	<b>2022/prior:</b>	<b>104%</b>	<b>162%</b>

Table 3: Cases opened

<u>FY</u>	<u>Cases Opened</u>	<u>2023 / prior year</u>
2019	27,324	130%
2020	27,190	131%
2021	28,595	125%
2022	31,606	113%
2023	35,360	

**Note:** For MCILS to achieve an assignment to attorney ratio equal to May 2019 today would require 528 attorneys in the system. The system requires 387 additional attorneys to return to that ratio. That case ratio accounts for attorneys who do not serve consumers of indigent legal services full-time, but does not account for the proposed MCILS caseload standards.

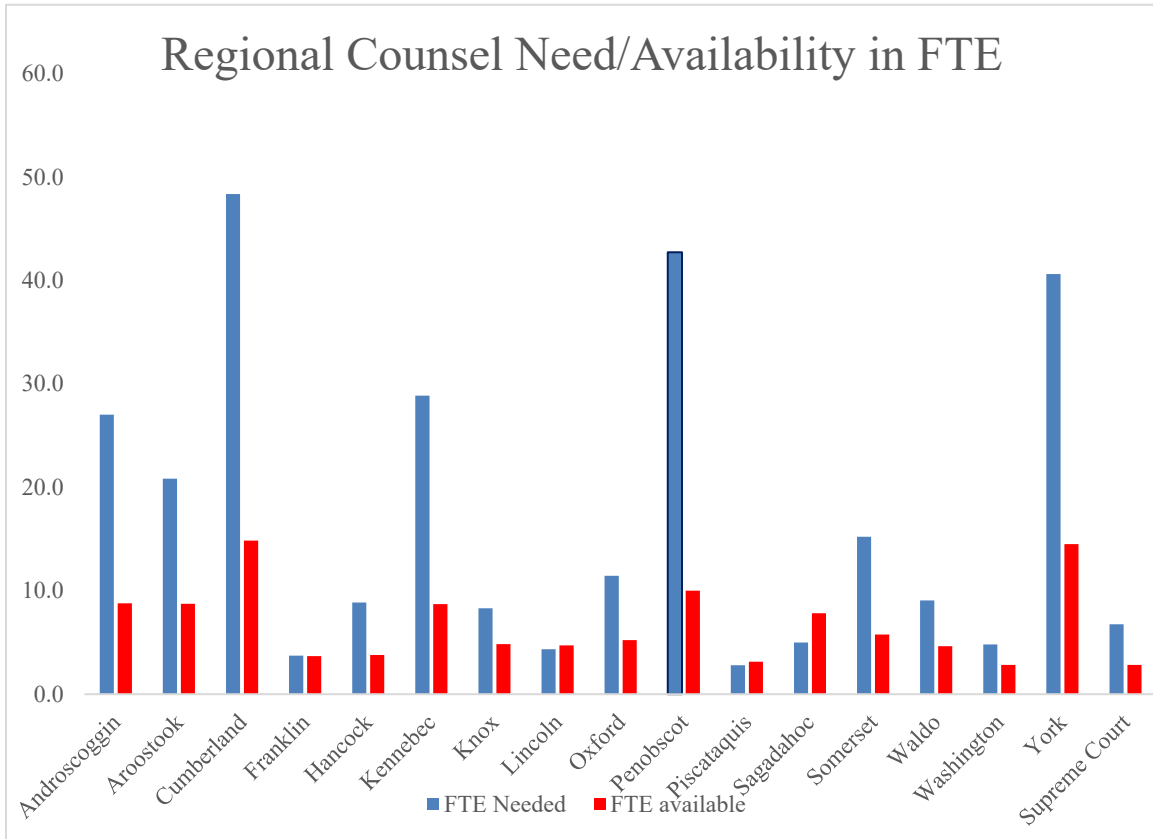
As of September 13, 2022:

- 374 current or former MCILS attorneys reported 25,298 open matters for consumers of indigent legal services. This includes cases that are still open for attorneys who have not renewed their participation in the MCILS program; those who have renewed but who are not accepting cases; and those who are accepting cases.
- 171 attorneys accepting assignments to represent consumers of indigent legal services reported 14,700 open matters.<sup>1</sup>
- 53 attorneys (31%) were carrying caseloads that would exceed the protective caseload standard developed by MCILS staff.
- Those 53 attorneys were responsible for 9,878 (67%) of the total open caseload being carried by the then remaining available counsel pool.
- 7 of the remaining available attorneys were carrying 25% of the total available attorney caseload.
- Of the 171 attorneys indicating willingness to receive assignments to cases, 81 (47%) were accepting half-FTE caseloads. 47 (27%) were accepting quarter-FTE caseloads. As a result, the 171-attorney count substantially overstates the depth of the remaining available counsel pool.
- Of the 31,607 matters opened by MCILS counsel in FY'22, 26,617 were for representation in a substantive matter (as opposed to Lawyer of the Day or other time-limited assignments). For the next 12 months, assuming conservatively that the FY'22 caseloads held, and based on the average case complexity of those substantive assignments, MCILS would need 288 FTE attorneys to staff those cases *if those attorneys had no existing caseload*. In reality, we project a 12% increase in the number of cases MCILS will be called on to staff.

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<sup>1</sup> Note that in the week between September 13<sup>th</sup> and September 20<sup>th</sup>, the attorney count decreased to 163. This analysis was performed before September 20<sup>th</sup>.

Table 4: MCILS projects the following need and availability for attorneys in the next year



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**MCILS ASSIGNED COUNSEL PAY DISPARITY**

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**TO:** GOC  
**FROM:** JWA  
**SUBJECT:** MCILS ASSIGNED COUNSEL PAY DISPARITY  
**DATE:** 9/20/2022  
**CC:** COMMISISON, INTERESTED PARTIES

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MCILS assigned counsel are paid \$80 per hour to represent consumers of indigent legal services. The following table demonstrates that even the least expensive Assistant District Attorney has an effective hourly rate of \$74.53, without financial responsibility for staff or an office. When staff costs are considered, the effective hourly rates for a prosecutor range from a minimum of \$132.19 to \$183.50 for an experienced elected District Attorney. MCILS will not successfully attract and retain attorney talent absent pay parity.

<u>State employee costs<sup>1</sup></u>	<u>Annual</u>	<u>Effective Hourly<sup>2</sup></u>
Elected District Attorney (new state hire)	\$ 178,712	\$ 102.94
Elected District Attorney (6-year salary)	\$ 218,452	\$ 125.84
Assistant District Attorney (new state hire)	\$ 129,383	\$ 74.53
Assistant District Attorney (experienced)	\$ 200,743	\$ 115.64
Legal Secretary (step 3/new state hire)	\$ 100,096	\$ 57.66
 <b><u>Parity hourly rate analysis with staff</u></b>		
Elected District Attorney (new state hire)	\$ 278,808	<b>\$ 160.60</b>
Elected District Attorney (6-year salary)	\$ 318,548	<b>\$ 183.50</b>
Assistant District Attorney (new state hire)	\$ 229,479	<b>\$ 132.19</b>

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<sup>1</sup> The annual costs presented represent the sum of the relevant salary, benefits package, and ancillary costs associated with each position, based on the most recent data available to MCILS.

<sup>2</sup> Accounts for State benefit package including paid State holidays, vacation, sick leave, and personal time for which prosecutors are paid, but for which assigned counsel receive no consideration.

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**SUPPLEMENTAL BUDGET REQUEST**

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**TO:** COMMISSION

**FROM:** JWA

**SUBJECT:** STAFF RECOMMENDED SUPPLEMENTAL BUDGET REQUEST

**DATE:** 9/19/2022

**CC:** INTERESTED PARTIES

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The deadline for submitting a supplemental budget request for the remainder of FY23 is October 3, 2022. Staff recommends submitting a supplemental request in the amount of \$13,309,440 to support a raise for assigned counsel to \$150 per hour. Staff have considered other initiatives, and have concluded that the window of opportunity to deploy other initiatives during FY23 is too narrow to warrant pursuing those other initiatives at this point.

Staff have calculated the recommended initiative price based on FY22 hours, and expected cost for the period October 3, 2022 to June 30, 2023, as set out in the table below.

The Commission should not view this proposal as adequate to resolve the ongoing issues in staffing, but staff believe that the proposed raise will support the program by permitting existing counsel to use paralegals and other employees or contractors as force modifiers, and that we may be able to regain some who have left at the enhanced rate.

FY22 Hours Billed		256,939
%year 10/3/22 to 6/30/23		74%
Hours Expected 10/3/22 to 6/30/23		190,135
Expected cost @ \$80/hr	\$	15,210,789
Expected cost @ \$150/hr	-	<u>\$ 28,520,229</u>
<b>New appropriation</b>	<b>\$</b>	<b>13,309,440</b>

# Pending UCD Cases as of September 9, 2022

UCD	FELONY				MISDEMEANOR				CIVIL VIOLATION			ALL CASES			
	Pending	On DD	No IA	% No IA	Pending	On DD	No IA	% No IA	Pending	No IA	% No IA	Pending	On DD	No IA	% No IA
<b>Androscoggin</b>	<b>673</b>	<b>69</b>	<b>48</b>	<b>7.1%</b>	<b>2,066</b>	<b>221</b>	<b>334</b>	<b>16.2%</b>	<b>13</b>	<b>6</b>	<b>46.2%</b>	<b>2,752</b>	<b>290</b>	<b>388</b>	<b>14.1%</b>
<b>Aroostook</b>	<b>706</b>	<b>110</b>	<b>77</b>	<b>10.9%</b>	<b>1,071</b>	<b>246</b>	<b>274</b>	<b>25.6%</b>	<b>50</b>	<b>39</b>	<b>78.0%</b>	<b>1,827</b>	<b>356</b>	<b>390</b>	<b>21.3%</b>
Caribou	171	26	14	8.2%	229	75	45	19.7%	4	2	50.0%	404	101	61	15.1%
Fort Kent	97	13	7	7.2%	208	69	42	20.2%	6	5	83.3%	311	82	54	17.4%
Houlton	227	29	26	11.5%	317	48	71	22.4%	21	15	71.4%	565	77	112	19.8%
Presque Isle	211	42	30	14.2%	317	54	116	36.6%	19	17	89.5%	547	96	163	29.8%
<b>Cumberland</b>	<b>1,289</b>	<b>182</b>	<b>115</b>	<b>8.9%</b>	<b>3,853</b>	<b>448</b>	<b>832</b>	<b>21.6%</b>	<b>144</b>	<b>98</b>	<b>68.1%</b>	<b>5,286</b>	<b>630</b>	<b>1,045</b>	<b>19.8%</b>
Bridgton	19	5	2	10.5%	319	55	69	21.6%	73	66	90.4%	411	60	137	33.3%
Portland	1,251	173	112	9.0%	3,138	341	646	20.6%	52	27	51.9%	4,441	514	785	17.7%
West Bath	19	4	1	5.3%	396	52	117	29.5%	19	5	26.3%	434	56	123	28.3%
<b>Franklin</b>	<b>134</b>	<b>31</b>	<b>17</b>	<b>12.7%</b>	<b>419</b>	<b>95</b>	<b>110</b>	<b>26.3%</b>	<b>21</b>	<b>12</b>	<b>57.1%</b>	<b>574</b>	<b>126</b>	<b>139</b>	<b>24.2%</b>
<b>Hancock</b>	<b>357</b>	<b>29</b>	<b>35</b>	<b>9.8%</b>	<b>660</b>	<b>96</b>	<b>190</b>	<b>28.8%</b>	<b>51</b>	<b>28</b>	<b>54.9%</b>	<b>1,068</b>	<b>125</b>	<b>253</b>	<b>23.7%</b>
<b>Kennebec</b>	<b>629</b>	<b>70</b>	<b>52</b>	<b>8.3%</b>	<b>1,788</b>	<b>303</b>	<b>352</b>	<b>19.7%</b>	<b>57</b>	<b>14</b>	<b>24.6%</b>	<b>2,474</b>	<b>373</b>	<b>418</b>	<b>16.9%</b>
Augusta	606	66	48	7.9%	1,118	186	200	17.9%	46	11	23.9%	1,770	252	259	14.6%
Waterville	23	4	4	17.4%	670	117	152	22.7%	11	3	27.3%	704	121	159	22.6%
<b>Knox</b>	<b>214</b>	<b>44</b>	<b>22</b>	<b>10.3%</b>	<b>515</b>	<b>154</b>	<b>113</b>	<b>21.9%</b>	<b>18</b>	<b>4</b>	<b>22.2%</b>	<b>747</b>	<b>198</b>	<b>139</b>	<b>18.6%</b>
<b>Lincoln</b>	<b>131</b>	<b>44</b>	<b>8</b>	<b>6.1%</b>	<b>338</b>	<b>127</b>	<b>74</b>	<b>21.9%</b>	<b>6</b>	<b>0</b>	<b>0.0%</b>	<b>475</b>	<b>171</b>	<b>82</b>	<b>17.3%</b>
<b>Oxford</b>	<b>442</b>	<b>46</b>	<b>59</b>	<b>13.3%</b>	<b>1,003</b>	<b>133</b>	<b>265</b>	<b>26.4%</b>	<b>23</b>	<b>17</b>	<b>73.9%</b>	<b>1,468</b>	<b>179</b>	<b>341</b>	<b>23.2%</b>
Bridgton	47	6	12	25.5%	118	33	22	18.6%	3	1	33.3%	168	39	35	20.8%
Rumford	166	18	25	15.1%	427	43	138	32.3%	8	7	87.5%	601	61	170	28.3%
South Paris	229	22	22	9.6%	458	57	105	22.9%	12	9	75.0%	699	79	136	19.5%
<b>Penobscot</b>	<b>1,010</b>	<b>22</b>	<b>122</b>	<b>12.1%</b>	<b>2,147</b>	<b>33</b>	<b>720</b>	<b>33.5%</b>	<b>83</b>	<b>50</b>	<b>60.2%</b>	<b>3,240</b>	<b>55</b>	<b>892</b>	<b>27.5%</b>
Bangor	980	22	118	12.0%	1,676	23	513	30.6%	30	15	50.0%	2,686	45	646	24.1%
Lincoln	6	0	1	16.7%	234	1	118	50.4%	28	23	82.1%	268	1	142	53.0%
Newport	24	0	3	12.5%	237	9	89	37.6%	25	12	48.0%	286	9	104	36.4%
<b>Piscataquis</b>	<b>52</b>	<b>3</b>	<b>11</b>	<b>21.2%</b>	<b>129</b>	<b>2</b>	<b>53</b>	<b>41.1%</b>	<b>56</b>	<b>54</b>	<b>96.4%</b>	<b>237</b>	<b>5</b>	<b>118</b>	<b>49.8%</b>
<b>Sagadahoc</b>	<b>167</b>	<b>50</b>	<b>15</b>	<b>9.0%</b>	<b>463</b>	<b>187</b>	<b>86</b>	<b>18.6%</b>	<b>16</b>	<b>5</b>	<b>31.3%</b>	<b>646</b>	<b>237</b>	<b>106</b>	<b>16.4%</b>
<b>Somerset</b>	<b>213</b>	<b>46</b>	<b>26</b>	<b>12.2%</b>	<b>513</b>	<b>118</b>	<b>145</b>	<b>28.3%</b>	<b>15</b>	<b>6</b>	<b>40.0%</b>	<b>741</b>	<b>164</b>	<b>177</b>	<b>23.9%</b>
<b>Waldo</b>	<b>206</b>	<b>45</b>	<b>14</b>	<b>6.8%</b>	<b>337</b>	<b>92</b>	<b>71</b>	<b>21.1%</b>	<b>10</b>	<b>3</b>	<b>30.0%</b>	<b>553</b>	<b>137</b>	<b>88</b>	<b>15.9%</b>
<b>Washington</b>	<b>183</b>	<b>17</b>	<b>12</b>	<b>6.6%</b>	<b>282</b>	<b>28</b>	<b>54</b>	<b>19.1%</b>	<b>24</b>	<b>12</b>	<b>50.0%</b>	<b>489</b>	<b>45</b>	<b>78</b>	<b>16.0%</b>
Calais	86	6	8	9.3%	108	12	17	15.7%	11	6	54.5%	205	18	31	15.1%
Machias	97	11	4	4.1%	174	16	37	21.3%	13	6	46.2%	284	27	47	16.5%
<b>York</b>	<b>1,242</b>	<b>116</b>	<b>308</b>	<b>24.8%</b>	<b>4,372</b>	<b>736</b>	<b>980</b>	<b>22.4%</b>	<b>166</b>	<b>71</b>	<b>42.8%</b>	<b>5,780</b>	<b>852</b>	<b>1,359</b>	<b>23.5%</b>
Alfred	1,178	113	296	25.1%	94	24	26	27.7%	0	0	--	1,272	137	322	25.3%
Biddeford	35	1	9	25.7%	2,357	374	526	22.3%	110	39	35.5%	2,502	375	574	22.9%
Springvale	13	0	1	7.7%	1,326	210	319	24.1%	49	29	59.2%	1,388	210	349	25.1%
York	16	2	2	12.5%	595	128	109	18.3%	7	3	42.9%	618	130	114	18.4%
<b>TOTAL</b>	<b>7,648</b>	<b>924</b>	<b>941</b>	<b>12.3%</b>	<b>19,956</b>	<b>3,019</b>	<b>4,653</b>	<b>23.3%</b>	<b>753</b>	<b>419</b>	<b>55.6%</b>	<b>28,357</b>	<b>3,943</b>	<b>6,013</b>	<b>21.2%</b>

## Columns

- Pending** Number of cases having at least one charge without a disposition, and without a currently active warrant.
- On DD** Number of pending cases with an Order of Deferred Disposition entered.
- No IA** Number of pending cases with a complaint filed, but not having an initial appearance or arraignment held or waived.
- % No IA** Percent of pending cases without an initial appearance/arraignment.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the court are not included in the reported counts.

# Change in Pending UCD Cases, September 2021 to September 2022

Pending cases as of September 9 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2021	2022	% Diff	2021	2022	% Diff	2021	2022	% Diff	2021	2022	% Diff
<b>Androscoggin</b>	575	673	17.0%	1,929	2,066	7.1%	16	13	-18.8%	2,520	2,752	9.2%
<b>Aroostook</b>	781	706	-9.6%	1,245	1,071	-14.0%	52	50	-3.8%	2,078	1,827	-12.1%
Caribou	194	171	-11.9%	332	229	-31.0%	8	4	-50.0%	534	404	-24.3%
Fort Kent	88	97	10.2%	209	208	-0.5%	16	6	-62.5%	313	311	-0.6%
Houlton	244	227	-7.0%	359	317	-11.7%	16	21	31.3%	619	565	-8.7%
Presque Isle	255	211	-17.3%	345	317	-8.1%	12	19	58.3%	612	547	-10.6%
<b>Cumberland</b>	1,277	1,289	0.9%	3,798	3,853	1.4%	238	144	-39.5%	5,313	5,286	-0.5%
Bridgton	17	19	11.8%	335	319	-4.8%	118	73	-38.1%	470	411	-12.6%
Portland	1,232	1,251	1.5%	3,120	3,138	0.6%	88	52	-40.9%	4,440	4,441	0.0%
West Bath	28	19	-32.1%	343	396	15.5%	32	19	-40.6%	403	434	7.7%
<b>Franklin</b>	102	134	31.4%	279	419	50.2%	25	21	-16.0%	406	574	41.4%
<b>Hancock</b>	285	357	25.3%	643	660	2.6%	50	51	2.0%	978	1,068	9.2%
<b>Kennebec</b>	555	629	13.3%	1,665	1,788	7.4%	40	57	42.5%	2,260	2,474	9.5%
Augusta	538	606	12.6%	1,057	1,118	5.8%	23	46	100.0%	1,618	1,770	9.4%
Waterville	17	23	35.3%	608	670	10.2%	17	11	-35.3%	642	704	9.7%
<b>Knox</b>	220	214	-2.7%	449	515	14.7%	19	18	-5.3%	688	747	8.6%
<b>Lincoln</b>	139	131	-5.8%	267	338	26.6%	8	6	-25.0%	414	475	14.7%
<b>Oxford</b>	352	442	25.6%	831	1,003	20.7%	26	23	-11.5%	1,209	1,468	21.4%
Bridgton	37	47	27.0%	120	118	-1.7%	4	3	-25.0%	161	168	4.3%
Rumford	128	166	29.7%	341	427	25.2%	11	8	-27.3%	480	601	25.2%
South Paris	187	229	22.5%	370	458	23.8%	11	12	9.1%	568	699	23.1%
<b>Penobscot</b>	976	1,010	3.5%	2,373	2,147	-9.5%	96	83	-13.5%	3,445	3,240	-6.0%
Bangor	949	980	3.3%	1,955	1,676	-14.3%	40	30	-25.0%	2,944	2,686	-8.8%
Lincoln	11	6	-45.5%	186	234	25.8%	25	28	12.0%	222	268	20.7%
Newport	16	24	50.0%	232	237	2.2%	31	25	-19.4%	279	286	2.5%
<b>Piscataquis</b>	66	52	-21.2%	132	129	-2.3%	42	56	33.3%	240	237	-1.3%
<b>Sagadahoc</b>	137	167	21.9%	341	463	35.8%	19	16	-15.8%	497	646	30.0%
<b>Somerset</b>	184	213	15.8%	435	513	17.9%	17	15	-11.8%	636	741	16.5%
<b>Waldo</b>	202	206	2.0%	386	337	-12.7%	11	10	-9.1%	599	553	-7.7%
<b>Washington</b>	146	183	25.3%	314	282	-10.2%	27	24	-11.1%	487	489	0.4%
Calais	71	86	21.1%	138	108	-21.7%	9	11	22.2%	218	205	-6.0%
Machias	75	97	29.3%	176	174	-1.1%	18	13	-27.8%	269	284	5.6%
<b>York</b>	1,106	1,242	12.3%	4,316	4,372	1.3%	146	166	13.7%	5,568	5,780	3.8%
Alfred	1,057	1,178	11.4%	118	94	-20.3%	0	0	0.0%	1,175	1,272	8.3%
Biddeford	21	35	66.7%	2,248	2,357	4.8%	98	110	12.2%	2,367	2,502	5.7%
Springvale	18	13	-27.8%	1,342	1,326	-1.2%	41	49	19.5%	1,401	1,388	-0.9%
York	10	16	60.0%	608	595	-2.1%	7	7	0.0%	625	618	-1.1%
<b>TOTAL</b>	<b>7,103</b>	<b>7,648</b>	<b>7.7%</b>	<b>19,403</b>	<b>19,956</b>	<b>2.9%</b>	<b>832</b>	<b>753</b>	<b>-9.5%</b>	<b>27,338</b>	<b>28,357</b>	<b>3.7%</b>

## Columns

<b>2021</b>	Number of cases having at least one charge without a disposition, and without a currently active warrant as of September 9, 2021
<b>2022</b>	Number of cases having at least one charge without a disposition, and without a currently active warrant as of September 9, 2022
<b>% Diff</b>	Percent change in pending cases from 2021 to 2022. Red percentages represent an increase, green percentages a decrease.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the courts are not included in the reported counts.



# Change in Pending UCD Cases, September 2019 to September 2022

Pending cases as of September 9 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2019	2022	% Diff	2019	2022	% Diff	2019	2022	% Diff	2019	2022	% Diff
<b>Androscoggin</b>	398	673	69.1%	1,332	2,066	55.1%	24	13	-45.8%	1,754	2,752	56.9%
<b>Aroostook</b>	417	706	69.3%	721	1,071	48.5%	34	50	47.1%	1,172	1,827	55.9%
Caribou	69	171	147.8%	169	229	35.5%	4	4	0.0%	242	404	66.9%
Fort Kent	48	97	102.1%	153	208	35.9%	15	6	-60.0%	216	311	44.0%
Houlton	137	227	65.7%	140	317	126.4%	8	21	162.5%	285	565	98.2%
Presque Isle	163	211	29.4%	259	317	22.4%	7	19	171.4%	429	547	27.5%
<b>Cumberland</b>	872	1,289	47.8%	2,575	3,853	49.6%	174	144	-17.2%	3,621	5,286	46.0%
Bridgton	11	19	72.7%	205	319	55.6%	62	73	17.7%	278	411	47.8%
Portland	845	1,251	48.0%	2,050	3,138	53.1%	72	52	-27.8%	2,967	4,441	49.7%
West Bath	16	19	18.8%	320	396	23.8%	40	19	-52.5%	376	434	15.4%
<b>Franklin</b>	93	134	44.1%	256	419	63.7%	5	21	320.0%	354	574	62.1%
<b>Hancock</b>	196	357	82.1%	462	660	42.9%	45	51	13.3%	703	1,068	51.9%
<b>Kennebec</b>	382	629	64.7%	1,195	1,788	49.6%	65	57	-12.3%	1,642	2,474	50.7%
Augusta	369	606	64.2%	620	1,118	80.3%	41	46	12.2%	1,030	1,770	71.8%
Waterville	13	23	76.9%	575	670	16.5%	24	11	-54.2%	612	704	15.0%
<b>Knox</b>	136	214	57.4%	324	515	59.0%	3	18	500.0%	463	747	61.3%
<b>Lincoln</b>	98	131	33.7%	273	338	23.8%	10	6	-40.0%	381	475	24.7%
<b>Oxford</b>	203	442	117.7%	481	1,003	108.5%	32	23	-28.1%	716	1,468	105.0%
Bridgton	20	47	135.0%	73	118	61.6%	11	3	-72.7%	104	168	61.5%
Rumford	84	166	97.6%	192	427	122.4%	13	8	-38.5%	289	601	108.0%
South Paris	99	229	131.3%	216	458	112.0%	8	12	50.0%	323	699	116.4%
<b>Penobscot</b>	384	1,010	163.0%	1,107	2,147	93.9%	66	83	25.8%	1,557	3,240	108.1%
Bangor	376	980	160.6%	873	1,676	92.0%	36	30	-16.7%	1,285	2,686	109.0%
Lincoln	4	6	50.0%	73	234	220.5%	11	28	154.5%	88	268	204.5%
Newport	4	24	500.0%	161	237	47.2%	19	25	31.6%	184	286	55.4%
<b>Piscataquis</b>	29	52	79.3%	61	129	111.5%	31	56	80.6%	121	237	95.9%
<b>Sagadahoc</b>	86	167	94.2%	309	463	49.8%	20	16	-20.0%	415	646	55.7%
<b>Somerset</b>	144	213	47.9%	478	513	7.3%	33	15	-54.5%	655	741	13.1%
<b>Waldo</b>	93	206	121.5%	286	337	17.8%	16	10	-37.5%	395	553	40.0%
<b>Washington</b>	117	183	56.4%	194	282	45.4%	35	24	-31.4%	346	489	41.3%
Calais	53	86	62.3%	101	108	6.9%	16	11	-31.3%	170	205	20.6%
Machias	64	97	51.6%	93	174	87.1%	19	13	-31.6%	176	284	61.4%
<b>York</b>	725	1,242	71.3%	2,561	4,372	70.7%	121	166	37.2%	3,407	5,780	69.7%
Alfred	672	1,178	75.3%	85	94	10.6%	1	0	-100.0%	758	1,272	67.8%
Biddeford	25	35	40.0%	1,232	2,357	91.3%	44	110	150.0%	1,301	2,502	92.3%
Springvale	19	13	-31.6%	747	1,326	77.5%	50	49	-2.0%	816	1,388	70.1%
York	9	16	77.8%	497	595	19.7%	26	7	-73.1%	532	618	16.2%
<b>TOTAL</b>	<b>4,373</b>	<b>7,648</b>	<b>74.9%</b>	<b>12,615</b>	<b>19,956</b>	<b>58.2%</b>	<b>714</b>	<b>753</b>	<b>5.5%</b>	<b>17,702</b>	<b>28,357</b>	<b>60.2%</b>

## Columns

<b>2019</b>	Number of cases having at least one charge without a disposition, and without a currently active warrant as of September 9, 2019
<b>2022</b>	Number of cases having at least one charge without a disposition, and without a currently active warrant as of September 9, 2022
<b>% Diff</b>	Percent change in pending cases from 2019 to 2022. Red percentages represent an increase, green percentages a decrease.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the courts are not included in the reported counts.

	Statewide	Androscoggin	Aroostook	Cumberland	Franklin	Hancock	Kennebec	Knox	Lincoln
Total hours	531,396	50,020	38,573	89,509	6,902	16,404	53,428	15,372	8,048
FTE Needed	287.2	27.0	20.9	48.4	3.7	8.9	28.9	8.3	4.4
FTE available	49.5	7.1	7.5	11.7	3.3	3.8	7.6	4.6	3.8
Discrepancy	-237.8	-19.9	-13.3	-36.6	-0.4	-5.1	-21.3	-3.7	-0.5

	Oxford	Penobscot	Piscataquis	Sagadahoc	Somerset	Waldo	Washington	York	Law Court
Total hours	21,186	79,108	5,178	9,250	28,174	16,763	8,880	75,175	12,506
FTE Needed	11.5	42.8	2.8	5.0	15.2	9.1	4.8	40.6	6.8
FTE available	4.3	9.0	3.0	6.4	4.5	4.3	2.8	11.8	3.0
Discrepancy	-7.1	-33.8	0.2	1.4	-10.8	-4.8	-2.0	-28.8	-3.7

## Ideas for Discussion

September 23, 2022

To: Maine Commission on Indigent Legal Services  
Fr: Donald Alexander

Re: Suggestions for promoting greater attorney participation in MCILS criminal and child protective cases.

MCILS has well documented the significant decline in the number of attorneys willing to do MCILS work in criminal and child protective cases, with now less than half of the attorneys available to take MCILS cases compared to pre-pandemic numbers of available attorneys. Attorney availability problems exist across the State, but they are particularly acute in the more rural areas: Oxford, Franklin, Somerset, Piscataquis, Aroostook, and Washington Counties, and the Millinocket and Lincoln District Court service areas in Northern Penobscot County.

### *Matters Outside of MCILS Control*

The greatest influences driving the decline in attorneys (and other professionals) wanting to practice and live in more rural areas are issues that can be influenced by government policies, but outside of matters that could be influenced by MCILS policies or funding alone. These influences are:

1. The combination of slow or no economic growth and an ageing population which, for economic, social, and cultural reasons have made many rural communities less attractive for many persons trained in law, health care, education, and other professions or trades to consider beginning or relocating their profession or trade. This issue was a major concern in law, health care, and education in the decade before the pandemic. *See* Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 Me. L. Rev. 210 (2019); Christopher Chavis, *The Past Present and Future of Rural Northern New England: A Study of the Demographics Crisis and How it Affects the Rural Lawyer Shortage*, 71 Me. L. Rev. 274 (2019); Davies & Clark, *Gideon in the Desert: An Empirical Study of Providing Counsel to Criminal Defendants in Rural Places*, 71 Me. L. Rev. 246 (2019).

The challenges to providing professional services in rural areas were exacerbated by the pandemic which severely limited person-to-person contacts so essential to a functioning rural society, including law practice and the courts, and aggravated the preexisting shortages, particularly in healthcare and education services and personnel.

2. The tensions of the pandemic, differences over how the pandemic should be addressed, and declines in respectful treatment of others, made many jobs that necessitated live in-person contact with the public more stressful and less attractive. Whether the public contact jobs were retail sales, health care, education, first responders (police, fire, EMTs), corrections, elections, or law, many skilled and experienced workers, if they could afford to do so, retired or sought other, less stressful, work. Others tried to work in ways that reduced in-person contacts or conflicts, causing more delays in completing necessary tasks. Finding replacements to fill vacant public contact positions, even with increased pay, has proven difficult.

3. More closely related to MCILS, but outside of its control, the pandemic caused significant delays that have now resulted in large backlogs in court operations. As a result, the pending backlog of MCILS cases needing to be addressed is approximately double what it was before the pandemic. The courts and the bar adopted creative changes, such as remote video hearings and more promotion of early dispositions, in an attempt to move the cases. But close cases that involve fundamental rights, be they criminal or child protective cases, most often will require some live court appearance for a contested hearing, a trial, or an agreed final disposition where rights are explained in person before the case can be finally resolved. Scheduling such proceedings is difficult because of the backlog and availability of court personnel to run the hearings – with one of the biggest challenges getting the necessary court officers because of reductions in available court officers and some clerk staff incident to the issue discussed in #2 above.

The court backlog has been a particular problem for the many MCILS attorneys who, beyond MCILS work, have private, paying clients whose civil or criminal cases are also backlogged. Even in normal times, maintaining an active litigation practice with both civil and criminal cases on dockets in several courts has always proven a challenge. It has become much more of a challenge as courts try to address pending backlogs in ways that make it difficult to accommodate the schedules of attorneys with cases on several dockets. This

challenge has resulted in some attorneys withdrawing from MCILS work. These attorneys are competent, hard-working attorneys, dedicated to serving their clients and meeting their ethical obligations, but the competing demands on their limited time is proving too stressful for their practice and the family and personal lives they deserve to live outside the law.

#### *Matters That MCILS May Influence or Control*

There are also some matters within MCILS authority that have affected attorney participation in MCILS work. In considering such matters, one must recognize Maine is not alone. A recent survey of Massachusetts, plus some other states demographically similar to Maine, conducted by MCILS staff, has demonstrated that other states' indigent defense programs are facing similar and sometimes more severe problems in staffing cases than we are experiencing in Maine. In 2020, the Massachusetts Supreme Judicial Court opinion, *Carrasquillo v. Hampden County District Courts*, 484 Mass. 367, 142 N.E.3d 28 (2020) had indicated that, even before the pandemic, severe problems existed in staffing indigent cases in Massachusetts.

For the first decade of its existence, MCILS was correctly criticized for the lack of accountability and oversight of attorneys doing MCILS paid work. *See* Office of Program Evaluation & Government Accountability, *Maine Commission on Indigent Legal Services (MCILS) – An evaluation of MCILS's structure of oversight and the adequacy of its systems and procedures to administer payments and expenditures* (November 2020). That lack of accountability and oversight caused difficulty in meeting MCILS perceived needs for increased funding and program changes, because MCILS was unable to demonstrate to the Legislature and the Executive that its existing funding was being spent effectively.

Recently, with Legislative and Executive Support, MCILS has been reorganized with a changed Commission, an increased and energized staff, and new reporting, billing and oversight practices that have worked transformative change in accountability and oversight of the work of MCILS paid attorneys. Concurrent with these changes, and with some confidence that the changes would work to improve oversight and accountability, in 2021 the Legislature increased the hourly rate for MCILS work 33%, from \$60 an hour to \$80 an hour. Ironically, the rate of attrition of attorneys from MCILS rosters *increased* after the change in the hourly rate was approved.

The \$80 an hour rate placed Maine in the middle of hourly rates paid nationally for contract attorneys in 2021. However, in many states hourly rates for contract attorneys vary according to the severity of the case. The MCILS staff survey also identified one state where contract attorneys are paid a flat rate per case, with the rate based on the severity of the case, and another state that pays an annual flat rate for services by a contract attorney – similar to the program that formerly operated in Somerset County.

Matters within MCILS control that are causing attrition from MCILS rosters include:

1. The \$80 an hour compensation rate: This rate is perceived by many as insufficient to provide reasonable compensation for one's professional services plus cover other costs that attorneys must pay such as overhead (support staff and services, utilities, computers and electronic equipment, etc.), health and malpractice insurance, and, for some, education debt. It becomes more of a problem when attorneys are required to manage conflicting dockets and work demands from several courts, while representing both MCILS and private pay clients.
2. Improved, more rigorous billing and reporting practices: These changes, necessary to improve accountability and oversight, caused some attorneys who were more comfortable with the too casual billing and reporting practices that existed before 2021, to withdraw from MCILS rosters as these changes were being implemented.
3. Increased individual attorney workload: As a result of fewer attorneys being available to take the increased number of cases resulting from the backlog, some attorneys are temporarily or permanently withdrawing from taking MCILS cases, when they believe that they have the number of cases that they can responsibly and ethically handle.
4. Concerns about the complexity of rostering and anticipated MCILS supervision: MCILS presently has 16 different roster categories on which attorneys must qualify to take cases, and MCILS has become more rigorous in removing from cases attorneys who, though competent, were assigned to cases for which they were not rostered. Attorneys must regularly requalify for each separate roster. Some of the rostering requirements are unduly complex, for example, jury trial experience requirements that are not reasonably attainable

with today's dramatically reduced number of jury trials. Some attorneys are electing not to register with these complex and in some cases unrealistic rostering requirements.

Some attorneys are also concerned with a proposal, not yet implemented, for MCILS staff to view attorneys' in court actions and meet with attorneys up to four times a year to review their cases and case strategies. This is a particular concern to experienced attorneys, with some indicating they are withdrawing or may withdraw from MCILS work in anticipation of these changes.

#### *Ideas to Consider for Improved Attorney Participation*

Following are some ideas for changes that may encourage attorneys to remain on or return to rosters for taking MCILS cases or otherwise make themselves available for MCILS work.

These ideas are in addition to the highest priority proposals in the MCILS budget to (a) increase the hourly rate, and (b) create two regional offices of employee public defenders. These offices would serve the more underserved areas of the State where it appears unlikely that MCILS will be able to attract sufficient numbers of contract attorneys, and there is a need for attorneys to be reasonably physically available to meet with clients, witnesses, and opposing parties, and to attend settlement discussions and court sessions, sometimes on short notice. The offices might also be able to provide some logistical support for the representation by contract attorneys in the coverage area.

The following suggestions for improvement, beyond increasing the hourly rate and creating two regional offices of employed public defenders, are not necessarily in order of priority.

1. *A Higher Minimum Attorney-for-the-Day Fee:* The minimum attorney for the day fee should increase to 3 x the hourly rate for any morning or afternoon first appearance session at court. Incident to this arrangement, MCILS would work with the courts, prosecutors, and law enforcement to change not in custody first appearance scheduling practice so that defendants would be required to appear 30 minutes before the judge's anticipated entry into the courtroom. In this time (a) court staff would play the first appearance video, (b) the attorney for the day would then speak to (i) explain to all present the process about to occur, (ii) invite those who might qualify for court appointed counsel to fill out

**Commented [AJ1]:** 30 minutes is not enough time to discharge the LOD obligations. We will try to source data that shows LOD counts, and estimate the time necessary. The reality is likely that counsel would need access to lists and information at least one day prior to the LOD appearance for this to become meaningful.

the necessary forms, (iii) invite and respond to questions about the process from anyone in the room, and (iv) consult with anyone who (A) desired to talk about their case and (B) appeared likely to qualify for court appointed counsel.

The minimum fee for any attorney for the day at the jail, or any second (backup) attorney for the day in the courtroom, would increase to 2.5 x the hourly rate.

For any time in excess of 3 hours for the primary attorney for the day, or 2.5 hours for the jail or backup attorney for the day, the attorney would be compensated at the regular hourly rate. For those defendants not likely to qualify for court appointed counsel, the attorney for the day, any backup attorney for the day, or any other qualified attorney could make private representation arrangements with the defendant.

2. *A Variable Hourly Rate Schedule:* As in many indigent defense programs in other states, create a variable rate schedule depending on the severity of the pending charge or charges. This change might provide incentive for very skilled and experienced attorneys to remain available for assignment to the more difficult cases where they could receive a higher hourly rate.

3. *A Modified Contract with Counsel:* For counties or individual courts where there is difficulty getting local counsel to staff MCILS criminal or child protective cases, pay attorneys agreeing to provide regularly available MCILS representation an up front, annual fee of between \$20,000 (250 hours a year @ \$80 an hour) and \$50,000 (525 hours a year @ \$80 an hour). The fee would be negotiated and depend on the amount of service the attorney would be anticipated to provide, plus perhaps a review of the attorney's past performance in either MCILS work or other work measured by hours worked. Note: An attorney in full-time practice may anticipate availability to bill between 1500 and 2000 hours a year if mostly fully engaged with work 48 to 50 weeks a year.

The up front fee payments would be recovered by a set off of one half of the hourly rate earned, until the up front fee was covered. Thus, an attorney with an annual up front fee arrangement, at the current \$80 an hour rate, would retain \$40 an hour for work on each case until the up front fee was covered, and \$80 an hour thereafter. This system avoids the concern expressed about the current contract counsel program that it incentivizes doing as little work as

**Commented [AJ2]:** Why would this be less than for in person appearances?

**Commented [AJ3]:** I would want the process to be that the person item bills for time spent working, and only claimed the minimum in the amount necessary to bulk it up, because otherwise we lose granularity.

**Commented [AJ4]:** This presents the possibility of conflict. We would need to have written waiver requirements.

**Commented [AJ5]:** This will likely require consent from the Controller's office. As it stands now, we cannot prepay for contract work, and we cannot contract at or over \$5,000 without RFP or single-source justification.

**Commented [AJ6]:** What are the proposed criteria for determining which counties or courts would qualify?

**Commented [AJ7]:** MCILS will require a new electronic system to account for this.



possible on each case, because there is no compensation for putting in extra hours. Based on my experience with the contract counsel program, I do not share that concern, but this proposal provides more compensation for more work. If counsel did not do enough work in a year to set off the up front fee, the remaining fee might be paid back or carried over for the next year. But no new annual up front fee should be paid before any previously paid fees are covered by MCILS work performed.

**Commented [AJ8]:** This will require statutory changes, including, perhaps, tax offsets. Otherwise, we are dependent on the Office of the AAG for pursuing collections.

Attorneys contracting to receive the up front annual fees would be free to also accept paying clients in criminal cases and any type of civil case, as long as they met their commitment for MCILS cases. The up front fee could be particularly beneficial to attorneys seeking to maintain or establish practices in underserved areas, as attorneys could depend on a base amount of income to support overhead and staff which is a particular challenge in rural and underserved communities.

*Health Insurance and Education Loan Forgiveness:* An up front annual fee program, if applied to a significant number of attorneys, may also open opportunity to explore two other concerns of many attorneys serving MCILS programs. First, a grouping of a significant number of attorneys participating in the up front fee program may be a mechanism to support an affinity group health insurance program, with MCILS committing to pay all or part of the individual's health insurance costs if the individual committed to performing a certain number of MCILS hours work annually – for example 400 or 500 hours. The health insurance program might offer benefits similar to benefits offered by a small or medium sized law firm. The individual attorney could pay an additional fee to get family coverage.

**Commented [AJ9]:** I will research this issue. We will face the issue of prepayment of money to contractors. These payments will qualify as regular taxable income because these attorneys will not be employees.

Second, the up front fee program, once implemented, might be a basis to support change to public or university education loan forgiveness programs. Such programs presently provide significant educational loan forgiveness for professionals doing public service or doing work serving underserved communities or areas. Such programs for lawyers tend to be limited to attorneys employed full time for public defenders and other government or non-profit agencies or legal services organizations serving low income individuals. There is no such limitation on loan forgiveness programs for physicians or large animal veterinarians serving what are designated underserved areas or communities. These professionals can provide and be compensated for services to wealthy individuals, or their farm animals, as long

**Commented [AJ10]:** This will require legislative changes, likely to include changes to the CFR.

as the community where the professional service is provided is designated an underserved community. An attorney serving MCILS and private pay clients in a designated underserved area should be entitled to similar benefits, particularly if it could be demonstrated that a significant portion of the attorney's work was representing low income clients. A loan forgiveness program such as this may be under consideration by the U.S. Department of Education.

4. *Inviting Return of Experienced Defense Attorneys:* The current complex rostering requirements should be simplified to no more than 6 separate rosters: A. for child protective, B. for juvenile, C. for homicide, D. for violence and drug felonies, E. for property felonies and misdemeanor crimes of violence, and F. for "other" crimes (Title 17-A misdemeanors, all Title 12 and Title 29-A non-violent crimes, and other non-violent crimes in the statutes).

**Commented [AJ11]:** We will need formal rule making on this issue. I am open to your proposed rules.

Any attorney who maintains an active criminal practice representing retained cases and who, (1) in the past 22<sup>1</sup> years, has tried 7 jury trials as a criminal defense attorney, or 15 jury trials as either a prosecutor or a criminal defense attorney, and (2) can demonstrate having taken 12 hours of CLE related to criminal cases in the last 3 years, and (3) has represented criminal defendants in at least 25 separate cases in the last three or four years, should, upon application, automatically qualify to be placed on the rosters for the category (E) and (F) cases, and perhaps the category (D) cases, described above. The twelve hours of criminal CLE, if that has not been accomplished, could be replaced by taking a current MCILS, MACDL, MTLA, MSBA, or ACLUME CLE courses focusing on criminal law – perhaps with specified hours of CLE on specified subjects required.

**Commented [AJ12]:** These should be broadened to include NACLD, NAPDL, NAPD, e.g.

Once qualified for a roster, an attorney who continues to take MCILS cases and participates in required annual training programs should not have to reapply to remain on any roster.

Separately, any attorney who has brought or defended and briefed to the Law Court at least 5 child protective appeals in the last 10 years, or 5 criminal appeals in the last 10 years, should qualify, at least provisionally, for the appeal rosters for D, E & F criminal cases or child protective cases. Any former AAG for child protective cases or former prosecutor for criminal cases who has

<sup>1</sup> The 22-year lookback assumes that any significant jury trial experience would have been gained before the start of 2020.

defended 10 child protective or criminal appeals in the past 10 years should likewise qualify for the D, E & F criminal or child protective case appeal rosters. These standards are suggestions for discussion of criteria to get experienced attorneys to join MCILS rosters by reducing to complexity of the current rosters which deter experienced attorney participation in MCILS work.

5. *Realistic Roster Qualification and Attorney Supervision Requirements:* The MCILS roster qualification and attorney supervision requirements should recognize the realities of today's practice and that fact that over the years, many attorneys have represented clients in MCILS type cases very competently with not a great amount of prior in court experience. In fact, one way good attorneys have gained valuable experience in the past is by doing MCILS E & F type cases after they have had some training – which may have included law school clinical work. One cannot get that court experience, if, before you qualify, you must have already had that court experience. The complexity of rostering requirements should be reduced.

MCILS should eliminate the prior jury trial experience prerequisites, except for homicide. Except for homicides, less than ½ of 1 % of criminal cases go to a jury trial. If a jury trial is in prospect late in a proceeding, and an assigned attorney has little or no jury trial experience, have another attorney with jury trial experience join the representation as a mentor or co-counsel.

The 2020 MCILS proposed amendments to the rostering rules [not yet considered for adoption] provided one example of an unrealistic requirement. To qualify for the MCILS child protective case roster, it was proposed that the applicant be required to show proof of attendance and observation at 8 PC hearings, including one contested Termination of Parental Rights hearing - a substantial uncompensated time demand. Quite a challenge because all PC proceedings are confidential by law; casual observers are not permitted. 22 M.R.S. § 4007(1), "All child protection proceedings shall be conducted according to the rules of civil procedure and the rules of evidence, except as provided otherwise in this chapter. . . . *All proceedings and records shall be closed to the public, unless the court orders otherwise.*" (emphasis added). See also 22 M.R.S. §§ 4005-D(3) & (7), 4008(1). That the entity setting qualification standards for attorneys for protective custody proceedings was, in 2020, apparently unaware of the broad confidentiality requirement in the law is troubling.

Turning to supervision rules: Supervision by observing attorneys in court performance and by meeting with attorneys to discuss their cases and strategies should be limited to the first 2 or 3 years of court work by a contract attorney, except where MCILS receives a complaint or in some other way a cause for concern about an attorney's performance is brought to MCILS attention. Supervision standards for persons employed full-time by MCILS as public defenders would have to be different and are not addressed in this memo aimed at attracting more attorneys to do or return to doing MCILS roster work.

6. *An Annual Training Program*: During the week in the Fall when the courts take an administrative week to accommodate the annual prosecutors conference, MCILS, in cooperation with other bar organizations (and perhaps AG/DHHS for CP proceedings) should plan an annual training program that would include training sessions on:

For Criminal Cases: 1. Initial client contact and communication, explanation of rights, discussion of expectations, obtaining and review of discovery; 2. Consideration of early diversion programs; preparation for and participation in the Dispositional Conference; 3. Pretrial practice, suppression motions, limitation of issues; 4. Approaches to plea discussions (i) with the client; (ii) with the prosecutor; 5. Practice points for trials, jury or nonjury, etc.

For Child Protective Cases: 1. Initial client contact and communication, confidentiality of proceedings, explanation of rights, discussion of expectations, obtaining and review of discovery; 2. Difficulties in dealing with parent/client, lack of cooperation, reluctance to participate or openly communicate, evaluation of client's risk of exposure to criminal charges, relations with other parent and counsel, access to child; 3. Preliminary proceedings, jeopardy hearings, role of GALs, placement of child – relatives or foster parents, family reunification efforts; 4. Termination of parental rights proceedings, practice for such hearings.

Newly admitted attorneys – and any other qualified attorneys – should be allowed to qualify for E & F criminal cases or child protective cases if they (a) did litigation related clinical work or externships in law school or in subsequent employment, and (b) have completed the annual training for criminal or child protective work. The annual training program should be scheduled to be held after the summer bar exam results are announced.

7. A *Mentoring Program*: Attorneys with substantial criminal practice experience, including a specified number of jury trials, who MCILS recognizes to have substantial experience and a good reputation, should be invited to present at training programs and to mentor new MCILS attorneys for: (1) strategy and planning for pretrial practice, including consideration of motions to suppress, and/or (2) strategy, preparation for, and conduct of jury and nonjury trials. A very experienced attorney of good reputation could be a mentor even if not a rostered attorney.

**Commented [AJ13]:** This is narrower than our current mentorship practices.

**Commented [AJ14]:** How will this be defined?

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**SUPPLEMENTAL BUDGET REQUEST**

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**TO:** COMMISSION

**FROM:** JWA

**SUBJECT:** STAFF RECOMMENDED SUPPLEMENTAL BUDGET REQUEST

**DATE:** 9/19/2022

**CC:** INTERESTED PARTIES

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The deadline for submitting a supplemental budget request for the remainder of FY23 is October 3, 2022. Staff recommends submitting a supplemental request in the amount of \$13,309,440 to support a raise for assigned counsel to \$150 per hour. Staff have considered other initiatives, and have concluded that the window of opportunity to deploy other initiatives during FY23 is too narrow to warrant pursuing those other initiatives at this point.

Staff have calculated the recommended initiative price based on FY22 hours, and expected cost for the period October 3, 2022 to June 30, 2023, as set out in the table below.

The Commission should not view this proposal as adequate to resolve the ongoing issues in staffing, but staff believe that the proposed raise will support the program by permitting existing counsel to use paralegals and other employees or contractors as force modifiers, and that we may be able to regain some who have left at the enhanced rate.

FY22 Hours Billed		256,939
%year 10/3/22 to 6/30/23		74%
Hours Expected 10/3/22 to 6/30/23		190,135
Expected cost @ \$80/hr	\$	15,210,789
Expected cost @ \$150/hr	-	<u>\$ 28,520,229</u>
<b>New appropriation</b>	<b>\$</b>	<b>13,309,440</b>

AARON M. FREY  
ATTORNEY GENERAL



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TTY USERS CALL MAINE RELAY 711

September 13, 2022

Justin W. Andrus, Executive Director  
Maine Commission on Indigent Legal Services  
154 State House Station  
Augusta, Maine 04333-0154

Re: **Amended Authorization to Engage Outside Counsel in *Dennis Winchester v. State of Maine***, Maine Supreme Judicial Court, Docket No. ARO-21-312


Dear Executive Director Andrus:

The purpose of this letter is to amend my previous letter of July 12, 2022 in which I authorized the Maine Commission on Indigent Legal Services ("MCILS") to retain Rory A. McNamara, Esquire and Jamesa J. Drake, Esquire of Drake Law, LLC to prepare and file an amicus brief on behalf of MCILS in *Dennis Winchester v. State of Maine*, pending in the Law Court.

Further representation is now required to represent MCILS at oral argument at the Law Court. As a result, I am increasing Attorney McNamara's cap on attorney fees from \$18,200.00 to \$23,240.00. I understand there is no need to increase Attorney Drake's cap on attorney fees from \$5,625. I am also retroactively amending the end date for both Attorney McNamara's and Attorney Drake's representation from August 16, 2022 to October 6, 2022.

All other terms of this previous letter remain unchanged.

Sincerely,

  
Aaron M. Frey  
Attorney General

AMF/ajo

cc: Rory A. McNamara, Esquire  
Jamesa J. Drake, Esquire  
Christopher C. Taub, Chief Deputy Attorney General