

MCILS

May 30, 2023

**Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

MAY 30, 2023
COMMISSION MEETING
AGENDA

- 1) Approval of the April 24 and May 2, 2023 Commission Meeting Minutes
- 2) Report of the Executive Director
 - a. Operations report
 - b. Case staffing status report
 - c. Recruiting and Training
 - d. RDU staffing update
 - e. Case management system RFP
- 3) Rulemaking discussion
 - a. Chapter 4 – caseload standards
 - b. Rulemaking discussion (Chapters 2, 3, 301, and 301-A)
 - c. Commissioner Alexander proposal
- 4) Temp contract for Justin Andrus
- 5) Set Date, Time and Location of Next Regular Meeting of the Commission
- 6) Public Comment
- 7) Executive Session 1 MRSA §405(6)(E) to discuss pending or contemplated litigation (if necessary)

**Maine Commission on Indigent Legal Services – Commissioners Meeting
April 24, 2023**

Minutes

Commissioners Present: Donald Alexander, Randall Bates, Meegan Burbank, Michael Cantara, Michael Carey, Roger Katz, Kimberly Monaghan, David Soucy, Joshua Tardy

MCILS Staff Present: Justin Andrus, Ellie Maciag

Agenda Item	Discussion/Outcome
Approval of the March 20, April 3, and April 18, 2023 Commission Meeting Minutes	Commissioner Carey moved to amend the April 18, 2023 meeting minutes to reflect that the Commission went into executive session pursuant to 1 MRS § 405(6)(a) (employment matters), not 1 MRS § 405(6)(e) (litigation matters). Commissioner Carey moved to approve March 20, April 3, and April 18, 2023 (with the amendment) minutes. Commissioner Alexander seconded. All voted in favor. Approved.
Announcements	Chair Tardy announced that the new Executive Director will be Attorney James Billings, who will be starting on May 22, 2023. Director Andrus said that his last day as Executive Director will be May 19, 2023. Director Andrus announced that the new District Defender for the RDU will be Toby Jandreau, who will be starting on June 1, 2023.
Report of the Executive Director	<p>Operations report. Director Andrus noted that current case numbers are lower than last year due to a surge of cases being opened at this time last year when MCILS asked attorneys to enter all their open cases in defenderData. Director Andrus noted that the overall case numbers are approximately 6% higher than 2021.</p> <p>Director Andrus stated that he believes the Judicial Branch is experiencing difficulties with resources and staffing, which should be taken into consideration when moving forward with review of data. Director Andrus stated that from January 6th to April 7th of this year, the year-over 2019 backlog of felonies increased by 2.6%, and misdemeanors increased by 5%. He noted that while it is not a significant increase, this still reflects that there has not been a decrease in cases yet.</p>

Agenda Item	Discussion/Outcome
	<p>Commissioner Alexander commented that prosecutorial district III will be testing a pilot project in April/May in which the parties will attempt to resolve or set for trial 1,600 cases. Commissioner Alexander added that, depending on the outcome, other counties may follow the same process.</p> <p>Case staffing status report. Director Andrus was happy to report that Dagan VanDemark was granted their license to practice law in Maine. They were previously licensed in another state and had been assisting the rest of the RDU with research and writing while awaiting their licensure in Maine. Attorney VanDemark now has their own caseload. The RDU has been picking up the slack when needed, including accepting unusual cases and taking on clients who have had a turnover of previous lawyers.</p> <p>Recruiting and training. Director Andrus reported that there has been a continued interest in attorneys returning to the rosters, and some joining for the first time. Discussions about additional ways to integrate with the law school have continued, including interaction with a student organization that is interested in defense work. Director Andrus acknowledged that Darcy Fisher and Chris Guillory have been working hard to develop additional MCILS trainings. There have been many new trainings offered and the feedback from participants has been great.</p>
Chapter 301 Hourly Rate	<p>A motion was made to accept the response of the public comment and to further adopt the proposed detailed basis statement. Commissioner Cantara moved. Commissioner Carey seconded. All voted in favor. Approved.</p> <p>A motion was made to provisionally adopt Chapter 301 (the hourly rate increase). Commissioner Katz moved. Commissioner Carey seconded. All voted in favor. Approved.</p> <p>Director Andrus brought up the staff markup of the rest of Chapter 301 (everything other than the rate increase), which was primarily done by Steve Brochu and Art Washer. Director Andrus emphasized that Steve Brochu and Art Washer have extensive experience with the topics included in Chapter 301 and that they have reviewed tens of thousands of vouchers. Director Andrus requested the Commission address the changes proposed by staff at the next Commission meeting.</p> <p>Commissioner Carey asked why the presumptive limits were still based on dollar amounts as opposed to number of hours because the latter would not require changes to that part of the rule each time the</p>

Agenda Item	Discussion/Outcome
	<p>hourly rate changes. Commissioner Carey inquired about the creation of a supporting document that would convert data to show the old hourly rates more easily, allowing for the rule to be set based on number of hours, but allow DefenderData to continue to use dollar amounts. Director Andrus indicated that the primary barrier to that relates to the limitations of DefenderData. He further explained that a supplemental document to the rule would still need to go through the rulemaking process, rendering it a moot point. Director Andrus indicated that the ability to use hours instead of dollar amounts is on the list of requests with regards to the procurement process for replacing the current version of defenderData.</p>
<p>Proposed New Rule Chapter 301-A. Payment for Attending and Reimbursement of Expenses Incidental to Attending Trainings</p>	<p>Discussion ensued regarding the proposed Chapter 301-A, which pertains to the payment of rostered attorneys to attend trainings provided by the Commission. Commissioner Alexander indicated hesitation to create a rule for paying attorneys to attend trainings when he has been proposing to simplify the rostering requirements for two years. Commissioner Alexander voiced his reservations about the proposed rule because it would pay for attorneys to attend out-of-state trainings. Director Andrus clarified that the proposed rule included in the Commission packet specifically only pertains to trainings provided by the Commission.</p> <p>Discussion ensued about out-of-state travel, which pertained to Chapter 301, not Chapter 301-A.</p>
<p>Student Internship</p>	<p>Director Andrus spoke about student internship opportunities. He mentioned the legislative initiative that was discussed last summer, which was not included in the budget. He also said that he has had discussions about expanding the scope of Rule 90 to permit students to participate in defense work. Director Andrus has read that the Volunteer Lawyers Project (VLP) is working to expand their opportunities.</p> <p>Commissioner Bates spoke highly of the need for the Commission to work towards expanding into the world of student internships. He spoke of his own time as a student intern and volunteered to assist MCILS in creating more opportunities for students.</p> <p>Commissioner Alexander said that allowing certain prequalified defense attorneys to have interns who can perform in-court representation has been discussed for at least 20 years.</p>

Agenda Item	Discussion/Outcome
Scheduling the Next Meeting	The next meeting will be held on May 30, 2023 at 1:00PM.
Executive Session	Commissioner Carey moved to go into executive session pursuant to 1 MRS section 405(6)(a) and 1 MRS section 405(6)(e). Commissioner Cantara seconded. All voted in favor.

**Maine Commission on Indigent Legal Services – Commissioners Meeting
May 2, 2023**

Minutes

Commissioners Present: Randall Bates, Michael Cantara, Michael Carey, Roger Katz, David Soucy, Joshua Tardy

MCILS Staff Present: Justin Andrus, Ellie Maciag

Agenda Item	Discussion/Outcome
Executive Session	Commissioner Carey moved to go into executive session pursuant to 1 MRS Section 405(6)(e). Commissioner Cantara seconded. All voted in favor.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JIM BILLINGS, EXECUTIVE DIRECTOR
SUBJECT: OPERATIONS REPORTS
DATE: May 23, 2023

Attached you will find the April 2023, Operations Reports for your review and our discussion at the Commission meeting on May 30, 2023. A summary of the operations reports follows:

- 2,556 new cases were opened in the DefenderData system in April. This was a 286 case decrease from March. Year to date, new cases are down 5.8% from last year from 26,502 at this time last year to 25,031 this year.
- The number of vouchers submitted electronically in March was 2,805, a decrease of 451 vouchers from March, totaling \$2,235,564, a decrease of \$24,314 from March. Year to date, the number of submitted vouchers is up by approximately 3.9%, from 27,519 at this time last year to 28,602 this year, with the total amount for submitted vouchers up approximately 16.6%, from \$15,414,794 at this time last year to \$17,988,468 this year.
- In April, we paid 2,611 electronic vouchers totaling \$1,952,606 representing a decrease of 607 vouchers and a decrease of \$184,062 compared to March. Year to date, the number of paid vouchers is up approximately 7.0%, from 26,324 at this time last year to 28,190 this year, and the total amount paid is up approximately 18.5%, from \$14,772,228 this time last year to \$17,518,031 this year.
- The average price per voucher in April was \$747.84 up \$83.87 per voucher from March. Year to date, the average price per voucher is up approximately 10.7%, from \$561.17 at this time last year to \$621.43 this year.
- Resource Counsel, Protective Custody and Drug Court had the highest average voucher in April. There were 17 vouchers exceeding \$5,000 paid in April. See attached addendum for details.
- In April, we issued 93 authorizations to expend funds: 43 for private investigators, 33 for experts, and 17 for miscellaneous services such as interpreters and transcriptionists. In April, we paid \$127,435 for experts and investigators, etc. No funds requests were denied.
- There were three attorney suspensions in April.

- In our All Other Account, the total expenses for the month of April were \$1,879,433. During April, approximately \$26,396 was devoted to the Commission's operating expenses.
- In the Personal Services Accounts, we had \$163,121 in expenses for the month of April.
- In the Revenue Account, we received no transfer of collected counsel fees from the Judicial Branch for March's collections. \$227,004 was used for the payment of assigned counsel vouchers.
- Exceptional results – see attached addendum.
- As of May 23, 2023, there are 212 rostered attorneys of which 168 are available for trial court level work.

Vouchers over \$5,000

Comment	Voucher Total	Case Total
Manslaughter	\$ 14,250.00	\$ 14,250.00
Gross Sexual Assault	\$ 8,503.60	\$ 8,503.60
Resource Counsel	\$ 8,400.00	\$ 8,400.00
Aggravated Trafficking	\$ 8,285.70	\$ 8,285.70
Terrorizing	\$ 8,153.62	\$ 8,153.62
Aggravated Trafficking	\$ 8,035.20	\$ 8,035.20
Resource Counsel	\$ 7,815.00	\$ 7,815.00
Child Protection Petition	\$ 7,252.00	\$ 7,252.00
Assault	\$ 7,116.12	\$ 9,033.16
Child Protection Petition	\$ 6,736.00	\$ 6,736.00
Aggravated Trafficking	\$ 6,638.79	\$ 7,478.79
Domestic Violence Assault	\$ 6,353.00	\$ 11,329.00
Homicide	\$ 5,964.00	\$ 5,964.00
Termination of Parental Rights	\$ 5,598.00	\$ 5,598.00
Aggravated Assault	\$ 5,585.00	\$ 10,415.00
Drug Court Representative	\$ 5,255.00	\$ 5,255.00
Gross Sexual Assault	\$ 5,191.00	\$ 5,191.00

Good Outcomes

Review Date	Attorney	Charge	Disposition
4/5/2023	Pelletier, John	VCR	Dismissal
4/5/2023	Pelletier, John	DVA	Dismissal
4/5/2023	Letourneau, Mary-Ann	Termination of Parental Rights	Dismissal through PRR
3/30/2023	Peters, Chelsea	JV Arson / Felony Murder	Dismissal, Juvenile Not Competent
4/7/2023	Snow, Gregory	Assault On Officer	Dismissal
4/10/2023	Hutchinson, Benjamin	Unlawful Possession of Scheduled Drug	Dismissal
4/10/2023	Carey, Jennifer	Emacipation	Granted
4/10/2023	Russell, Stephen	3 cts. Assault	Dismissal
4/11/2023	Paris, David	Post Conviction Review	Petition Granted
4/11/2023	Yamartino, Gina	2 cts. Terrorizing	Dismissal
4/17/2023	Cavanagh, Kimberly	Child Protection Petition	Dismissal
4/17/2023	Charest, Richard	Theft by Unauthorized Taking	DD GO = Dismissal
4/18/2023	French, Justin	1 ct. Negotiating a Worthless Instrument, 1 ct. Forgery, 1 ct. Theft by Unauthorized Taking or Transfer	Dismissal
4/18/2023	Fowler, Benjamin	Child Protection Petition	Dismissal
4/18/2023	Brown, Earl	Child Protection Petition	Dismissal through PRR
4/18/2023	Langholtz, Jeffrey	Aggravated Assault	Dismissal
4/19/2023	Handelman, Jonathan	1 ct. Criminal Trespass, 1 ct. Assault	Dismissal
4/19/2023	Liberman, Jonathan	OUI	DD GO = Dismissal
4/19/2023	Greenbaum, Annie	Terrorizing	Dismissal
4/25/2023	Chester, Edwin	2 cts. Unlawful Sexual Contact, 1 ct. Assault	DD GO = Dismissal of USC counts; Unconditional Discharge on simple Assault
4/25/2023	Langholtz, Jeffrey	DV Criminal Threatening	Not Guilty after Jury Trial
4/25/2023	Flick, J.Mitchell	Petition for Release or Discharge	Discharge Granted
4/25/2023	McNamara, Rory	Appeal - Agg. Attempted Murder, Robbery, Theft by Unauthorized Taking or Transfer	Sentence Vacated - Remanded
4/25/2023	Connolly, Thomas	2 ct. DVA, 1 ct. Criminal Trespass	Dismissal
4/26/2023	Gray, Mary	Probation Violation	Dismissal
4/26/2023	Champagne, Roger	Child Protection Petition	Dismissal
4/26/2023	White, Russell	Criminal Trespass	Dismissal
4/26/2023	Bart, William	DVA	Dismissal
4/27/2023	Stuart, Eden	Child Protection Petition	Dismissal through PRR
4/27/2023	Drew, Heidi	Child Protection Petition	Dismissal

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

4/30/2023

DefenderData Case Type	Apr-23						Fiscal Year 2023			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	5	19	\$30,619.39	14	\$ 22,066.19	\$1,576.16	114	170	\$ 318,116.18	\$1,871.27
Central Office Resource Counsel	1	0		0			4	0		
Child Protection Petition	191	338	\$342,281.46	275	\$ 266,009.94	\$967.31	1,866	3,093	\$ 2,506,127.13	\$810.26
Drug Court	3	16	\$39,642.48	13	\$ 40,655.48	\$3,127.34	27	128	\$ 219,570.27	\$1,715.39
Emancipation	11	6	\$4,397.70	4	\$ 2,344.00	\$586.00	57	39	\$ 19,629.23	\$503.31
Felony	555	642	\$686,570.79	605	\$ 597,929.62	\$988.31	5,912	6,343	\$ 5,712,503.98	\$900.60
Involuntary Civil Commitment	107	61	\$27,877.00	89	\$ 42,562.11	\$478.23	972	878	\$ 280,617.96	\$319.61
Juvenile	58	71	\$53,413.49	51	\$ 38,694.49	\$758.72	685	737	\$ 568,581.80	\$771.48
Lawyer of the Day - Custody	246	200	\$131,937.55	178	\$ 116,843.09	\$656.42	2,447	2,341	\$ 878,626.10	\$375.32
Lawyer of the Day - Juvenile	20	17	\$11,033.92	18	\$ 9,203.32	\$511.30	217	208	\$ 68,779.45	\$330.67
Lawyer of the Day - Walk-in	138	118	\$78,682.17	107	\$ 71,557.00	\$668.76	1,516	1,459	\$ 570,814.41	\$391.24
MCILS Provided Training	170	146	\$106,463.48	141	\$ 101,312.84	\$718.53	248	151	\$ 107,601.24	\$712.59
Misdemeanor	869	882	\$461,163.09	847	\$ 417,131.38	\$492.48	9,162	9,421	\$ 3,884,100.97	\$412.28
Petition, Modified Release Treatment	1	5	\$5,880.32	6	\$ 5,570.25	\$928.38	9	45	\$ 38,265.62	\$850.35
Petition, Release or Discharge	0	3	\$2,806.30	1	\$ 696.00	\$696.00	1	11	\$ 12,576.20	\$1,143.29
Petition, Termination of Parental Rights	24	51	\$71,757.26	52	\$ 55,780.19	\$1,072.70	237	564	\$ 567,644.49	\$1,006.46
Post Conviction Review	7	2	\$1,779.20	5	\$ 4,386.20	\$877.24	47	59	\$ 161,086.32	\$2,730.28
Probate	1	1	\$754.00	2	\$ 2,094.00	\$1,047.00	26	31	\$ 34,743.53	\$1,120.76
Probation Violation	110	100	\$66,252.84	89	\$ 59,819.72	\$672.13	1,021	1,025	\$ 535,367.62	\$522.31
Represent Witness on 5th Amendment	2	5	\$2,467.00	4	\$ 4,265.00	\$1,066.25	20	15	\$ 10,119.80	\$674.65
Resource Counsel Criminal	1	3	\$1,110.00	4	\$ 2,113.00	\$528.25	8	28	\$ 8,780.00	\$313.57
Resource Counsel Juvenile	0	0		0			0	2	\$ 112.00	\$56.00
Resource Counsel NCR	1	0		0			1	0		
Resource Counsel Protective Custody	0	1	\$8,400.00	3	\$ 16,380.00	\$5,460.00	2	9	\$ 35,099.79	\$3,899.98
Review of Child Protection Order	35	118	\$100,275.17	103	\$ 75,192.30	\$730.02	425	1,423	\$ 976,750.70	\$686.40
Revocation of Administrative Release	0	0		0			7	10	\$ 2,416.75	\$241.68
DefenderData Sub-Total	2,556	2,805	\$2,235,564.61	2,611	\$1,952,606.12	\$747.84	25,031	28,190	\$17,518,031.54	\$621.43
TOTAL	2,556	2,805	\$2,235,564.61	2,611	\$1,952,606.12	\$ 747.84	25,031	28,190	\$ 17,518,031.54	\$ 621.43

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

4/30/2023

Court	Apr-23						Fiscal Year 2023			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	5	7	\$5,711.80	1	\$ 283.00	\$283.00	12	15	\$ 12,429.00	\$828.60
AUBSC	1	0		0			4	11	\$ 8,334.00	\$757.64
AUGDC	40	55	\$52,917.70	50	\$ 39,019.00	\$780.38	389	508	\$ 429,718.35	\$845.90
AUGSC	0	9	\$9,562.62	8	\$ 7,142.25	\$892.78	15	55	\$ 50,954.32	\$926.44
BANDC	58	69	\$52,674.57	71	\$ 53,940.93	\$759.73	500	838	\$ 421,196.69	\$502.62
BANSC	3	0		0			11	3	\$ 976.00	\$325.33
BATSC	0	1	\$277.00	1	\$ 277.00	\$277.00	4	5	\$ 2,109.00	\$421.80
BELDC	7	5	\$5,737.50	5	\$ 7,811.50	\$1,562.30	114	146	\$ 96,332.69	\$659.81
BELSC	0	0		0			3	3	\$ 5,083.02	\$1,694.34
BIDDC	36	37	\$34,810.54	40	\$ 31,452.56	\$786.31	336	456	\$ 301,656.66	\$661.53
BRIDC	2	7	\$8,544.00	8	\$ 10,846.01	\$1,355.75	76	117	\$ 70,801.90	\$605.14
CALDC	6	2	\$1,693.00	2	\$ 1,693.00	\$846.50	28	41	\$ 31,521.14	\$768.81
CARDC	6	17	\$12,542.96	11	\$ 5,592.50	\$508.41	51	142	\$ 106,353.87	\$748.97
CARSC	0	0		0			4	0		
DOVDC	15	18	\$14,806.33	12	\$ 7,911.16	\$659.26	35	75	\$ 46,292.42	\$617.23
DOVSC	0	0		0			0	0		
ELLDC	8	32	\$25,685.16	27	\$ 21,407.80	\$792.88	161	289	\$ 232,137.21	\$803.24
ELLSC	0	0		0			1	3	\$ 1,952.00	\$650.67
FARDC	9	26	\$20,516.30	26	\$ 16,262.48	\$625.48	128	161	\$ 121,629.76	\$755.46
FARSC	0	0		0			2	1	\$ 800.00	\$800.00
FORDC	6	9	\$15,859.32	5	\$ 6,429.26	\$1,285.85	42	85	\$ 70,579.43	\$830.35
HOUDC	1	23	\$23,691.70	13	\$ 13,272.82	\$1,020.99	76	190	\$ 127,933.61	\$673.33
HOUSC	0	0		0			1	1	\$ 1,396.00	\$1,396.00
LEWDC	55	76	\$65,626.52	66	\$ 47,793.80	\$724.15	539	849	\$ 600,067.88	\$706.79
LINDC	6	9	\$5,424.72	4	\$ 2,290.84	\$572.71	66	119	\$ 68,476.59	\$575.43
MACDC	2	8	\$6,216.16	3	\$ 1,109.00	\$369.67	16	29	\$ 26,632.20	\$918.35
MACSC	0	0		0			1	1	\$ 2,403.52	\$2,403.52
MADDC	0	0		0			7	5	\$ 2,228.50	\$445.70
MILDC	2	3	\$2,036.00	3	\$ 2,291.00	\$763.67	26	43	\$ 18,522.55	\$430.76
NEWDC	19	10	\$8,610.66	13	\$ 14,458.48	\$1,112.19	93	169	\$ 102,345.63	\$605.60
PORDC	64	73	\$78,655.48	76	\$ 64,066.28	\$842.98	674	828	\$ 625,504.85	\$755.44
PORSC	0	0		0			9	8	\$ 2,500.00	\$312.50
PREDC	9	5	\$8,620.84	10	\$ 13,714.84	\$1,371.48	86	163	\$ 134,045.80	\$822.37
RODC	20	3	\$2,613.00	10	\$ 6,647.56	\$664.76	136	126	\$ 74,654.11	\$592.49
ROSC	1	0		0			20	16	\$ 3,904.00	\$244.00
RUMDC	3	24	\$24,358.54	17	\$ 20,097.40	\$1,182.20	140	222	\$ 202,695.78	\$913.04
SKODC	49	78	\$67,906.03	55	\$ 50,019.84	\$909.45	383	546	\$ 416,869.45	\$763.50
SKOSC	0	0		1	\$ 8,503.60	\$8,503.60	4	4	\$ 14,317.60	\$3,579.40
SOUDC	14	18	\$20,390.83	13	\$ 13,536.00	\$1,041.23	115	169	\$ 138,040.00	\$816.80
SOUSC	1	0		0			3	1	\$ 360.00	\$360.00
SPRDC	10	32	\$33,266.51	30	\$ 25,483.17	\$849.44	175	291	\$ 223,275.81	\$767.27
Law Ct	2	12	\$26,199.09	10	\$ 17,877.89	\$1,787.79	87	121	\$ 224,942.12	\$1,859.03
Training	166	145	\$112,808.48	141	\$ 115,472.84	\$818.96	246	155	\$ 141,045.03	\$909.97
YORCD	273	267	\$206,862.06	304	\$ 219,399.18	\$721.71	2,907	3,303	\$ 2,090,354.79	\$632.87
AROCD	165	189	\$130,060.39	157	\$ 97,931.65	\$623.77	1,753	1,708	\$ 966,628.96	\$565.94
ANDCD	207	175	\$116,673.13	143	\$ 94,254.57	\$659.12	1,897	1,811	\$ 1,070,632.89	\$591.18
KENCD	132	214	\$166,204.88	188	\$ 150,654.62	\$801.35	1,799	1,792	\$ 1,044,679.87	\$582.97
PENCD	257	228	\$190,050.57	266	\$ 147,144.14	\$553.17	2,573	2,798	\$ 1,370,136.17	\$489.68
SAGCD	35	36	\$21,626.92	26	\$ 16,564.22	\$637.09	398	334	\$ 166,221.36	\$497.67
WALCD	43	60	\$49,716.90	36	\$ 34,496.16	\$958.23	558	533	\$ 370,498.88	\$695.12
PISCD	19	3	\$1,002.46	17	\$ 13,872.00	\$816.00	185	190	\$ 96,321.60	\$506.96
HANCD	61	75	\$53,759.80	75	\$ 57,988.80	\$773.18	707	639	\$ 363,781.51	\$569.30
FRACD	59	34	\$20,939.12	36	\$ 18,620.60	\$517.24	434	337	\$ 162,203.83	\$481.32
WASCD	56	54	\$39,248.67	32	\$ 21,002.07	\$656.31	407	413	\$ 297,456.62	\$720.23
CUMCD	301	380	\$306,521.42	332	\$ 282,081.00	\$849.64	3,449	3,876	\$ 2,449,135.88	\$631.87
KN OCD	71	32	\$33,438.84	32	\$ 32,311.47	\$1,009.73	567	519	\$ 322,849.60	\$622.06
SOMCD	60	76	\$44,004.83	77	\$ 41,007.03	\$532.56	834	883	\$ 412,710.87	\$467.40
OXFCD	118	89	\$45,519.30	65	\$ 27,314.54	\$420.22	910	937	\$ 450,199.48	\$480.47
LINCD	34	27	\$19,068.01	42	\$ 30,978.12	\$737.57	357	349	\$ 187,028.88	\$535.90
WATDC	16	29	\$25,686.45	27	\$ 23,982.64	\$888.25	218	390	\$ 250,343.56	\$641.91
WESDC	14	14	\$10,391.00	16	\$ 11,393.00	\$712.06	171	232	\$ 159,744.08	\$688.55
WISDC	3	6	\$4,560.50	4	\$ 2,364.50	\$591.13	40	69	\$ 66,733.43	\$967.15
WISSC	0	0		0			0	3	\$ 1,784.00	\$594.67
YORDC	6	4	\$2,466.00	4	\$ 2,542.00	\$635.50	45	63	\$ 55,006.79	\$873.12
TOTAL	2,556	2,805	\$2,235,564.61	2,611	\$1,952,606.12	\$747.84	25,030	28,190	\$17,518,031.54	\$621.43

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY23 FUND ACCOUNTING
AS OF 04/30/2023

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		\$ -		\$ -		\$ -		\$ 506,889.00	\$ 506,889.06
Budget Order Adjustment		\$ (221,628.00)		\$ 179,034.00		\$ 178,980.00		\$ 178,981.00	\$ 315,367.00
Budget Order Adjustment		\$ -		\$ (20,288.00)		\$ 241,916.00		\$ -	\$ 221,628.00
Financial Order Unencumbered Balance Fwd		\$ -		\$ -		\$ -		\$ -	\$ -
Total Budget Allotments		\$ 5,999,977.54		\$ 3,287,495.00		\$ 3,549,645.00		\$ 3,814,617.00	\$ 16,651,734.60
Total Expenses	1	\$ (1,935,083.89)	4	\$ (1,843,734.81)	7	\$ (1,563,055.52)	10	\$ (1,879,433.72)	
	2	\$ (1,607,416.71)	5	\$ (1,433,680.09)	8	\$ (1,732,863.62)	11	\$ -	
	3	\$ (1,207,951.78)	6	\$ (151,089.78)	9	\$ (103,350.90)	12	\$ -	
Encumbrances (Justice Works)		\$ -		\$ (58,722.00)		\$ 21,519.00		\$ -	\$ (37,203.00)
Encumbrances (B Taylor)		\$ (13,260.00)		\$ 13,260.00		\$ (39,780.00)		\$ 4,420.00	\$ (35,360.00)
Encumbrances (CTB for non attorney expenses)		\$ (1,150,139.32)		\$ 266,906.59		\$ 208,167.30		\$ 127,435.93	\$ (547,629.50)
Encumbrances (CTB for non attorney expenses additional funds)		\$ -		\$ -		\$ -		\$ -	\$ -
Encumbrances (business cards,batteries & address stamps)		\$ (17.14)		\$ -		\$ -		\$ -	\$ (17.14)
Encumbrances (RDU business cards & envelopes)		\$ -		\$ (184.70)		\$ 184.70		\$ -	\$ -
Online Legal Research Services		\$ -		\$ (80,250.00)		\$ 9,981.24		\$ 6,654.16	\$ (63,614.60)
Encumbrance Legal Case Management Accelerator User assistance		\$ -		\$ -		\$ -		\$ -	\$ -
FY22 CTB Balance Carry Forward		\$ (86,108.40)		\$ -		\$ -		\$ -	\$ (86,108.40)
TOTAL REMAINING		\$ 0.30		\$ 0.21		\$ 350,447.20		\$ 2,073,693.37	\$ 2,424,141.08

Q4 Month 10

INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (1,725,601.51)
Interpreters	\$ (1,663.09)
Private Investigators	\$ (26,459.02)
Mental Health Expert	\$ (39,715.52)
Misc Prof Fees & Serv	\$ (2,679.94)
Transcripts	\$ (23,147.17)
Other Expert	\$ (33,265.42)
Subpoena witness	\$ -
Process Servers	\$ (505.77)
SUB-TOTAL ILS	\$ (1,853,037.44)

INDIGENT LEGAL SERVICES	
Q4 Allotment	\$ 3,814,617.00
Encumbrances for Justice Works contract	\$ -
Barbara Taylor Contract	\$ 4,420.00
CTB Encumbrance for non attorney expenses	\$ 127,435.93
CTB Encumbrance for non attorney expenses increase	\$ -
Legal Case Management Accelerator User Assistance	\$ -
Expenses to date	\$ (1,879,433.72)
Online Legal Research Services	\$ 6,654.16
Remaining Q4 Allotment	\$ 2,073,693.37

OPERATING EXPENSES	
Advertising notices	\$ (125.00)
Barbara Taylor monthly fees	\$ (4,420.00)
Dues	\$ (150.00)
Mileage/Tolls/Parking	\$ (2,833.96)
Mailing/Postage/Freight	\$ (1,736.08)
West Publishing Corp	\$ (6,908.40)
Office Equipment Rental	\$ (222.33)
Office Supplies/Equip.	\$ (141.72)
Cellular Phones	\$ (460.52)
5 Maine Evidence 6th edition	\$ (375.00)
Lodging & meals	\$ (1,528.64)
Training refreshments	\$ (956.26)
Central Fleet rental car	\$ (144.23)
Parking Fees	\$ (205.00)
Training speaker fees	\$ (1,875.44)
Registration fees	\$ (200.00)
Books	\$ (506.46)
RDU office furniture & etc.	\$ (3,400.00)

Non-Counsel Indigent Legal Services	
Monthly Total	\$ (127,435.93)
Total Q1	\$ 249,860.68
Total Q2	\$ 266,906.59
Total Q3	\$ 211,667.30
Total Q4	\$ 127,435.93
Fiscal Year Total	\$ 855,870.50

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY23 FUND ACCOUNTING
AS OF 04/30/2023

Training speaker fees	\$	-
Shredding on Site	\$	(9.00)
Training rooms	\$	(150.00)
Language Line on procurement card	\$	(48.24)
SUB-TOTAL OE	\$	(26,396.28)
TOTAL	\$	(1,879,433.72)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY23 FUND ACCOUNTING
AS OF 04/30/2023

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
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		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 356,376.00		\$ 476,920.00		\$ 498,590.00		\$ 322,211.00	\$ 1,654,097.00
Total Expenses	1	\$ (65,524.90)	4	\$ (67,323.49)	7	\$ (178,162.57)	10	\$ (113,003.26)	
	2	\$ (96,169.15)	5	\$ (68,454.11)	8	\$ (113,507.82)	11	\$ -	
	3	\$ (66,680.15)	6	\$ (83,579.91)	9	\$ (106,682.17)	12	\$ -	
TOTAL REMAINING		\$ 128,001.80		\$ 257,562.49		\$ 100,237.44		\$ 209,207.74	\$ 695,009.47

Q4 Month 10	
Per Diem	\$ -
Permanent Regular	\$ (24,660.95)
Perm Vacation Pay	\$ (161.45)
Perm Holiday Pay	\$ -
Sick Pay	\$ -
Standard Overtime	\$ (148.28)
Health Insurance	\$ (13,381.70)
Dental Insurance	\$ (365.00)
Employer Retiree Health	\$ (6,568.75)
Employer Retirement	\$ (3,951.95)
Employer Group Life	\$ (700.56)
Employer Medicare	\$ (1,021.80)
Retiree Unfunded Liability	\$ (13,373.12)
Longevity Pay	\$ (112.00)
Lim Perm Part Time Full Ben	\$ (4,153.29)
Limited Period Regular	\$ (41,503.19)
Limited Per Vacation Pay	\$ (1,555.20)
Limited Per Holiday Pay	\$ -
Limit Per Sick Pay	\$ (1,346.02)
TOTAL	\$ (113,003.26)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23

FUND ACCOUNTING

AS OF 04/30/2023

Account 014 95F Z112 01 (OSR Personal Services Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
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		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 211,632.00		\$ 194,116.00		\$ 211,632.00		\$ 105,856.00	\$ 723,236.00
Total Expenses	1	\$ (49,018.85)	4	\$ (41,237.93)	7	\$ (75,403.13)	10	\$ (50,118.08)	
	2	\$ (61,002.05)	5	\$ (43,671.56)	8	\$ (50,190.62)	11	\$ -	
	3	\$ (41,197.00)	6	\$ (50,270.65)	9	\$ (46,593.72)	12	\$ -	
TOTAL REMAINING		\$ 60,414.10		\$ 58,935.86		\$ 39,444.53		\$ 55,737.92	\$ 214,532.41

Q4 Month 10 PERMANENT	
Per Diem	\$ -
Permanent Regular	\$ (23,192.77)
Perm Vacation Pay	\$ (1,235.47)
Perm Holiday Pay	\$ -
Perm Sick Pay	\$ (288.56)
Health Insurance	\$ (6,913.98)
Dental Insurance	\$ (146.00)
Employer Retiree Health	\$ (2,796.48)
Employer Retirement	\$ (2,465.48)
Employer Group Life	\$ (325.50)
Employer Medicare	\$ (427.00)
Retiree Unfunded Liability	\$ (5,693.24)
Longevity Pay	\$ -
Perm Part Time Full Ben	\$ -
Retro Pay Contract	\$ -
Retro Lump Sum Pymt	\$ -
TOTAL	\$ (43,484.48)

Q4 Month 10 LIMITED PERIOD	
Limited Period Regular	\$ (6,467.76)
Limit Per Holiday Pay	\$ -
Limit Per Vacation Pay	\$ -
Limit Per Sick Pay	\$ (165.84)
TOTAL	\$ (6,633.60)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY23 FUND ACCOUNTING
AS OF 04/30/2023

Account 014 95F Z258 01 (OSR RESERVES)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Allotment		\$ -		\$ -		\$ -		\$ 2,622,679.00	\$ 2,622,679.00
Operating Transfer		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ -		\$ -		\$ -		\$ 2,622,679.00	\$ 2,622,679.00
Total Expenses	1	\$ -	4	\$ -	7	\$ -	10	\$ (2,622,678.58)	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ -		\$ -		\$ -		\$ 0.42	\$ 0.42

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23 FUND ACCOUNTING

As of 04/30/2023

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
Original Total Budget Allotments		\$ 3,221,844.00		\$ 2,147,897.00		\$ 2,147,896.00		\$ 2,147,896.00	\$ 9,665,533.00
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	\$ -
Budget Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ 6,630,563.00	
Budget Order Adjustment	2	\$ -	5	\$ 2,623,940.00	8	\$ 2,593,461.00	11	\$ -	
Budget Order Adjustment		\$ (2,623,940.00)	6	\$ (2,593,461.00)	9	\$ -	12	\$ -	
Transfer from General Fund Surplus	3	\$ -		\$ -		\$ -		\$ -	\$ 9,288,769.00
Total Budget Allotments		\$ 597,904.00		\$ 2,178,376.00		\$ 4,741,357.00		\$ 8,778,459.00	\$ 16,296,096.00
Cash Carryover from Prior Quarter		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ -	4	\$ 39,008.04	7	\$ 34,467.04	10	\$ -	
Collected Revenue from JB	2	\$ 33,135.69	5	\$ 26,946.30	8	\$ -	11	\$ -	
Collected Revenue from JB	3	\$ 36,358.81	6	\$ 28,171.25	9	\$ -	12	\$ -	
Collected for reimbursement of counsel fees		\$ -		\$ -	8	\$ 384.00	10	\$ 2,213.40	
Collected for reimbursement of counsel fees		\$ -		\$ -	9	\$ 312.00		\$ -	
Victim Services Restitution		\$ -		\$ -		\$ -		\$ -	
Collected for reimbursement of counsel fees		\$ -		\$ 648.00		\$ -		\$ -	
Refund to KENCD for bail to be applied to fines		\$ -		\$ -		\$ -		\$ -	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 69,494.50		\$ 94,773.59		\$ 35,163.04		\$ 2,213.40	\$ 201,644.53
Counsel Payments	1	\$ -	4	\$ -	7	\$ (106,827.70)	10	\$ (227,004.61)	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ -	5	\$ (275,019.12)	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -	9	\$ -		\$ -	
Counsel Payments	3	\$ (595,342.94)	6	\$ (1,895,447.88)	9	\$ (2,135,118.45)	12	\$ -	
State Cap for period 1	*	\$ (377.35)	**	\$ -	***	\$ -		\$ -	
State Cap for periods 4,5 & 6	*	\$ (2,183.35)	**	\$ (7,908.41)	***	\$ -		\$ -	
State Cap for periods 8, 9, & 10	*	\$ -	**	\$ -	***	\$ (8,280.50)		\$ -	
REMAINING ALLOTMENT		\$ 0.36		\$ 0.59		\$ 2,491,130.35		\$ 8,551,454.39	\$ 11,042,585.69
Overpayment Reimbursements	1	\$ -	4	\$ -	7	\$ -	10	\$ (2,213.40)	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ (164.00)	12	\$ -	
REMAINING CASH Year to Date		\$ (528,409.14)		\$ (2,083,601.82)		\$ (2,215,227.61)		\$ (227,004.61)	\$ (5,054,243.18)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23

FUND ACCOUNTING

AS OF 04/30/2023

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

Q4 Month 10	
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
TOTAL	\$ -

Statement of Revenue and Expenses for Maine Commission of Indigent Legal Services

As of April 30, 2023

<u>General Funds - 010-Z11201</u>	<u>QTR1</u>	<u>QTR2</u>	<u>QTR3</u>	<u>QTR4</u>	<u>TOTAL</u>
Personal Services Allotment	\$ 356,376	\$ 476,920	\$ 498,590	\$ 322,211	\$ 1,654,097
Payroll to date	(228,374)	(219,358)	(398,353)	(113,003)	(959,088)
Estimated payroll remaining	-	-	-	(227,120)	(227,120)
Total Personal Services available	\$ 128,002	\$ 257,562	\$ 100,237	\$ (17,913)	\$ 467,889
All Other Allotment	\$ 5,999,978	\$ 3,287,495	\$ 3,549,645	\$ 3,814,617	\$ 16,651,735
Expenditures to date	(4,750,452)	(3,428,505)	(3,399,270)	743,245	(10,834,982)
Encumbrances	(1,249,525)	141,010	200,072	138,510	(769,933)
Total All Other Available	\$ 0	\$ 0	\$ 350,447	\$ 4,696,372	\$ 5,046,820

Unencumbered balance forward 0.06

<u>Other Special Revenue Funds - 014-Z11201</u>	<u>QTR1</u>	<u>QTR2</u>	<u>QTR3</u>	<u>QTR4</u>	<u>TOTAL</u>
Personal Services Allotment	\$ 211,632	\$ 194,116	\$ 211,632	\$ 105,856	\$ 723,236
Payroll to date	(151,218)	(135,180)	(172,187)	(50,118)	(508,704)
Estimated payroll remaining	-	-	-	(100,247)	(100,247)
Total Personal Services available	\$ 60,414	\$ 58,936	\$ 39,445	\$ (44,509)	\$ 114,286
All Other Allotment	\$ 597,904	\$ 2,178,376	\$ 4,741,357	\$ 8,778,459	\$ 16,296,096
Expenditures to date	(597,904)	(2,178,375)	(2,250,227)	(227,005)	(5,253,510)
Encumbrances	-	-	-	-	-
Total All Other Available	\$ 0	\$ 1	\$ 2,491,130	\$ 8,551,454	\$ 11,042,586

CASH ON HAND 4/30/2023 \$ 11,044,679.06

<u>Other Special Revenue Funds - 014-Z11202</u>	<u>QTR1</u>	<u>QTR2</u>	<u>QTR3</u>	<u>QTR4</u>	<u>TOTAL</u>
All Other Allotment	\$ -	\$ -	\$ -	\$ 57,000	\$ 57,000
Expenditures to date	-	-	-	-	-
Encumbrances	-	-	-	-	-
Total All Other Available	\$ -	\$ -	\$ -	\$ 57,000	\$ 57,000

CASH ON HAND 4/30/2023 \$ 16,232.70

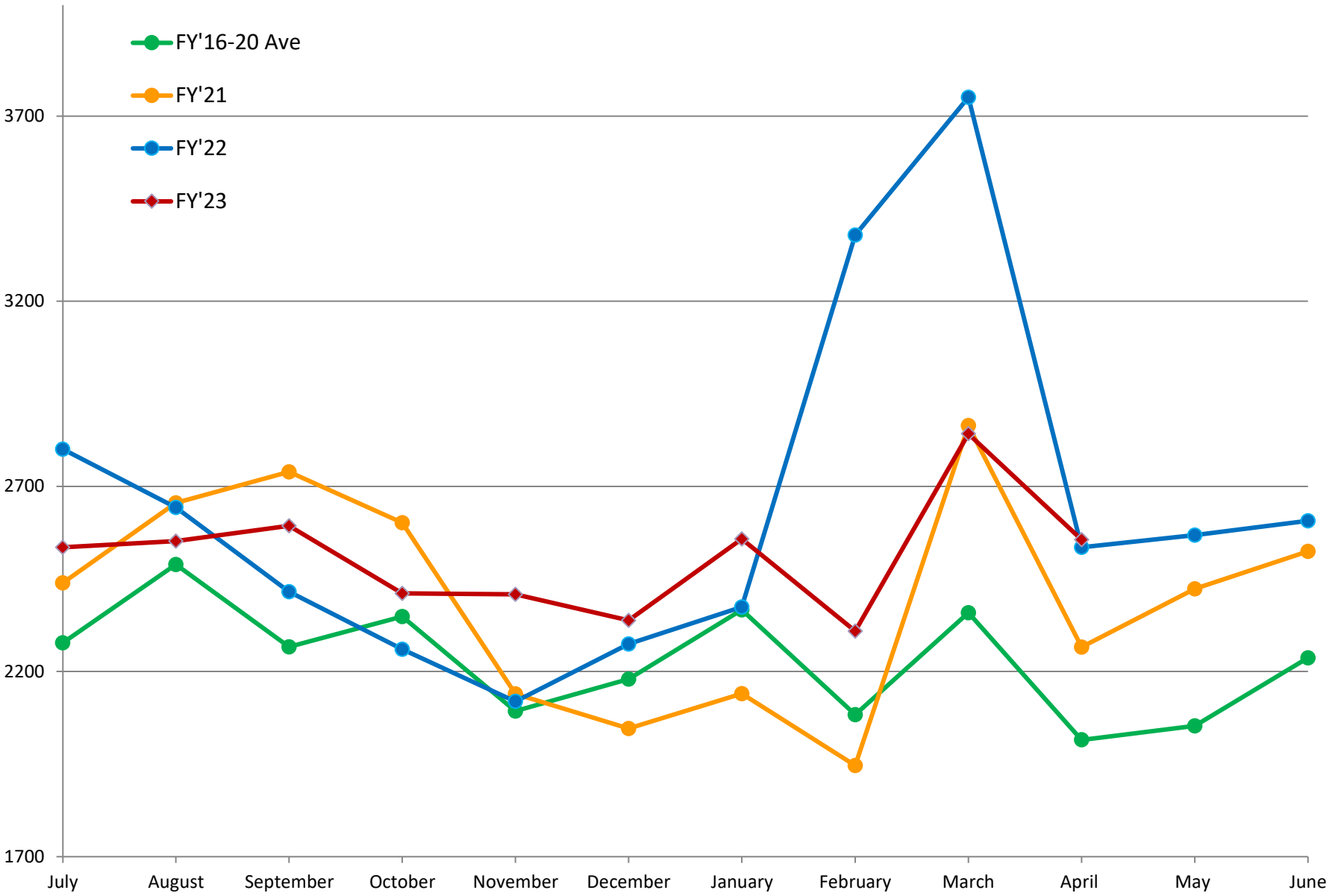
<u>Other Special Revenue Funds - 014-Z25801</u>	<u>QTR1</u>	<u>QTR2</u>	<u>QTR3</u>	<u>QTR4</u>	<u>TOTAL</u>
All Other Allotment	\$ -	\$ -	\$ -	\$ 2,622,679	\$ 2,622,679
Expenditures to date	-	-	-	(2,622,679)	(2,622,679)
Encumbrances	-	-	-	-	-
Total All Other Available	\$ -	\$ -	\$ -	\$ 0	\$ 0

Cash on hand/UBF 4/30/2023 \$ -

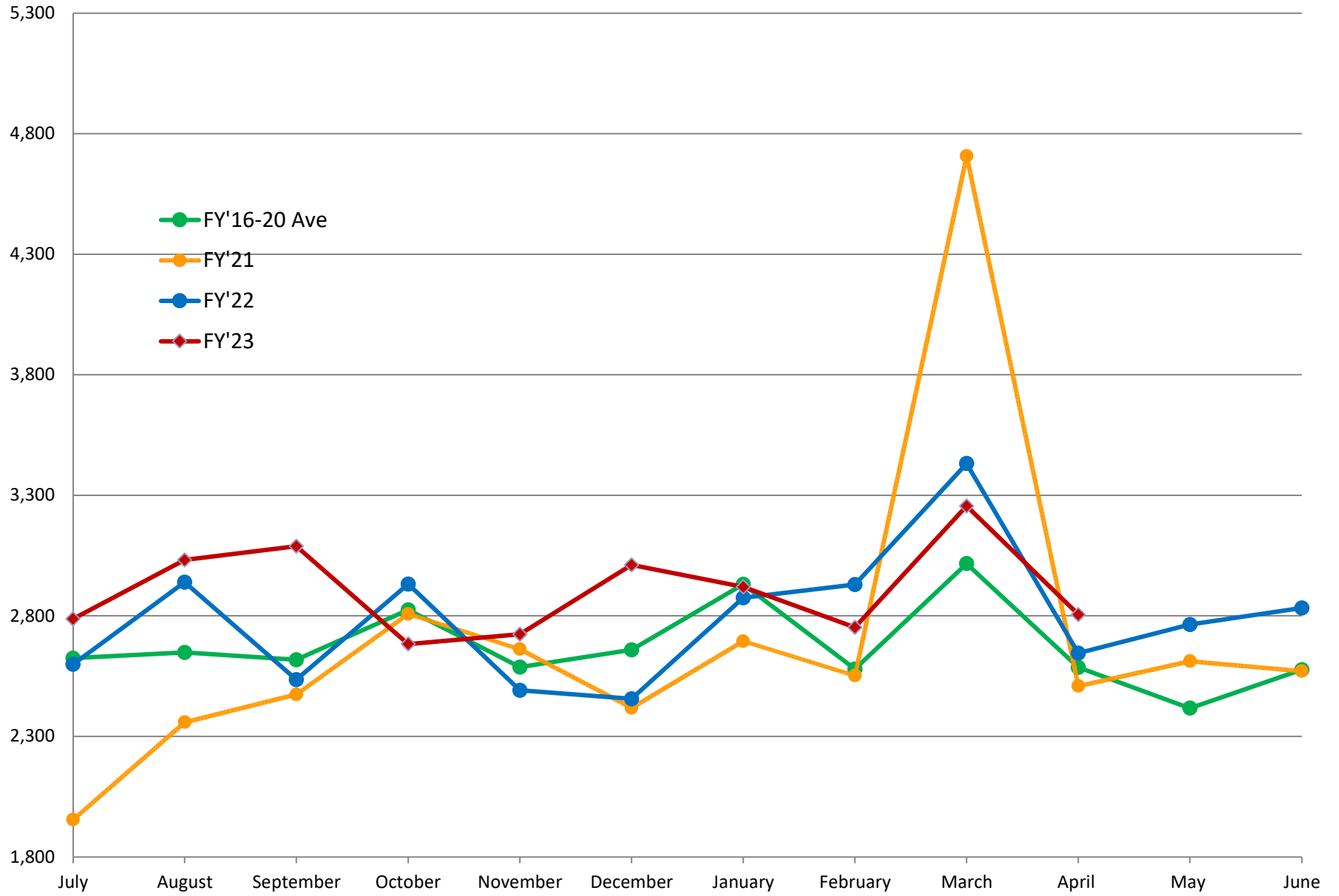
<u>ARPA Funds - 023-Z11201</u>	<u>QTR1</u>	<u>QTR2</u>	<u>QTR3</u>	<u>QTR4</u>	<u>TOTAL</u>
All Other Allotment	\$ -	\$ -	\$ -	\$ 4,000,000	\$ 4,000,000
Expenditures to date	-	-	-	-	-
Encumbrances	-	-	-	-	-
Total All Other Available	\$ -	\$ -	\$ -	\$ 4,000,000	\$ 4,000,000

CASH ON HAND 4/30/2023 \$ 250,000.00

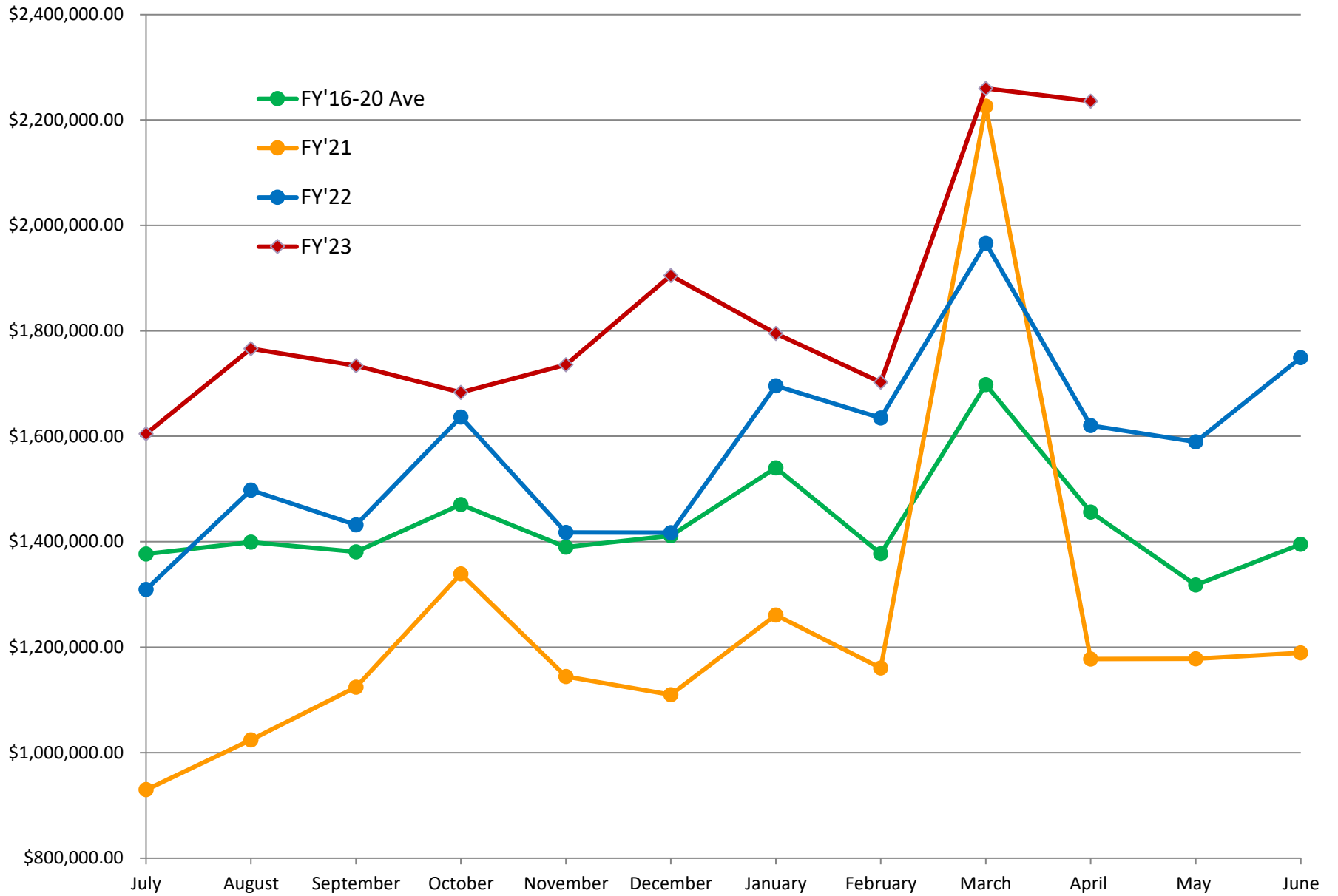
NEW CASES



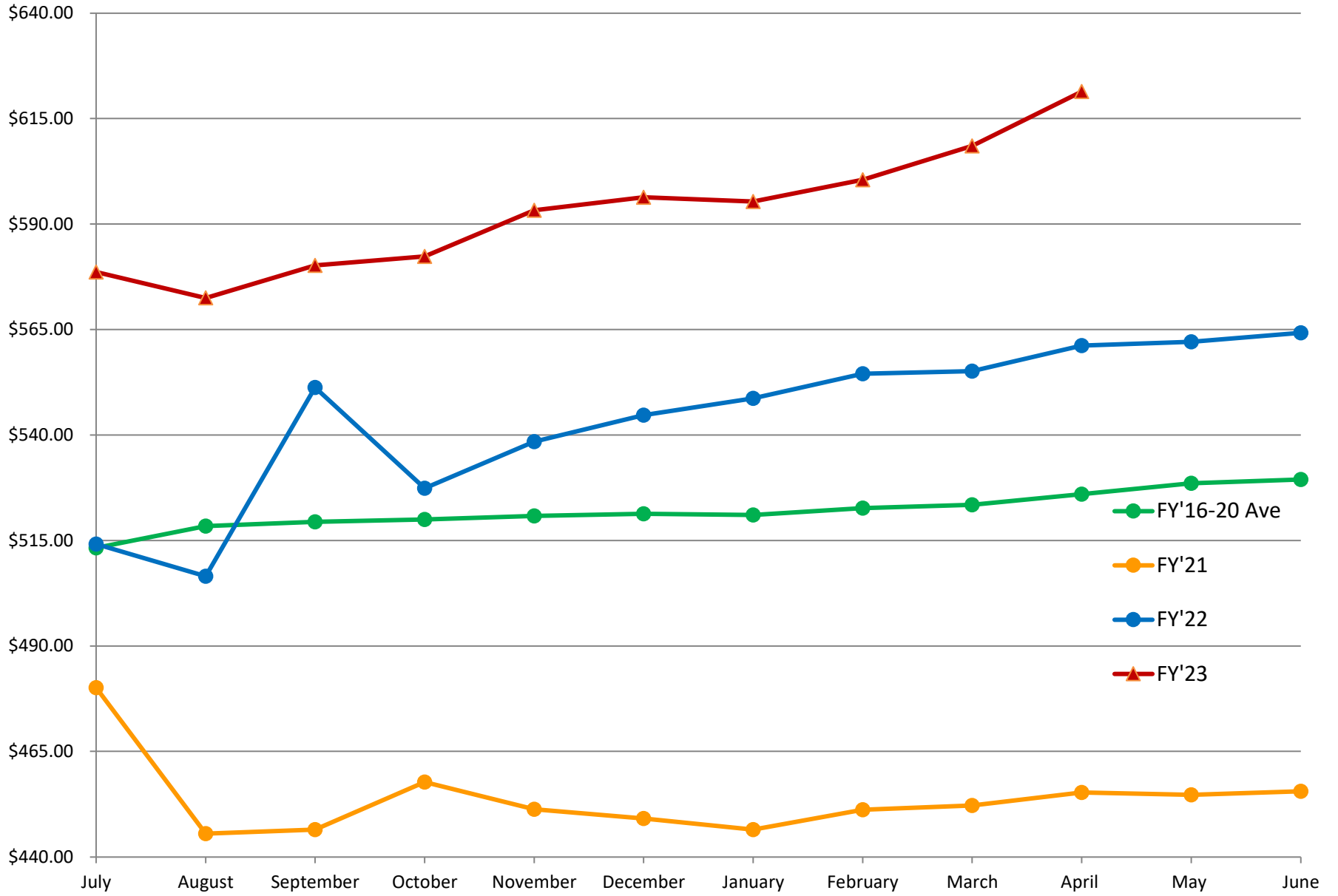
Submitted Vouchers



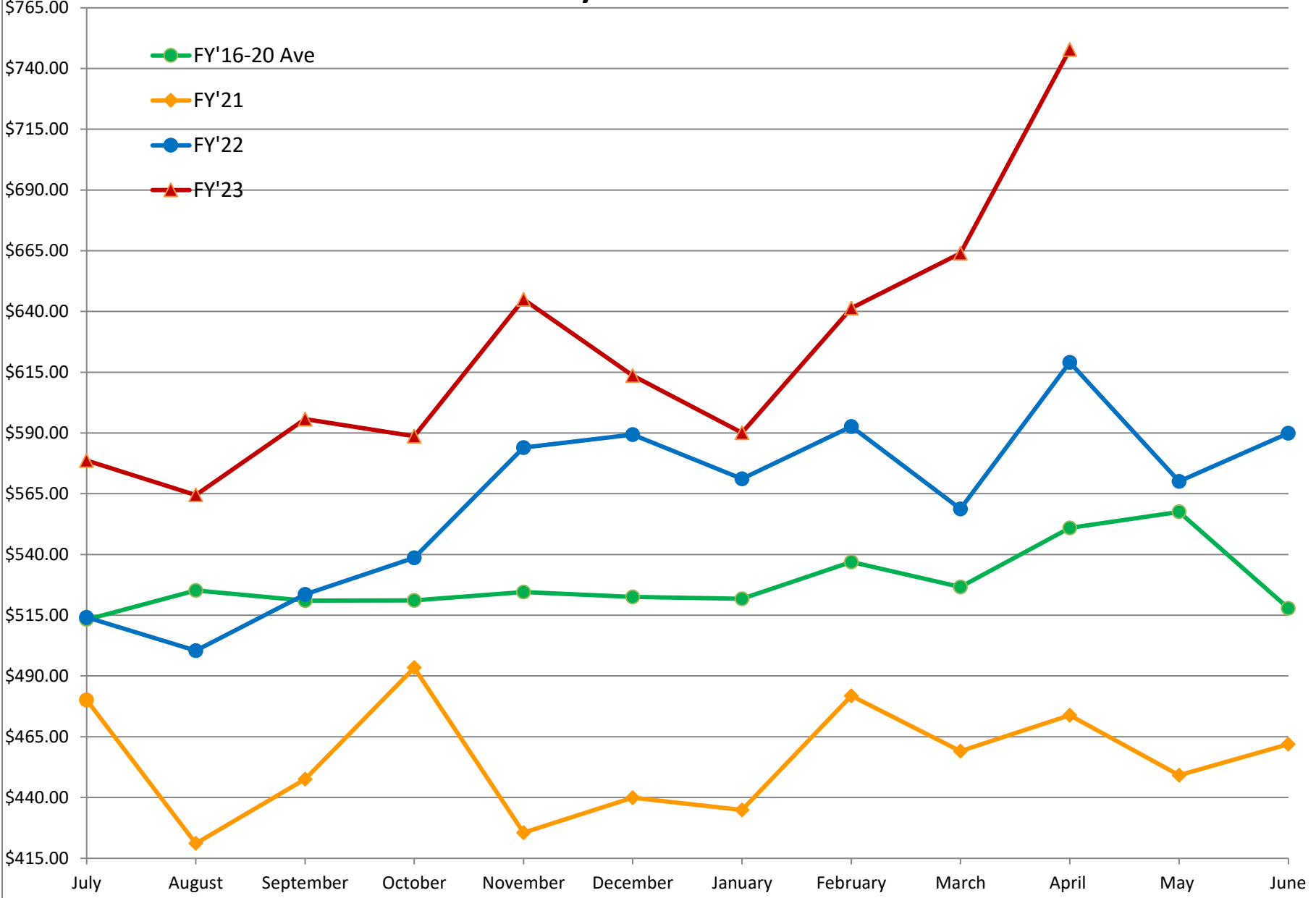
Submitted Voucher Amount



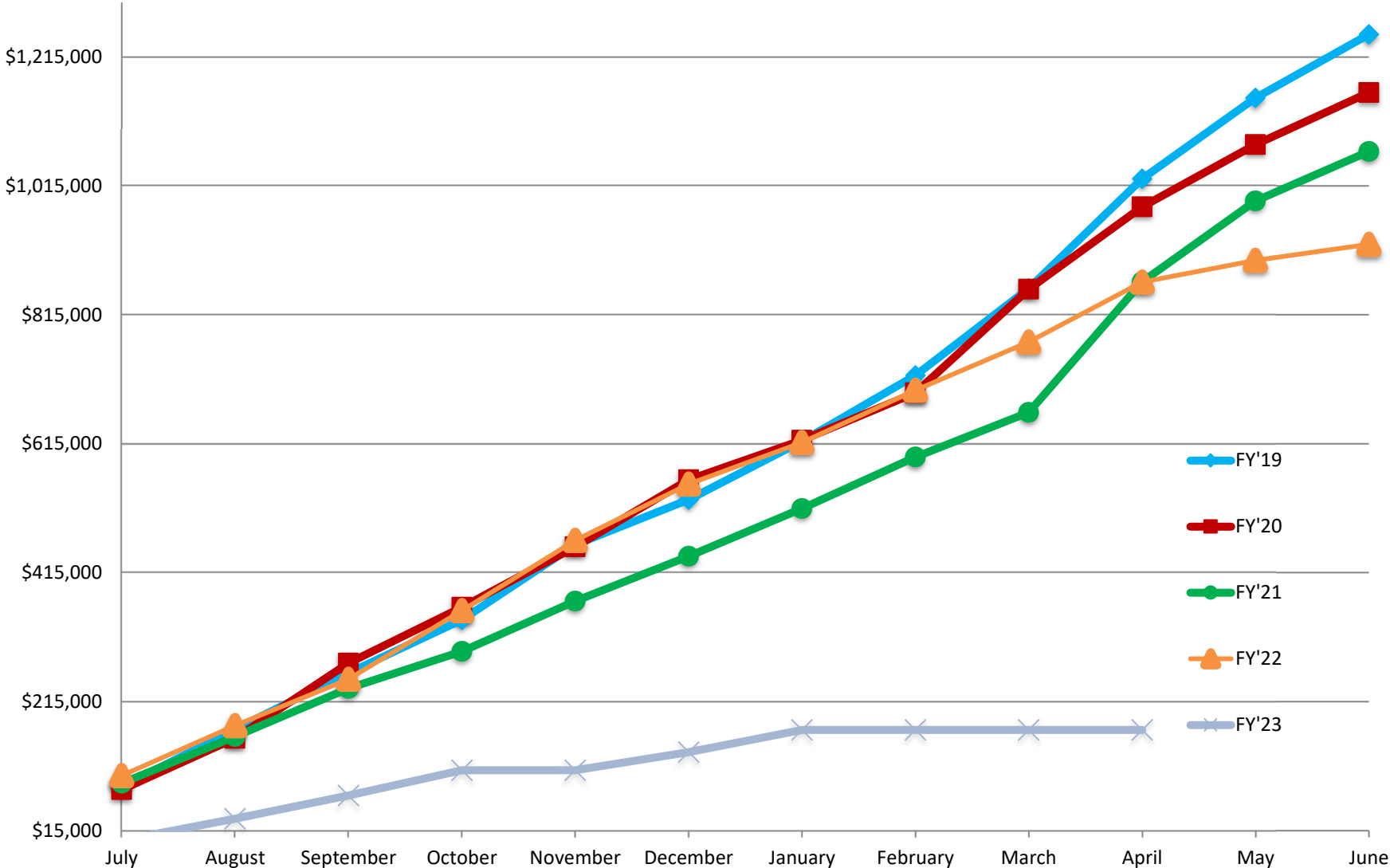
Average Voucher Price Fiscal Year to Date



Monthly Price Per Voucher



COLLECTION TOTALS FY'19 to FY'23



Pending UCD Cases as of May 19, 2023

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
Androscoggin	673	89	41	6.1%	2,001	256	288	14.4%	8	1	12.5%	2,682	345	330	12.3%
Aroostook	712	118	57	8.0%	1,051	272	299	28.4%	15	8	53.3%	1,778	390	364	20.5%
Caribou	173	22	19	11.0%	219	71	44	20.1%	5	2	40.0%	397	93	65	16.4%
Fort Kent	121	19	2	1.7%	198	62	60	30.3%	3	2	66.7%	322	81	64	19.9%
Houlton	192	28	10	5.2%	269	74	71	26.4%	4	3	75.0%	465	102	84	18.1%
Presque Isle	226	49	26	11.5%	365	65	124	34.0%	3	1	33.3%	594	114	151	25.4%
Cumberland	1,243	202	105	8.4%	3,474	497	569	16.4%	62	21	33.9%	4,779	699	695	14.5%
Bridgton	26	9	2	7.7%	286	56	45	15.7%	11	8	72.7%	323	65	55	17.0%
Portland	1,195	188	102	8.5%	2,708	360	419	15.5%	37	10	27.0%	3,940	548	531	13.5%
West Bath	22	5	1	4.5%	480	81	105	21.9%	14	3	21.4%	516	86	109	21.1%
Franklin	140	28	10	7.1%	479	111	99	20.7%	19	7	36.8%	638	139	116	18.2%
Hancock	419	41	26	6.2%	644	94	119	18.5%	46	23	50.0%	1,109	135	168	15.1%
Kennebec	615	87	40	6.5%	1,588	324	336	21.2%	24	11	45.8%	2,227	411	387	17.4%
Augusta	581	79	36	6.2%	936	206	165	17.6%	13	4	30.8%	1,530	285	205	13.4%
Waterville	34	8	4	11.8%	652	118	171	26.2%	11	7	63.6%	697	126	182	26.1%
Knox	232	49	18	7.8%	542	133	94	17.3%	18	1	5.6%	792	182	113	14.3%
Lincoln	132	39	4	3.0%	347	153	52	15.0%	8	2	25.0%	487	192	58	11.9%
Oxford	457	74	48	10.5%	1,134	180	214	18.9%	29	16	55.2%	1,620	254	278	17.2%
Bridgton	44	10	5	11.4%	119	31	19	16.0%	2	1	50.0%	165	41	25	15.2%
Rumford	166	32	18	10.8%	416	69	71	17.1%	15	9	60.0%	597	101	98	16.4%
South Paris	247	32	25	10.1%	599	80	124	20.7%	12	6	50.0%	858	112	155	18.1%
Penobscot	896	40	82	9.2%	1,713	44	483	28.2%	53	38	71.7%	2,662	84	603	22.7%
Bangor	873	39	78	8.9%	1,327	32	343	25.8%	27	18	66.7%	2,227	71	439	19.7%
Lincoln	5	0	2	40.0%	189	7	80	42.3%	21	20	95.2%	215	7	102	47.4%
Newport	18	1	2	11.1%	197	5	60	30.5%	5	0	0.0%	220	6	62	28.2%
Piscataquis	35	2	10	28.6%	121	4	48	39.7%	37	30	81.1%	193	6	88	45.6%
Sagadahoc	187	51	19	10.2%	474	187	80	16.9%	10	1	10.0%	671	238	100	14.9%
Somerset	237	46	12	5.1%	443	137	63	14.2%	8	1	12.5%	688	183	76	11.0%
Waldo	162	32	7	4.3%	296	80	43	14.5%	6	0	0.0%	464	112	50	10.8%
Washington	183	24	8	4.4%	312	51	75	24.0%	19	6	31.6%	514	75	89	17.3%
Calais	82	6	4	4.9%	141	17	41	29.1%	6	2	33.3%	229	23	47	20.5%
Machias	101	18	4	4.0%	171	34	34	19.9%	13	4	30.8%	285	52	42	14.7%
York	1,146	133	186	16.2%	3,792	809	720	19.0%	88	18	20.5%	5,026	942	924	18.4%
Alfred	1,093	129	173	15.8%	306	24	188	61.4%	14	10	--	1,413	153	371	26.3%
Biddeford	29	2	9	31.0%	1,895	452	244	12.9%	45	3	6.7%	1,969	454	256	13.0%
Springvale	14	0	4	28.6%	1,110	206	204	18.4%	22	4	18.2%	1,146	206	212	18.5%
York	10	2	0	0.0%	481	127	84	17.5%	7	1	14.3%	498	129	85	17.1%
TOTAL	7,469	1,055	673	9.0%	18,411	3,332	3,582	19.5%	450	184	40.9%	26,330	4,387	4,439	16.9%

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, May 2022 to May 2023

Pending cases as of May 19 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2022	2023	% Diff	2022	2023	% Diff	2022	2023	% Diff	2022	2023	% Diff
Androscoggin	639	673	5.3%	2,165	2,001	-7.6%	14	8	-42.9%	2,818	2,682	-4.8%
Aroostook	704	712	1.1%	1,173	1,051	-10.4%	32	15	-53.1%	1,909	1,778	-6.9%
Caribou	161	173	7.5%	232	219	-5.6%	4	5	25.0%	397	397	0.0%
Fort Kent	86	121	40.7%	225	198	-12.0%	4	3	-25.0%	315	322	2.2%
Houlton	232	192	-17.2%	397	269	-32.2%	12	4	-66.7%	641	465	-27.5%
Presque Isle	225	226	0.4%	319	365	14.4%	12	3	-75.0%	556	594	6.8%
Cumberland	1,301	1,243	-4.5%	3,764	3,474	-7.7%	88	62	-29.5%	5,153	4,779	-7.3%
Bridgton	20	26	30.0%	303	286	-5.6%	29	11	-62.1%	352	323	-8.2%
Portland	1,256	1,195	-4.9%	3,055	2,708	-11.4%	34	37	8.8%	4,345	3,940	-9.3%
West Bath	25	22	-12.0%	406	480	18.2%	25	14	-44.0%	456	516	13.2%
Franklin	107	140	30.8%	326	479	46.9%	17	19	11.8%	450	638	41.8%
Hancock	287	419	46.0%	538	644	19.7%	35	46	31.4%	860	1,109	29.0%
Kennebec	610	615	0.8%	1,805	1,588	-12.0%	47	24	-48.9%	2,462	2,227	-9.5%
Augusta	590	581	-1.5%	1,169	936	-19.9%	33	13	-60.6%	1,792	1,530	-14.6%
Waterville	20	34	70.0%	636	652	2.5%	14	11	-21.4%	670	697	4.0%
Knox	208	232	11.5%	483	542	12.2%	18	18	0.0%	709	792	11.7%
Lincoln	131	132	0.8%	253	347	37.2%	9	8	-11.1%	393	487	23.9%
Oxford	416	457	9.9%	961	1,134	18.0%	22	29	31.8%	1,399	1,620	15.8%
Bridgton	37	44	18.9%	116	119	2.6%	4	2	-50.0%	157	165	5.1%
Rumford	164	166	1.2%	402	416	3.5%	4	15	275.0%	570	597	4.7%
South Paris	215	247	14.9%	443	599	35.2%	14	12	-14.3%	672	858	27.7%
Penobscot	932	896	-3.9%	2,277	1,713	-24.8%	79	53	-32.9%	3,288	2,662	-19.0%
Bangor	905	873	-3.5%	1,756	1,327	-24.4%	33	27	-18.2%	2,694	2,227	-17.3%
Lincoln	6	5	-16.7%	284	189	-33.5%	18	21	16.7%	308	215	-30.2%
Newport	21	18	-14.3%	237	197	-16.9%	28	5	-82.1%	286	220	-23.1%
Piscataquis	56	35	-37.5%	135	121	-10.4%	17	37	117.6%	208	193	-7.2%
Sagadahoc	152	187	23.0%	441	474	7.5%	11	10	-9.1%	604	671	11.1%
Somerset	225	237	5.3%	443	443	0.0%	9	8	-11.1%	677	688	1.6%
Waldo	197	162	-17.8%	337	296	-12.2%	36	6	-83.3%	570	464	-18.6%
Washington	191	183	-4.2%	312	312	0.0%	37	19	-48.6%	540	514	-4.8%
Calais	86	82	-4.7%	114	141	23.7%	14	6	-57.1%	214	229	7.0%
Machias	105	101	-3.8%	198	171	-13.6%	23	13	-43.5%	326	285	-12.6%
York	1,159	1,146	-1.1%	4,379	3,792	-13.4%	166	88	-47.0%	5,704	5,026	-11.9%
Alfred	1,102	1,093	-0.8%	129	306	137.2%	0	14	0.0%	1,231	1,413	14.8%
Biddeford	32	29	-9.4%	2,420	1,895	-21.7%	118	45	-61.9%	2,570	1,969	-23.4%
Springvale	13	14	7.7%	1,228	1,110	-9.6%	41	22	-46.3%	1,282	1,146	-10.6%
York	12	10	-16.7%	602	481	-20.1%	7	7	0.0%	621	498	-19.8%
TOTAL	7,315	7,469	2.1%	19,792	18,411	-7.0%	637	450	-29.4%	27,744	26,330	-5.1%

Columns

2022	Number of cases having at least one charge without a disposition, and without a currently active warrant as of May 19, 2022
2023	Number of cases having at least one charge without a disposition, and without a currently active warrant as of May 19, 2023
% Diff	Percent change in pending cases from 2022 to 2023. 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, May 2019 to May 2023

Pending cases as of May 19 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2019	2023	% Diff	2019	2023	% Diff	2019	2023	% Diff	2019	2023	% Diff
Androscoggin	368	673	82.9%	1,279	2,001	56.5%	20	8	-60.0%	1,667	2,682	60.9%
Aroostook	349	712	104.0%	641	1,051	64.0%	31	15	-51.6%	1,021	1,778	74.1%
Caribou	65	173	166.2%	140	219	56.4%	6	5	-16.7%	211	397	88.2%
Fort Kent	33	121	266.7%	108	198	83.3%	7	3	-57.1%	148	322	117.6%
Houlton	115	192	67.0%	141	269	90.8%	8	4	-50.0%	264	465	76.1%
Presque Isle	136	226	66.2%	252	365	44.8%	10	3	-70.0%	398	594	49.2%
Cumberland	831	1,243	49.6%	2,589	3,474	34.2%	131	62	-52.7%	3,551	4,779	34.6%
Bridgton	9	26	188.9%	203	286	40.9%	29	11	-62.1%	241	323	34.0%
Portland	804	1,195	48.6%	2,009	2,708	34.8%	81	37	-54.3%	2,894	3,940	36.1%
West Bath	18	22	22.2%	377	480	27.3%	21	14	-33.3%	416	516	24.0%
Franklin	86	140	62.8%	280	479	71.1%	13	19	46.2%	379	638	68.3%
Hancock	184	419	127.7%	482	644	33.6%	51	46	-9.8%	717	1,109	54.7%
Kennebec	305	615	101.6%	1,076	1,588	47.6%	53	24	-54.7%	1,434	2,227	55.3%
Augusta	295	581	96.9%	611	936	53.2%	28	13	-53.6%	934	1,530	63.8%
Waterville	10	34	240.0%	465	652	40.2%	25	11	-56.0%	500	697	39.4%
Knox	146	232	58.9%	279	542	94.3%	5	18	260.0%	430	792	84.2%
Lincoln	88	132	50.0%	204	347	70.1%	3	8	166.7%	295	487	65.1%
Oxford	201	457	127.4%	466	1,134	143.3%	16	29	81.3%	683	1,620	137.2%
Bridgton	21	44	109.5%	61	119	95.1%	3	2	-33.3%	85	165	94.1%
Rumford	87	166	90.8%	195	416	113.3%	5	15	200.0%	287	597	108.0%
South Paris	93	247	165.6%	210	599	185.2%	8	12	50.0%	311	858	175.9%
Penobscot	350	896	156.0%	1,118	1,713	53.2%	91	53	-41.8%	1,559	2,662	70.8%
Bangor	342	873	155.3%	857	1,327	54.8%	75	27	-64.0%	1,274	2,227	74.8%
Lincoln	6	5	-16.7%	85	189	122.4%	8	21	162.5%	99	215	117.2%
Newport	2	18	800.0%	176	197	11.9%	8	5	-37.5%	186	220	18.3%
Piscataquis	19	35	84.2%	61	121	98.4%	16	37	131.3%	96	193	101.0%
Sagadahoc	92	187	103.3%	248	474	91.1%	24	10	-58.3%	364	671	84.3%
Somerset	141	237	68.1%	455	443	-2.6%	17	8	-52.9%	613	688	12.2%
Waldo	94	162	72.3%	254	296	16.5%	5	6	20.0%	353	464	31.4%
Washington	120	183	52.5%	203	312	53.7%	44	19	-56.8%	367	514	40.1%
Calais	43	82	90.7%	102	141	38.2%	10	6	-40.0%	155	229	47.7%
Machias	77	101	31.2%	101	171	69.3%	34	13	-61.8%	212	285	34.4%
York	722	1,146	58.7%	2,491	3,792	52.2%	89	88	-1.1%	3,302	5,026	52.2%
Alfred	669	1,093	63.4%	92	306	232.6%	0	14	0.0%	761	1,413	85.7%
Biddeford	28	29	3.6%	1,170	1,895	62.0%	37	45	21.6%	1,235	1,969	59.4%
Springvale	16	14	-12.5%	757	1,110	46.6%	31	22	-29.0%	804	1,146	42.5%
York	9	10	11.1%	472	481	1.9%	21	7	-66.7%	502	498	-0.8%
TOTAL	4,096	7,469	82.3%	12,126	18,411	51.8%	609	450	-26.1%	16,831	26,330	56.4%

Columns

- 2019** Number of cases having at least one charge without a disposition, and without a currently active warrant as of May 19, 2019
- 2023** Number of cases having at least one charge without a disposition, and without a currently active warrant as of May 19, 2023
- % Diff** Percent change in pending cases from 2019 to 2023. 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.



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 • www.usccr.gov

May 10, 2023

Office of Justin Andrus, Esq.
Maine Commission on Indigent Legal Services
154 State House Station
Augusta, Maine 04333

Dear Justin Andrus, Esq.,

The U.S. Commission on Civil Rights is pleased to transmit to your offices our Maine Advisory Committee's [interim memo](#), *Indigent Legal Services for Criminal Defendants in Maine*. A full report is forthcoming.

The Commission maintains 56 Advisory Committees - one for each state, the District of Columbia, and the five U.S. Territories. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Maine Committee's focused attention on examining whether Maine's lack of a robust public criminal defender system impacts the civil rights of indigent criminal defendants.

The Commission requests that your office review the preliminary recommendation on page 2 in the [interim memo](#). In response to the recommendation contained therein, we advise that you take the steps necessary to protect civil rights in your jurisdiction.

The Commission appreciates your consideration, in the hope of ensuring civil rights protections. We look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mauro Morales".

Mauro Morales
Staff Director

Encl. Maine Advisory Committee Report, Indigent Legal Services for Criminal Defendants in Maine.



Indigent Legal Services for Criminal Defendants in Maine

March 2023

Maine Advisory Committee to the U.S. Commission on Civil Rights

The Maine Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) is examining whether Maine’s lack of a robust public criminal defender system impacts the civil rights of indigent criminal defendants. The Committee received testimony¹ on three occasions in 2022, from impacted individuals, advocates, academics, and government officials familiar with Maine’s system for providing public defense. The Committee is drafting its findings and recommendations based on these testimonies for the Commission’s attention.

The state cannot incarcerate a defendant for any period of time, without providing counsel: a defendant’s right to an attorney is found in the Sixth Amendment of the U.S. Constitution,² which guarantees the assistance of counsel for the accused facing actual incarceration. This means that a defendant facing incarceration has a constitutional right to be represented by an attorney, and if they cannot afford one, the state government must appoint legal counsel, at no cost to the defendant. The Supreme Court has held that the right to legal counsel guaranteed by the Sixth Amendment requires that the legal counsel is “effective” and must include “meaningful adversarial testing” of the prosecutor’s case.³ Maine’s own Constitution guarantees indigent persons the right to counsel when imprisonment will actually be imposed under *State v. Cook*.⁴

Recent articles⁵ highlight that the Maine Legislature is currently receiving proposals to fund Maine’s system of indigent legal service provision at levels far below what the Committee heard⁶ would be necessary for Maine to provide effective legal counsel and

¹https://securisync.intermedia.net/us2/s/folder?public_share=409J0xbKeI02vuMJBvQond0011ef58&id=L01FL0luZGlnZW50IFNlcnZpY2Vz.

² *Gideon v. Wainwright*, 372 U.S. 335, 344-345 (1963).

³ *U.S. v. Cronin*, 466 U.S. 648, 659-60 (1984).

⁴ *State v. Cook*, 706 A.2d 603, 605, 1998 ME 40, ¶ 6 (Me., 1998).

⁵ <https://www.pressherald.com/2023/01/17/new-funding-for-maines-legal-defense-system-for-the-poor-not-enough-to-solve-problem-commission-says/>, also found at <https://news.yahoo.com/funding-maines-legal-defense-system-045900395.html>; <https://www.themainemonitor.org/new-public-defenders-help-but-dont-fully-alleviate-courts-troubles-finding-enough-defense-lawyers/>.

⁶ Justin Andrus, Testimony, November 15, 2022, Briefing before the Maine Advisory Committee, pp. 16-18; Maloney Testimony, November 15, 2022, Briefing, p. 9; Tina Nadeau, October 20, 2022 Briefing before the Maine Advisory Committee, p. 6; Allen Testimony, October 20, 2022 Briefing, p. 9; Anderson Testimony, October 20,

meaningful defense against prosecution. Based on the evidence we received,⁷ we initially conclude that Governor Mills' 2023 budget proposal is far below the funding levels necessary for effective legal counsel and meaningful defense.⁸

Due to the time sensitive nature of addressing this concern while the Maine Legislature is considering funding proposals, the Committee wishes to issue a preliminary recommendation to the U.S. Commission on Civil Rights to forward this memo to the Maine Legislature's leadership, the Committee on Judiciary, the Committee on Appropriations and Financial Affairs, and the Legislative Budget Subcommittee; to Governor Mills; to the Chief Justice of the Maine Supreme Judicial Court; and to the Maine Commission on Indigent Legal Services. Our preliminary recommendation is as follows:

Provide funding at the minimum level recommended by the Maine Commission on Indigent Legal Services to ensure enough provision for effective legal services.

After the completion of the Committee's deliberations on this topic, the Committee's goal is to produce a comprehensive report identifying issues raised in the testimonies it heard and recommendations for addressing these issues.

This memo was adopted by a vote of 6 to 0 at a Committee meeting held February 9, 2023.

**Maine Advisory Committee to the
U.S. Commission on Civil Rights**

April 2020 to April 2024

Samantha Le, Chair, Bangor

Judith D. Jones, Camden

Diane A. Khiel, Vice Chair, Orono

Eric M. Mehnert, Lincoln

Mufalo Chitam, Old Orchard Beach

Nicole Rancourt, Minot

Gia Drew, Portland

Maine Advisory Committee to the

2022 Briefing, p. 17; Lisa Keim, December 15, 2022 Briefing before the Maine Advisory Committee, p. 4; Branch Testimony, December 15, 2022 Briefing, p. 6.

⁷ Ibid.

⁸ <https://www.maine.gov/governor/mills/news/governor-mills-unveils-biennial-budget-proposal-2023-01-11>.

94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES**Chapter 4: CASELOAD STANDARDS FOR ASSIGNED COUNSEL AND CONTRACT COUNSEL**

Summary: The purpose of this rule is to implement 4 M.R.S. § 1804(2)(C) by prescribing “[s]tandards for assigned counsel and contract counsel case loads” for attorneys accepting assignments to represent consumers of indigent legal services. The objective is to ensure that attorneys are not overscheduled or overworked and are able to provide effective, high quality, representation to each client.

SECTION 1. DEFINITIONS

- A. **Points:** the weight assigned to each case type.
- B. **Case type:** the type of matter to which the attorney is assigned.
- C. **Maximum case type:** represents the maximum number of cases of a particular case type that an attorney could carry at one time, if the attorney only accepted cases of that one type.
- D. **Average hours per case:** the anticipated average ~~amount~~ number of hours that would be spent on a case of a particular type.
- E. **Maximum active caseload limit:** the maximum total points across all case types that an attorney may carry on their caseload at any given time and remain qualified to be on a roster of attorneys eligible to receive assignments, based on the percentage of an attorney’s work hours which are dedicated to assigned cases.
- F. **Maximum annual hours limit:** the presumptive maximum number of hours that MCILS holds an attorney ~~may bill to MCILS~~ should work for consumers of indigent legal services over a rolling 12-month period, ~~based on~~ modified by the percentage of an attorney’s work hours which are dedicated to assigned cases.
 - i. The maximum annual hours limit is only used for purposes of applying the caseload limits. If an attorney’s vouchers exceed the maximum annual hours, the attorney will still be paid in accordance with Commission rules.

SECTION 2. CASE TYPE CALCULATION

- A. Criminal & Juvenile Cases:

- i. In each docket, the charge assigned the highest points—at the time of appointment—determines the case type.
- ii. Other offenses contained within a single charging instrument are not assigned a point value.
- iii. If an attorney represents a client on multiple dockets, each docket is considered ~~a new case type a separate case. Each case type is assigned cumulative points. That case is valued according to the charge with the highest point value. Each separate case is assigned cumulative points.~~
- iv. The point value assigned is applicable to each case from assignment through disposition of the matter. Post-conviction reviews and probation violations are considered new case types, regardless of whether the attorney represented the client in the original case.

B. Child Protective Cases:

- i. The point value assigned is applicable to the entire case, from assignment through final resolution of the matter at the district court level. Points are not assigned to each distinct phase (*e.g.*, jeopardy, termination of parental rights).
- ii. If a client has multiple pending PC docket numbers because the client has multiple children, only one docket number is assigned a point value at any one time.

C. Appeals to the Supreme Court of Maine:

- i. Appeals to the Supreme Court of Maine are considered new case types, regardless of whether the attorney represented the client in the trial court.

D. Lawyer of the Day:

- i. The point value associated with lawyer for the day duties is assigned per appearance.
 - 1. If counsel serves as lawyer of the day for a morning session that continues into the afternoon, that will be one appearance. If counsel serves as lawyer of the day for a morning session and then a subsequent afternoon session with a second appearance time and list, that will be two appearances.

E. Specialty Courts and Projects:

- i. The point value assigned to specialty courts only applies to the attorney who is the defense representative for that specialty court, or who performs an administrative function for MCILS with respect to that specialty court or

project, not to every attorney who has a client sentenced to the specialty court or otherwise engaged in a project.

- ii. The point value assigned to specialty courts and projects applies per court appearance, regardless of duration.
 1. Court appearance is defined by an instance in which the specialty court is in session, not by the number of participants who appear in court at a particular session.

SECTION 3. POINTS

A. MCILS has established the following point values for each respective case type:

Case Type:	Point Value:	Maximum Case Type:	Average Hours Per Case:
Class A Crime	4	67	29.6
Class B & C Person Crime	3	90	22.2
Class B & C Property Crime	2	135	14.8
Class D & E Crime	1	270	7.4
Probation Violation	1.25	216	9.25
Post-Conviction Review	6	45	44.4
Appeal	10	27	74
Juvenile	2	135	14.8
Lawyer of the Day (per appearance)	0.5	540	3.7
Protective Custody	5	54	37
Involuntary Commitment	1.25	270 216	9.25 7.4
Inv. Commit. Appeal to Superior Court	2	135	14.8
Emancipation	0.75	357	5.6
Probate	3	90	22.2
Specialty Courts (per appearance)	0.5	540	3.7
Pet. for Mod. of Release or Treatment	3	90	22.2
Petition for Release	3	90	22.2

~~B. MCILS will reevaluate and update the point values as appropriate.~~

SECTION 4. LIMITS

A. MCILS has established a maximum active caseload limit of 270 points, based on a presumptive maximum annual hours limit of 2,000. An attorney ~~may not maintain~~

~~whose~~ caseload ~~exceeding~~ exceeds 270 points at any one time ~~and remain on a roster(s) of attorneys eligible to receive assignments is ineligible to receive additional assignments to represent consumers of indigent legal services,~~ unless granted a waiver pursuant to Section 7 below.

~~B. For purposes of the maximum annual hours limit, the hours are calculated based on vouchers submitted for work performed within the preceding 12 months.~~

~~C.B.~~ C.B. The applicable maximum caseload and hours limits are reduced proportionately, based upon the percentage of the attorney’s work hours that are dedicated to MCILS cases. The following chart reflects this calculation, based on an active caseload limit of ~~270~~250 points and an annual limit of 2,000 billed hours:

% of Attorney’s Work Hours Spent on MCILS Cases:	Caseload Limit:	Hours Limit:
100%	270 <u>250</u>	2,000
75%	202 <u>188</u>	1500
50%	135 <u>125</u>	1000
25%	67 <u>63</u>	500
10%	27 <u>25</u>	200

~~D.C.~~ D.C. Case Closed:

- i. When a case is closed in the MCILS case management system ~~defenderData~~, the points assigned to that case are deducted from the attorney’s active caseload points total.

~~E.D.~~ E.D. Deferred Disposition:

- i. When the disposition of a case in ~~defenderData~~ the MCILS case management system is changed to reflect a deferment, the points assigned to that case are deducted from the attorney’s active caseload points total.

~~F.E.~~ F.E. Other events that toll cases:

- i. When a case enters a status that effectively tolls its progress, the points assigned to that case may be deducted from the attorney’s active caseload points total at the discretion of the Executive Director or designee. Events that ~~effectively~~effectively toll the progress of a case may include a filing; long-term continuance; client in absent-~~or~~for fugitive status; or, similar events.

SECTION 5. APPLICATION

A. Applicable Caseload Limit:

i. All attorneys accepting assignments to represent consumers of indigent legal services are required to annually certify to MCILS approximately what portion of their annual working hours are dedicated to assigned cases.

~~ii. All attorneys who are seeking, or will seek, assignments are required to submit their certification 30 days prior to the effective date of this rule.~~

ii. All attorneys who are eligible to accept case assignments on the effective date of this rule must submit their first certification not later than 30 calendar days after the effective date of this rule and by July 15th of that year and every year thereafter, as outlined below.

iii. Attorneys who apply to accept MCILS cases will be required to submit this certification prior to receiving ~~any additional~~ case assignments.

~~iii.~~iv. Attorneys who renew their eligibility to accept MCILS cases must, at the time of the submission of their renewal application, submit a new certification of approximately what portion of their annual working hours are dedicated to assigned cases. This certification must be submitted to MCILS no later than July 15th of each year.

~~iv.~~v. After a certification is submitted, the attorney's maximum active caseload limit will be set in the MCILS information management system.

~~v.~~vi. If an attorney's workload percentages change significantly prior to the annual certification, the attorney can request that MCILS adjust their maximum caseload and/or hours limits.

1. Attorneys will always have the ability to opt out of case types and courts to reduce the number of new assignments they receive.

~~vi.~~vii. This certification must be completed on the form provided by MCILS. ~~The form may be a webform. If so, the certification must be provided through that webform.~~

~~vii.~~viii. Failure to complete the certification as required will result in suspension from all rosters until the certification has been completed to the satisfaction of the Executive Director or their designee.

~~viii.~~ix. Suspected falsification of a certification will result in the initiation of an MCILS assessment and/or investigation.

B. Case Entry & Closing:

- i. Counsel are responsible for ensuring that all cases are opened in ~~Defender Data~~defenderData the MCILS case management system within 7 calendar days of the receipt of notice of assignment in any form, and that cases are closed in ~~Defender Data~~defenderData the MCILS case management system within 7 days of the completion of work in the file.

SECTION 6. EXCEPTIONS

- A. If an attorney has reached the active caseload and/or annual hours limit, the attorney may exceed those limits to accept new assigned cases for a client the attorney then presently represents. The points and hours associated with the new cases will be calculated and added to the attorney's total in accordance with this rule.

SECTION 7. WAIVER

- A. An attorney may apply for a temporary waiver of the active caseload limit ~~or the annual hours limit, but not both.~~
- B. A temporary waiver may be granted for a period of up to 6 months.
- C. Application must be made to the Executive Director or their designee in the manner designated by MCILS.
- D. Waivers are discretionary and will only be granted for good cause.
- E. In determining whether to grant a waiver, the Executive Director or their designee may consider some or all the following factors:
 - i. The attorney's representation about their current capacity to accept additional cases;
 - ii. The reason the waiver is being requested;
 - iii. The attorney's experience level;
 - iv. Whether the attorney has support staff;
 - v. Whether the attorney represents a client in multiple, related dockets which require less time to resolve;
 - vi. To the extent that data is available to MCILS, whether the attorney practices primarily in courts experiencing longer average times to resolution of cases than the 12 months indicated in Section 4(B) as the basis for calculating annual workload and caseload limits; and/or

- vii. Any other factors relevant to whether in the discretion of the Executive Director or designee the waiver should be granted.
-

STATUTORY AUTHORITY:

4 M.R.S. §§ 1804(2)(C), (2)(GA) and (4)(D)

EFFECTIVE DATE:

Maine Commission on Indigent Legal Services

Response to Public Comments

Proposed Rule: Chapter 4- Caseload Standards for Assigned Counsel and Contract Counsel

Comment #1:

The proposed standards are insufficiently granular because they are organized around overbroad categories of cases.

- a. There are many different types of offenses which fall into the categories of cases set forth in the proposed rule. Those offenses require varying amounts of time to provide constitutionally adequate counsel.**
- b. MCILS should undertake a Delphi process.**

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

There are hundreds of criminal offenses in the Maine Criminal Code. It would not be feasible to set caseload standards for each offense. Even within narrow categories of offenses (*e.g.*, OUIs), the amount of time it takes to provide constitutionally adequate counsel varies based on many factors. Those factors—among others—can include: the nature of the allegations, the volume and type of discovery, the jurisdiction, geography, the number of witnesses, and client-specific factors. In arriving at these proposed standards, one of the steps MCILS staff undertook was to calculate averages of voucher submissions for the various case types. Those averages take into consideration all the various factors which can affect the appropriate amount of time which should be spent on a given case. Undertaking a Delphi process in Maine would be less effective than in other states due to attributes that are unique to Maine. Excepting the five employed defenders in the Rural Defender Unit, Maine relies entirely on contract counsel. Those contract counsel have varying levels of experience, staff, and portion of their caseloads that are dedicated to case types that fall within the purview of MCILS.

Comment #2:

Caseload standards must not be tailored to the needs of police and prosecutors.

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

In imposing caseload standards, the Commission's primary objective is to ensure that all clients receive high quality representation from attorneys who have the time to dedicate to their cases. The needs of police and prosecutors are not a consideration involved in the proposed standards.

Comment #3:

MCILS should reevaluate the number of hours it expects criminal defense attorneys to work.

- a. **“Attorney attrition has plagued MCILS for the past three years, and MCILS’s proposed caseload standards will only make this worse: 2,000 annual billable hours is unsustainable for attorneys who are doing some of the most intellectually challenging, emotionally draining work.”**
- b. **“Those hours [2,000 annual hours] do not include time spent on study or training...”**

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

The caseload standard was drafted and revised based on feedback from practicing contract counsel. The 2,000 annual hours limit is a maximum, not a minimum, or an expectation. The proposed annual hours limit includes all training hours which are eligible for payment by the Commission.

Comment #4:

MCILS should not attempt to adopt an “open” caseload standard; it should instead adopt an annual caseload standard.

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

The proposed rule includes both an open standard (*i.e.*, the maximum active caseload limit) and an annual standard (*i.e.*, the maximum annual hours limit).

Comment #5:

When developing standards, MCILS should afford due consideration to attorneys’ ancillary obligations that may contribute to their workload.

Bonnie Hoffman, Director of Public Defense, National Association of Criminal Defense Lawyers

MCILS Response:

Case-related tasks are reimbursable in accordance with Commission Rules. Attending eligible trainings is reimbursable in accordance with Commission policy and is, therefore, included in the proposed annual hours limit. The proposed standards contemplate time to complete nonbillable tasks. Additionally, the proposed standards set forth maximums—not minimums—by which attorneys will be required to abide if the standards are adopted. Attorneys are encouraged to manage their caseloads in a way that appropriately accounts for their ancillary obligations.

Comment # 6:

7.4 hours for civil commitment cases and 22 hours for probate cases is too low.

Beth Berry

MCILS Response:

The estimated hours for each case type are not themselves caseload standards pursuant to this proposal. The hours were used as a basis upon which the point values were calculated. Based on the analysis Commission staff undertook in drafting the standards and feedback from interested parties, it is the Commission's position that the proposed point values are appropriate. The standard does not limit attorneys to spending any number of hours on a given case. Attorneys should spend as much time on each case as is required to provide the highest quality representation.

Comment #7:

MCILS does not need to establish caseload standards. Attorneys' ethical obligations pursuant to the Rules of Professional Responsibility are sufficient. Imposing caseload standards will result in cases going from very capable attorneys to no one.

Seth Berner, Esq.

MCILS Response:

4 M.R.S. § 1804(2)(C) unequivocally requires that the Commission develop caseload standards.

Comment 8:

How do the proposed standards affect current caseloads?

James Howaniec, Esq.

MCILS Response:

The proposed standards do not have retroactive applicability.

Comment 9:

The current crisis with attorney availability may have subconsciously seeped into the development of these standards. The standards, though flawed, need to be adopted and implemented.

Robert Ruffner, Esq.

MCILS Response:

The proposed caseload standards are based on what the Commission believes are appropriate. Attorney availability was not a factor in drafting the standards.

Comment 10:

The proposed point system is overly simplistic and does not account for factors unique to individual cases, or the experience and skill of assigned counsel.

Robert C. LeBrasseur, Esq.

MCILS Response:

Any caseload standard must involve averages to some extent; it is impossible to set caseload standards based on each individual case and attorney. The proposed standards are based, in part, on the average time attorneys with varying experience levels spend on cases of varying complexity. The proposed standards set a maximum, not a minimum. Attorneys are encouraged to self-manage their caseloads accordingly. Additionally, the proposed rule contains a process through which counsel may apply for a waiver. One of the factors to be considered in determining whether a waiver would be granted is an attorney's experience level.

Comment 11:

The proposal does not detail how the active caseload will be determined. Requiring assigned counsel to track their assigned points and limits imposes a non-income generating requirement and micromanagement of assigned counsel.

Robert C. LeBrasseur, Esq.

MCILS Response:

The proposal does detail how the active caseload will be determined. Section 2 of the proposed rule explains how the points are assigned. Various sections of the proposed rule explain how points will be added and removed by the Commission's case management system. *See e.g.*, Section 4 (C): "When a case is closed in the MCILS case management system, the points assigned to that case are deducted from the attorney's active caseload points total." *See also* Section 4(D): "When the disposition of a case in the MCILS case management system is changed to reflect a deferment, the points assigned to that case are deducted from the attorney's active caseload points total."

The points will be calculated automatically by the case management system as long as counsel maintain basic, accurate records in the MCILS case management system, which they are already expected to do. If at some point the Judicial Branch agrees to allow MEJIS to interface with the Commission's case management system, that would significantly reduce the administrative work attendant to opening, updating, and closing cases.

Comment 12:

The current checks available to MCILS and reliance on attorneys to be professional and uphold their oath are sufficient to meet the goals of this proposal.

Robert C. LeBrasseur, Esq.

MCILS Response:

The Commission is statutorily mandated to develop caseload standards. *See* 4 M.R.S. § 1804(2)(C).

Detailed Basis Statement for Chapter 4

The Commission is charged with providing "...high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations." 4 M.R.S. § 1801. MCILS is statutorily obligated to develop standards for the caseloads of assigned and contract counsel. 4 M.R.S. § 1804(2)(C). The right to effective counsel is protected by the United States Constitution and the Constitution of Maine. For counsel to provide high-quality, effective representation, their caseloads must be at a level that allows them to dedicate sufficient time and resources to every case. Chapter 4 is promulgated to ensure that the Commission fulfills its statutory and constitutional obligations by setting maximum caseload standards to ensure the delivery of high-quality representation to indigent persons.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES 2023-2024 REGULATORY AGENDA

AGENCY UMBRELLA-UNIT NUMBER: **94-649**

AGENCY NAME: **Maine Commission on Indigent Legal Services**

Contact Person: James Billings, Executive Director, 154 State House Station, Augusta, Maine 04333-0154. Telephone: (207) 287-3254; jim.billings@maine.gov

EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA:

Chapter 301

EXPECTED 2023-2024 RULE-MAKING ACTIVITY:

CHAPTER 1: Commission Relationship with Assigned and Contract Counsel

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

PURPOSE: To promote the availability and quality of service of rostered counsel and increase Commission oversight by amending the legal relationship of counsel with the Commission to allow the Commission to properly discharge its statutory obligations.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

AMENDMENT - CHAPTER 2: Standards for Qualifications of Assigned Counsel

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

PURPOSE: To provide the Commission with a basis for determining which attorneys are qualified to be assigned to represent indigent people.

ANTICIPATED SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and licensed attorneys who apply to become eligible to receive assignments in indigent cases.

AMENDMENT - CHAPTER 3: Eligibility Requirements for Specialized Case Types

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

PURPOSE: To provide the Commission with a basis for determining which attorneys are qualified to be assigned to represent indigent people in specialized case types.

ANTICIPATED SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and licensed attorneys who apply to become eligible to receive assignments in specialized case types.

CHAPTER 4: Caseload Standards for Assigned Counsel and Contract Counsel

STATUTORY AUTHORITY: 4 M.R.S.A. §§ 1804(2)(C), (2)(G), and (4)(D)

PURPOSE: To establish caseload standards for assigned and contract counsel and a method for tracking and monitoring caseloads on an ongoing basis.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 4A: Caseload Burden Rate Sheet

STATUTORY AUTHORITY: 4 M.R.S.A. §§1804(2)(C), (2)(G), and (4)(D)

PURPOSE: To establish a caseload burden data set that applies to the Chapter 4 caseload standards that can be updated as needed.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 5: Standards Evaluation of Assigned Counsel and Contract Counsel

STATUTORY AUTHORITY: §§ 1804(2)(D) and (4)(D)

PURPOSE: To establish standards and procedures for evaluating assigned and contract counsel.

ANTICIPATED SCHEDULE: Prior to October 1, 2024.

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 6: Standards and Procedures for Conflicts

STATUTORY AUTHORITY: §§ 1804(2)(E) and (4)(D)

PURPOSE: To establish procedures and standards for the representation of clients whose cases present conflicts of interest.

ANTICIPATED SCHEDULE: Prior to October 1, 2024.

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 7: Audit Procedures for the Review of Counsel Vouchers and Non-Counsel Vendor Invoices

STATUTORY AUTHORITY: §§ 1804(3)(O) and (4)(D)

PURPOSE: To establish procedures for implementation of the audit management program to review the billing of assigned counsel and non-counsel vendor invoices.

ANTICIPATED SCHEDULE: Prior to October 1, 2024.

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases, attorneys who represent indigent people under contract with the Commission, and non-counsel vendors who provide necessary services in indigent cases.

AMENDMENT - CHAPTER 101: Juvenile Practice Standards

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

PURPOSE: To amend performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in juvenile cases.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

AMENDMENT - CHAPTER 102: Adult Criminal Practice Standards

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

PURPOSE: To amend performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in criminal cases.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

AMENDMENT - CHAPTER 103: Child Protective Practice Standards

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

PURPOSE: To amend performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in child protective cases.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 104: Involuntary Commitment Practice Standards

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

PURPOSE: To establish performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in involuntary commitment cases.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 105: Appellate Practice Standards

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

PURPOSE: To establish performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in appellate cases.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 106: Post-Conviction Practice Standards

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

PURPOSE: To establish performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in post-conviction review cases.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 107: Lawyer of the Day Practice Standards

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

PURPOSE: To establish performance standards for rostered attorneys and to provide the Commission with a basis for evaluating rostered attorneys to ensure an adequate representation in adult and juvenile lawyer of the day appearances.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

AMENDMENT – CHAPTER 201: Appeals of Decisions of the Executive Director

STATUTORY AUTHORITY: 4 M.R.S.A. §§ 1804(3)(J) and (4)(D)

PURPOSE: To amend the administrative review and appeal process for attorneys who are aggrieved by a decision of the Executive Director or the Executive Director’s designee.

ANTICIPATION SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases, attorneys who represent indigent people under contract with the Commission, and licensed attorneys who apply to become eligible to receive assignments in indigent cases.

AMENDMENT - CHAPTER 301: Fee Schedule and Administrative Procedures for Payment of Court or Commission Assigned Counsel

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

PURPOSE: To amend established standards for compensation of counsel and the reimbursement of counsel expenses for rostered attorneys.

ANTICIPATED SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 301-A: Payment for Attending and Reimbursement of Expenses Incidental to Attending Trainings

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

PURPOSE: To establish eligibility for payment to private court and/or Commission assigned counsel for attending and reimbursement of expenses incidental to attending trainings, and to set forth administrative procedures for payment and reimbursement of eligible training expenses.

ANTICIPATED SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

AMENDMENT - CHAPTER 302: Procedures Regarding Funds for Experts and Investigators

STATUTORY AUTHORITY: 4 M.R.S.A. §§ 1804(3)(L) and 4(D)

PURPOSE: To amend how requests for funds for non-counsel services must be filed with the Commission.

ANTICIPATED SCHEDULE: Prior to October 1, 2024

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

CHAPTER 303: Reimbursement for the Cost of Legal Research Materials

STATUTORY AUTHORITY: §§ 1804(2)(G) and (4)(D)

PURPOSE: To establish procedures for the reimbursement for necessary legal research materials for assigned or contract counsel.

ANTICIPATED SCHEDULE: Prior to October 1, 2024.

AFFECTED PARTIES: Attorneys rostered by the Commission to receive assignments in indigent cases and attorneys who represent indigent people under contract with the Commission.

AMENDMENT - CHAPTER 401: Indigency Guidelines

STATUTORY AUTHORITY: 4 M.R.S.A. §§ 1804(2)(A) and (4)(D)

PURPOSE: To amend established standards for determination of eligibility for indigent legal services.

ANTICIPATED SCHEDULE: Prior to October 1, 2024.

AFFECTED PARTIES: Indigent people who may be entitled to representation a state expenses under the United States Constitution or the Constitution or Laws of Maine.

MEMORANDUM: Complexity of Current Rostering Requirements

May 23, 2023

To: Maine Commission on Indigent Legal Services
From: Donald G. Alexander

DGA

Re: *Concerns about the complexity of rostering and anticipated MCILS supervision:*

MCILS presently has 16 different roster categories on which attorneys must qualify to accept MCILS case assignments. These roster categories were originally created when MCILS was began operations in 2010 and 2011. They have remained largely unchanged since that time, though, in the past decade, there have been major changes in criminal rules and case processing practices.

Because of the complexity of the original rostering requirements, some excellent attorneys, very experienced with criminal practice and trials, elected not to join the rosters, though they continued to represent privately retained clients, and, sometimes, accepted assignment of MCILS cases when requested by judges. After adoption, the complexity of the rostering requirements and very limited MCILS staff resulted in the rostering requirements being largely ignored in the case assignment process – a process then largely done at the individual courts by judges or court clerks who relied on their knowledge of each attorney’s perceived skill and experience to decide which cases to assign to that attorney. Often this process resulted in attorneys being assigned to cases less complex than the types of cases they were rostered to accept because they were the only, or one of the few, attorneys available to take a case at that particular court at that particular time.

Rostering requirements started to be more rigorously applied beginning about three years ago as MCILS was itself reformed to assure more review and accountability of the program it manages. MCILS has taken on more direct responsibility for assigning some attorneys to cases, and it began reviewing attorneys who, though competent, had been assigned to types of cases they were not rostered to take.

Some attorneys believe MCILS has become more rigorous in removing from cases attorneys who, though competent and qualified, were assigned to

cases for which they were not rostered. Presently, MCILS is attempting to address these concerns, working to qualify attorneys for rosters after case assignments. In addition, 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 or not renew their registration 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 may withdraw from MCILS work in anticipation of the proposed attorney supervision practices.

Suggestions for Improvement: The current complex rostering requirements should be simplified to no more than 6 separate rosters for trial court and related appellate work:

- A. child protective,
- B. juvenile,
- C. homicide,
- D. violence and drug felonies,
- E. property felonies, misdemeanor crimes of violence and OUIs ("crimes of violence" include all sex crimes), and
- F. "other" crimes (Title 17-A misdemeanors, Title 12 and Title 29-A non-violent crimes, and other non-violent crimes in the statutes).

Minimum eligibility requirements should be developed for each roster category. The MCILS roster qualification and attorney supervision requirements must 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 gained valuable experience in the past was by taking cases in the proposed E & F categories above 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.

Proposed training expectations and standards and a revised, simplified rostering plan are addressed below.

Simplifying Rostering Requirements and Categories. Newly admitted attorneys – and any other qualified attorneys – should be allowed to qualify for E & F criminal cases or A child protective cases if they (a) did litigation related clinical work or externships in law school or in-court litigation work 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. The annual training programs, at least for A, E, and F cases, might be recorded so that attorneys seeking to qualify to take such MCILS cases at other times of the year can have the benefit of the training programs.

Mentoring Assistance. In addition, to qualify for rostering for and assignment of A (child protective cases) and E (property felonies, violent misdemeanors, OUI) an attorney without at least two years prior litigation experience would be required to have a designated mentor, with experience in the relevant case type, to assist and advise the new attorney for the first five cases assigned to that attorney. A designated mentor would be recommended and compensated, but not required, for new attorneys accepting category F case assignments. Alternatively, a new attorney accepting an assignment and associated with a firm could accept the assignment as co-counsel with another experienced attorney in the firm – a practice quite common in the past when new attorneys from firms were urged to gain experience by taking court appointed cases with oversight by another attorney at the firm.

Also relative to mentoring, the current prior jury trial experience prerequisites are difficult or impossible to meet today. Except for homicides, the prior jury trial experience prerequisites should be eliminated. Prior to the pandemic, except for homicides, less than 1 % of criminal cases went to a jury trial. If a jury trial is in prospect late in a proceeding, and an assigned attorney for any category of cases has little or no jury trial experience, another attorney with jury trial experience should join the representation as a mentor or co-counsel.

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 MCILS

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 could be a mentor or a trainer, even if not a rostered attorney.

Specific Rosters. Once an attorney demonstrates qualification for a roster, the attorney would not need to qualify again as long as the attorney maintains an active criminal practice or child protective practice, as appropriate.

Recognition of Attorney Education, Law School Practical Experience, and Available Resource Materials: In considering attorney qualifications to take MCILS cases, MCILS should assume that attorneys recently graduating from law school, passing the bar exam, and being admitted to the bar: 1) took and passed courses on constitutional law, criminal law and practice, civil procedure, and evidence; 2) drafted at least one appeal type brief and engaged in other legal research and writing exercises; and 3) took and passed a trial practice course, and/or engaged in a clinical program, or an externship, that provided experience in courtroom practice and advocacy before the court or another adjudicatory forum. The occasional applicant seeking assignment to MCILS cases right out of law school who does not meet any one of these law school experience assumptions would be required to engage in a prescribed training program to make up for the missing law school experience requirement.

MCILS should also assume, and attorneys seeking to take MCILS cases might be asked to acknowledge, that attorneys are aware of and have access to – directly or through a law library or online – the relatively current Maine litigation practice books including rules, advisory notes, and commentary, on 1) civil rules and practice, 2) criminal rules and practice, 3) appellate rules and practice, 4) jury trial practice, and 5) evidence. (The evidence book, Field & Murray, *Maine Evidence* (6th ed. 2007), is dated, but can be supplemented by review of the 2015 Order restyling the Maine Rules of Evidence with advisory notes and the later amendments to the Rules of Evidence that appear on the Maine Judicial Branch website.) Other practice books, legal publications, or law review articles specifically addressing Maine court practice are available to provide the necessary practice and research guidance for counsel. An extensive list of Maine practice books and other research materials for all aspects of law practice is available through the “Maine Practice Materials Guide” hyperlink on the Cleaves Law Library website.

Annual Training for New Attorneys and All Attorneys: 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 child protective 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 available early diversion programs; preparation for and participation in early resolution discussions; 3. Pretrial practice, suppression motions, dispositive motions, limitation of issues; 4. Approaches to plea and sentencing preparation and discussions (i) with the client; (ii) with the prosecutor; 5. Practice points for jury or nonjury trials; 6. New developments in law and practice since the last training program.

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. Working with other professionals in the community (social workers, health professionals, educators, GALs etc.) to support the parent and the child or children; 4. Preliminary proceedings, jeopardy hearings, role of GALs, placement of child – relatives or foster parents, family reunification efforts; 5. Termination of parental rights proceedings, practice for such hearings; 6. New developments in law and practice since the last training program.

The training should be conducted primarily by attorneys or judges with extensive experience in criminal law and practice or child protective law and practice. Most CLE or training programs conducted by the Board of Overseers, MTLA, MSBA, and other CLE providers in Maine are presented by attorneys very experienced in the area in which the CLE is offered. Most of the Maine attorneys make these presentations without cost to the organization; they do get annual CLE credit for their presentations.

Chapter 2: STANDARDS FOR QUALIFICATIONS OF ASSIGNED COUNSEL

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

SECTION 1. Definitions.

1. MCILS or Commission. "MCILS" or "Commission" means the Commissioners of the Maine Commission on Indigent Legal Services.
2. Executive Director. "Executive Director" means the Executive Director of MCILS or the Executive Director's decision-making designee.
3. Assignments. "Assignments" includes cases assignments made by a court or the Commission, and lawyer of the day, specialty court liaison, and resource counsel assignments by the Commission.
4. Eligible. "Eligible" means an attorney who satisfies all the qualifications to receive assignments or a certain type, has applied and been approved by the Commission to receive assignments, is current on their MCILS annual renewal, and is not under suspension by the Commission.

SECTION 2. Application.

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

SECTION 3. Applicability.

1. Counsel who are eligible to receive assignments at the time this Chapter is amended shall maintain their status on rosters for the first year after the enactment of the amendment. Whenever the qualification standards are amended, the Executive Director shall create an application for all then-currently eligible counsel to complete to demonstrate they meet all new eligibility requirements. After the first year following the enactment of amended rules and standards, eligible counsel must comply with all eligibility requirements of this Chapter as a condition of remaining eligible.
2. An attorney who is eligible for one or more case types prior to the amendment of this Chapter will not be deemed eligible for additional case types until they comply with the amended Chapter.

3. Any attorney not previously eligible to receive assignments from the Commission when this Chapter is amended must comply with the requirements of this Chapter and all other MCILS rules to become eligible.

SECTION 24. Minimum ~~Experience, Training And Other~~ Eligibility Requirements.

Any attorney wishing to ~~accept~~receive ~~case~~-assignments ~~from the Commission, or~~ serve as contract counsel ~~or otherwise be approved by the Commission to accept assignments~~ must satisfy ~~at a minimum~~ the following conditions. :

1. 1. Application

- a. Complete an application in the manner prescribed by the Commission through its Executive Director. The Executive Director will not act on an application until it is complete. No attorney will receive an assignment until that attorney completes an application and is placed on the applicable roster of attorneys eligible to receive assignments of that type.

2. Licensed to Practice

- a. a)—The attorney must be licensed to practice law in the State of Maine and be in good standing with the Maine Board of Overseers of the Bar.
- b. b)—The attorney must ~~promptly~~ inform the Commission, in writing, of any complaint against the attorney filed with the Maine Board of Overseers of the Bar, or any entity charged with governing the conduct of attorneys in any other jurisdiction that has been set for a grievance panel hearing or hearing before a single justice of the Supreme Judicial Court. The attorney must so inform the Commission within 5 days of receiving actual or constructive notice of such complaint. Failure to comply with this requirement is grounds for removal from the roster.
- c. The attorney must inform the Commission, in writing, of any suspension of the attorney's privilege to practice law in any jurisdiction within 24 hours of receiving actual or constructive notice of the suspension. Failure to comply with this requirement is grounds for removal from the roster.
- d. e) The attorney must inform the Commission, in writing, within 5 days of any criminal charge filed against the attorney in any jurisdiction and promptly inform the Commission of any disposition of such charge. Failure to comply with this requirement is grounds for removal from the roster.

4. Proficiency

- a. The attorney must be knowledgeable of the Maine Rules of Evidence.
- b. The attorney must be knowledgeable of the rules of procedure applicable to the area(s) of law they practice.
- c. The attorney must be knowledgeable of the applicable law in their area(s) of practice.
- d. The attorney must be knowledgeable of the Maine Rules of Professional Responsibility.
- e. The attorney must only represent clients in assigned cases for which they are eligible. If an attorney is assigned to a case for which they are not eligible, the attorney must—within three business days of receiving actual or constructive notice of the appointment—submit a complete application for the applicable case type, file a motion for appointment of co-counsel, or file a motion to withdraw from the case. If the attorney elects to withdraw from the case, the attorney is still professionally responsible for the case until successor counsel is appointed, pursuant to 44B of the Maine Rules of Unified Criminal Procedure.

5. Training

- a. Before being placed on a roster and receiving assignments, an attorney must satisfactorily complete a designated Commission-sponsored or Commission-approved training course in each area of the law for which the attorney is seeking to receive assignments. This includes but is not limited to the following areas of law: criminal defense, lawyer of the day, juvenile defense, civil commitment, child protective, not criminally responsible release hearings, guardianship, and emancipation.
- b. The attorney shall meet any specific training requirements of any specialized panels.
- c. To maintain their roster status, an attorney must annually complete 8 hours of continuing legal education (CLE) approved by the Commission. All the CLE hours must be related to the area(s) of law that the attorney practices.

6. Technological Literacy

- a. The attorney must personally have the ability to do the following:
 - i. Open, read, reply to, forward, save, and print emails. Attach files to and download attachments from emails.
 - ii. Electronically sign documents.
 - iii. Scan, attach, and upload or email documents.
 - iv. Use ShareFile and other systems used by courts for the purpose of e-filing or sharing information with attorneys.

- v. View, download, save, copy, and disseminate in a confidential manner all discovery received in electronic form.
- vi. Opt in and out of rosters using the Commission's electronic case management system.

7. Annual Renewal.

- a. The attorney must register with the Commission annually in a manner prescribed by the Commission.
- b. The annual renewal form will require the attorney to provide certain information, including but not limited to:
 - i. The attorney's contact information.
 - ii. A list of the qualifying CLE credits the attorney has completed for the relevant period.
 - iii. Any other information deemed appropriate by the Executive Director.
- c. The annual renewal form may also require the attorney to make certifications, including but not limited to:
 - i. That the attorney has read, understands, and agrees to abide by all Commission rules and policies.
 - ii. That the attorney is licensed to practice law in Maine.
 - iii. A statement about what percentage of the attorney's work hours is spent on assigned cases.
 - iv. That the attorney has not been charged with a criminal offense which they have failed to disclose to the Commission.
 - v. That the attorney has not been the subject of any Board of Bar Overseers complaints which they have failed to disclose to the Commission.
 - vi. That all information submitted and certifications made on the annual renewal form are complete and accurate.
 - vii. Any certification designed to assess compliance with Commission rules or policies.
 - viii. Any other certifications deemed appropriate by the Executive Director.
- d. Any attorney who fails to successfully and timely complete the annual renewal will be removed from all rosters and deemed ineligible to receive assignments. The attorney may be restored to the roster and deemed eligible to receive assignments upon successful completion of the annual renewal if they are in compliance with all Commission rules.

i. _____

8. Office, Telephone, and Electronic Mail.

- a. The attorney must maintain an office or have the use of space that is reasonably accessible to clients and that permits the private discussion of confidential and other sensitive matters.
- b. The attorney must maintain a telephone number, which shall be staffed by personnel available for answering telephone calls or an answering service, an answering machine or voicemail capability that ensures client confidentiality.
- c. The attorney must maintain a confidential working e-mail account as a means of receiving information from and providing information to the Commission. The e-mail address must not be owned or accessible by any person or entity other than the attorney or the entity they own or are employed by.
- d. The attorney must keep the Commission and the courts in which the attorney represents indigent clients apprised of the attorney's work telephone number and postal and e-mail addresses. The attorney must ensure that the court has the ability to contact the attorney by e-mail, mail, telephone.

9. Attorney Cooperation with Procedures and Monitoring

- a. The attorney must comply with all applicable Commission rules and procedures.
- b. The attorney must comply with Commission monitoring and performance evaluations.
- c. The attorney must also comply with any Commission investigation of complaints, billing discrepancies, or other information. Except as pertains to indigent cases assigned to the attorney, the Executive Director cannot require an attorney to disclose information that is privileged or made confidential by statute, by court rule or by court order.

~~2. Attorney Cooperation with Procedures and Monitoring~~

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

SECTION 3. _____ Office, Telephone, and Electronic Mail

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

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

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

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

SECTION 4. Experience and Proficiency

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

~~1. *[Repealed]*~~

~~2. Any attorney not previously having been accepted to receive assignments from the Commission must satisfactorily complete a Commission-sponsored or Commission-approved training course for the area of the law for which the attorney is seeking to receive assignments, including but not limited to, criminal defense, juvenile defense, civil commitment, child protective, or emancipation prior to being placed on the roster and receiving assignments; or~~

~~3. An attorney may be accepted for placement on the roster and receive assignments from the Commission without completing a Commission-sponsored or Commission-approved training course as provided above if the attorney demonstrates to the Commission a commitment to and proficiency in the practice of the area of law for which the Attorney is willing to accept assignments over the course of at least the three years prior to receiving assignments from the Commission.~~

SECTION 5. Training

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

~~The attorney shall meet any specific training requirements of any specialized panels.~~

SECTION 5. Eligibility.

1. Cause.

- a. The Executive Director may determine that an attorney is not eligible to receive assignments or to be added to one or more rosters if:
 - i. The attorney fails to satisfy any requirement of any Commission rule.
 - ii. The attorney has a prior criminal record which the Executive Director determines could affect the attorney's ability to provide high quality legal services.
 - iii. The attorney has a prior bar disciplinary history which the Executive Director determines could affect the attorney's ability to provide high quality legal services.
 - iv. The Executive Director concludes that the attorney is unfit to provide high quality indigent legal services.
 - b. Process. If the Executive Director determines that an attorney is not eligible to receive assignments or to be added to one or more rosters pursuant to Section 5(1)(a) of this Chapter:
 - i. The Executive Director's decision shall be in writing and shall reflect the Executive Director's reasoning in a manner sufficient to inform the attorney and the public of the basis for the Executive Director's action.
 - ii. The Executive Director's decision that an attorney does not satisfy the minimum eligibility requirements to receive assignments may be appealed to the full Commission pursuant to 4 M.R.S.A. §1804(3)(J) and Chapter 201 of the Commission rules.
2. Automatic Ineligibility.
- a. If an attorney exceeds the maximum caseload standard, as set forth by Chapter 4 of the Commission rules and has not been granted a waiver pursuant to Chapter 4, they will become ineligible to receive new case assignments.
 - b. Any attorney who voluntarily accepts a new case after having been deemed ineligible pursuant to subsection 2(a), above, will not be paid by the Commission for any time spent on the case.
 - c. Any attorney who is assigned a case by a court without the attorney's consent after the attorney has been deemed ineligible pursuant to subsection 2(a), above, must immediately file a motion to withdraw from the case and notify the Commission of the improper assignment. The attorney will only be paid for time spent withdrawing from the case, any work performed on the case pending a court's ruling on the motion to withdraw, and the time spent communicating with the Commission about the improper assignment. If the attorney fails to file a motion to withdraw immediately after receiving notice of the assignment, the attorney will not be paid by the Commission for any time spent on the case.

a. _____

SECTION 6. Removal or Suspension from the Roster.

1. Cause. The Executive Director may remove indefinitely or suspend an attorney from the roster completely or from the roster for certain case types and court locations ~~for:~~
 - a. ~~For~~ any failure to comply with this or any other Commission rule.
 - b. ~~In addition, the Executive Director may remove indefinitely or suspend an attorney from the roster completely or from the roster for certain case types and court locations if~~ If the Executive Director determines that the attorney is no longer ~~qualified~~eligible to provide quality indigent legal services based on the nature of any criminal charge.
 - c. ~~If the Executive Director determines that the attorney is no longer eligible to provide quality indigent legal services based~~ ~~or~~ on investigation by the Executive Director ~~or the Executive Director's designee~~ of any complaint or other information.
2. Process.
 - a. The Executive Director's decision to remove or suspend an attorney from the roster shall be in writing and shall reflect the Executive Director's reasoning in a manner sufficient to inform the attorney and the public of the basis for the Executive Director's action.
 - b. Attorneys removed indefinitely must re-apply to the Commission if they wish to receive assignments in the future. Attorneys suspended from the roster need not re-apply; but must demonstrate compliance with any conditions made part of a suspension.
 - c. Removal or suspension may also include a requirement that the attorney immediately identify to the Commission all open assigned cases and immediately file a motion to withdraw in each case. If an attorney is directed to immediately withdraw from all their assigned cases and fails to do so, the attorney will not be entitled to payment from the Commission for work done on any of the cases after the point at which the attorney was directed to withdraw.
 - d. The Executive Director's decision to remove or suspend an attorney may be appealed to the full Commission pursuant to 4 M.R.S.A. §1804(3)(J) and ~~Commission rule 94-649~~ Chapter 201 of the Commission rules.

STATUTORY AUTHORITY: 4 M.R.S.A. §1804(2)(B)

EFFECTIVE DATE:

June 25, 2010 – filing 2010-214 (Final adoption, major substantive)

AMENDED:

September 17, 2015 – filing 2015-152 (Final adoption, major substantive)

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**Chapter 3: ELIGIBILITY REQUIREMENTS FOR ~~SPECIALIZED—CASE~~
TYPES SPECIALIZED PANELS**

Summary: Chapter 2 of the Commission’s Rules sets out the minimum eligibility requirements to be rostered to accept appointments from the Maine Commission on Indigent Legal Services (“MCILS”). The ~~Rules—rules~~ in this Chapter are promulgated to establish the eligibility requirements ~~to be rostered on specialty panels for specific~~ for Specialized Panels, Lawyer of the Day assignments, and Resource Counsel. types of cases.

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

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.

1.2. ~~Contested Hearing.~~ “Contested Hearing” means a hearing at which a contested issue is submitted to the court for resolution after evidence is taken or witnesses are presented.

2.3. ~~Domestic Violence.~~ “Domestic Violence” means:

- A. Offenses denominated as Domestic Violence under 17-A M.R.S.A. §§ 207-A, 208-D, 209-A, 210-B, 210-C, and 211-A.
- B. Any ~~class D or E~~ offense alleged to have been committed against a family or household member or dating partner.
- C. ~~The class D~~ Any offense of stalking under 17-A M.R.S.A. § 210-A.
- D. Violation of a ~~protection~~ protective order under 17-A M.R.S.A. § 506-B.
- E. “Domestic Violence” includes crimes involving substantially similar conduct ~~in~~ another jurisdiction.

F. “Domestic Violence” also includes Criminal Conspiracy under 17-A M.R.S.A. § 151, Criminal Attempt under 17-A M.R.S.A. § 152, and Criminal Solicitation under 17-A M.R.S.A. § 153 to commit any of the offenses listed above, or to commit any crime involving substantially similar conduct.

3.4. Serious Violent Major Felony. “~~Serious Violent Major~~ Felony” means:

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A. An offense under 17-A M.R.S.A. §§ 152-A (Aggravated Attempted Murder), 201 and 152 (Attempted Murder), 208 (Aggravated Assault), 208-D (Domestic Violence Aggravated Assault), 208-B (Elevated Aggravated Assault), 208-C (Elevated Aggravated Assault on a Pregnant Person), 301 (Kidnapping), 401(1)(B)(1), (2), or (3) (Burglary with a Firearm, Burglary with Intent to Inflict Bodily Harm, and Burglary with a Dangerous Weapon), 651 (Robbery), 802 (Arson), 803-A (Causing a Catastrophe), 1105-A (Aggravated Trafficking of Scheduled Drugs), 1105-B (Aggravated Trafficking of Counterfeit Drugs), and 1105-C (Aggravated Furnishing of Scheduled Drugs).

B. “~~Serious Violent~~Major Felony” includes crimes involving substantially similar conduct ~~in another jurisdiction~~.

C. “~~Serious Violent~~Major Felony” also includes Criminal Conspiracy under 17-A M.R.S.A.

§ 151, Criminal Attempt under 17-A M.R.S.A. § 152, and Criminal Solicitation under 17-A M.R.S.A. § 153 to commit any of the offenses listed above, or to commit a crime involving substantially similar conduct.

4.5. Sex Offense. “Sex Offense” means:

A. An offense under 17-A M.R.S.A. §§ 251-259-A (Sexual Assaults), §§ 281-285 (Sexual Exploitation of Minors), § 556 (Incest), § 511(1)(D) (Violation of Privacy), § 852 (Aggravated Sex Trafficking), and § 855 (Patronizing Prostitution of Minor or Person with Mental Disability).

B. “Sex Offense” includes crimes involving substantially similar conduct ~~in another jurisdiction~~.

C. “Sex Offense” also includes Criminal Conspiracy under 17-A M.R.S.A. § 151, Criminal Attempt under 17-A M.R.S.A. § 152, and Criminal Solicitation under 17-A M.R.S.A. § 153 to commit any of the offenses listed above, or to commit a crime involving substantially similar conduct.

6. Lawyer of the Day. “Lawyer of the Day” means:

A. an attorney who has been designated by MCILS as eligible for case assignments and is designated by a court pursuant to M.R.U. Crim. P. 5(e) for the limited purpose of representing a defendant or defendants at their arraignment or initial appearance.

7. Proceeding Type: the type of proceeding for which an attorney may serve as LOD. The three proceeding types are in-custody, walk-in, and juvenile.

A. In-Custody: arraignments or initial appearances for defendants in adult criminal

- cases who are incarcerated.
- B. Walk-In: arraignments or initial appearances for defendants in adult criminal cases who are not incarcerated.
- C. Juvenile: arraignments or initial appearances for juvenile defendants.
8. LOD Roster: the list of attorneys designated as eligible by MCILS to serve as LOD in a proceeding type.
9. Shadow Session: an attorney applying for LOD eligibility “shadows” an eligible LOD for a complete session of the proceeding type for which the attorney is applying. The applicant must be present with the eligible LOD for the entire LOD appearance, including in client interviews (with client consent) and in the courtroom. If it is a morning appearance that continues into the afternoon, the applicant must be present the entire time and that counts as one shadow session.
10. Resource Counsel. “Resource Counsel” means an attorney who provides mentoring and other services to rostered counsel as delineated in Chapter 301 of the Commission Rules.
11. MCILS Liaison. “MCILS Liaison” means the attorney who performs services for clients as part of the specialty court team but who has not otherwise been appointed to represent a specific client in a specific docket.
- ~~5.12. Specialized Case Types~~Specialized Panels. ~~“Specialized Case Types~~Specialized Panels” means those cases that are complex in nature due to the allegations ~~against the person as well as the~~ and severity of the consequences if a conviction occurs. They include the following ~~case types~~panels:
- A. Homicide, including OUI ~~manslaughter~~Manslaughter
 - B. Sex ~~offenses~~Offenses
 - C. ~~Serious violent~~Major feloniesFelonies
 - D. Operating ~~U~~nder the Influence
 - E. Domestic ~~V~~iolence
 - F. Juvenile ~~D~~efense
 - G. Protective ~~C~~eustody~~matters~~
 - ~~H. Repealed~~ In-Custody Lawyer of the Day
 - Walk-In Lawyer of the Day
 - Juvenile Lawyer of the Day
 - Resource Counsel

H.

SECTION 2. Powers and Duties of the Executive Director

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

SECTION 3. Minimum Eligibility Requirements for ~~Specialized Case Types~~ Specialized Panels.

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

attorney within the past five years;

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

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

representing individuals charged with a domestic violence crime; and

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

Executive Director.

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

applicant is qualified to represent parents in protective custody cases. The letters of reference must be submitted directly to the Executive Director, ~~or his or her designee,~~ by the author.

E-1. Letters of reference shall also be submitted upon the request of the Executive Director, ~~or his or her designee.~~

F. If a Petition to Terminate Parental Rights is filed and the attorney of record has not previously tried as a first or second chair a termination of parental rights hearing, ~~or~~ has less than ~~6~~six months of child protection experience, then the attorney of record must file a request with the MCILS for a more experienced attorney to serve as a second chair to assist the attorney of record with the termination of parental rights hearing.

8. Repealed.

9. **Law Court Appeals.** ~~In order to~~ be rostered for assignments to Law Court appeals in cases where trial counsel is not continuing on appeal, an attorney must:

A. Have provided representation to the conclusion of six cases. “Conclusion” means:

1) In criminal and juvenile cases, the entry of sentence or disposition either after plea or trial or the entry into a deferred disposition;

2) In child protective cases, the issuance of a jeopardy order or an order terminating parental rights;

B. Applicants who have provided representation in three or more appeals, including appeals to the Law Court and Rule 80B or Rule 80C appeals to the Superior Court, must submit copies of briefs that they have filed in the three appeals most closely pre-dating the date of their application for placement on the appellate roster~~;~~

C. Applicants who have not provided representation in three or more appeals must submit copies of any briefs that they have filed in an appeal, together with copies of a sufficient number of memoranda of law submitted to any court so that the submissions total three~~;~~

D. Submit a letter explaining the applicant’s interest in and qualifications for providing representation on appeals; including a description of the applicant’s experience with appeals, representative examples of issues raised on appeal, and a summary of the results of those appeals; and

E. If the applicant seeks a waiver, the applicant shall submit three letters of reference

from attorneys with whom the applicant does not practice asserting that the applicant is qualified to provide representation in appeal cases. The letters of reference must be submitted directly to the Executive Director, ~~or his or her designee,~~ by the author.

- F. Letters of reference shall be submitted upon the request of the Executive Director, ~~or his or her designee.~~
 - G. This rule is not applicable to cases ~~where-in which~~ trial counsel continues on appeal.
10. **Post-Conviction Review.** ~~The order to~~ be rostered for post-conviction review cases an attorney must:
- A. Have at least three years of criminal law experience;
 - B. Have previously qualified to be placed on the trial roster for the case type applicable to the conviction being challenged on post-conviction review;
 - C. Submit a letter explaining the applicant's interest in and qualifications for providing representation in post-conviction review cases, including a description of the applicant's criminal law experience generally and how that experience prepared the applicant to address the issues applicable to post-conviction review cases; and
 - D. If the applicant seeks a waiver, the applicant shall submit three letters of reference from attorneys with whom the applicant does not practice asserting that the applicant is qualified to provide representation in post-conviction cases. The letters of reference must be submitted directly to the Executive Director, ~~or his or her designee,~~ by the author.
 - E. Letters of reference and writing samples shall also be submitted upon the request of the Executive Director, ~~or his or her designee.~~

11. Lawyer of the Day (LOD).

A. LOD Specialized Panels:

- 1) In-Custody. To be rostered for LOD for in-custody proceedings, an attorney must:
 - a. Submit a complete Application for LOD Assignments;
 - b. Complete the LOD Minimum Standards Training;
 - c. Be currently eligible to accept MCILS criminal case assignments, even if not actively accepting assignments;
 - d. Have previously been deemed eligible for OUI and domestic violence cases in accordance with Chapter 3 of the Commission Rules;
 - e. Complete three full in-custody LOD shadow sessions on three separate days. The eligible LOD(s) who were shadowed must verify in writing to MCILS that the applicant completed each shadow session; and

f. Certify that they have read, understand, and agree to comply with all MCILS standards of practice.

2) **Walk-In.** To be rostered for LOD for walk-in proceedings, an attorney must:

- a. Submit a complete Application for LOD Assignments;
- b. Complete the LOD Minimum Standards Training;
- c. Be currently eligible to accept MCILS criminal case assignments, even if not actively accepting assignments;
- d. Have previously been deemed eligible for OUI and domestic violence cases in accordance with Chapter 3 of the Commission Rules;
- e. Complete three full walk-in LOD shadow sessions on three separate days. The eligible LOD(s) who were shadowed must verify in writing to MCILS that the applicant completed each shadow session; and
- f. Certify that they have read, understand, and agree to comply with all MCILS standards of practice.

3) **Juvenile.** To be rostered for juvenile LOD proceedings, an attorney must:

- a. Submit a complete Application for LOD Assignments;
- b. Complete the LOD Minimum Standards Training prior to or within three months of being rostered for LOD assignments;
- c. Be currently eligible to accept MCILS juvenile case assignments, even if not actively accepting assignments;
- d. Have previously been deemed eligible for juvenile felony cases in accordance with Chapter 3 of the Commission Rules;
- e. Complete three full juvenile walk-in LOD shadow sessions on three separate days. The eligible LOD(s) who were shadowed must verify in writing that the applicant completed each shadow session;
- f. Complete three full juvenile in-custody LOD shadow sessions on three separate days. The eligible LOD(s) who were shadowed must verify in writing that the applicant completed each shadow session; and
- g. Certify that they have read, understand, and agree to comply with all MCILS LOD standards of practice.

12. MCILS Liaison.

A. To be eligible to serve as an MCILS Liaison, an attorney must:

- 1) Submit a complete MCILS Liaison application;
- 2) Be eligible to accept MCILS case assignments;
- 3) Have at least two years of experience practicing law;
- 4) Demonstrate a history of providing high quality legal services; and
- 5) Have experience practicing law in the jurisdiction in which counsel is seeking to serve as the MCILS Liaison.

13. Resource Counsel.

A. To be eligible to serve as Resource Counsel, an attorney must:

- 1) Submit a complete Resource Counsel application;
- 2) Have at least five years' experience actively practicing in the area of law for which counsel is seeking eligibility as Resource Counsel;
- 3) Be currently eligible to accept MCILS case assignments;
- 4) Demonstrate a history of providing high quality legal services;
- 5) Demonstrate exceptional litigation skills and experience;
- 6) Demonstrate high ethical standards; and
- 7) Have no substantiated MCILS assessments or investigations or Board of Overseers complaints within 1 year immediately preceding counsel's Resource Counsel application.

B. Counsel must reapply to serve as Resource Counsel on an annual basis. That application is due at the same time as the MCILS annual renewal.

C. Counsel serves as Resource Counsel at the discretion of the Executive Director. The Executive Director may terminate someone's eligibility to serve as Resource Counsel at any time, with or without cause.

4) —

SECTION 4. Waiver of Certain Eligibility Requirements

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

2.

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

4. The Executive Director, ~~or his or her designee,~~ may consider other litigation experience and, total years of practice, ~~and regional conditions and needs~~ in granting or denying a waiver to any particular attorney.

SECTION 5. Overlapping Offenses.

1. If a case involves multiple offenses which are categorized as specialty panels, counsel must be eligible for all specialty panels that are implicated to accept the case.

3-2. If an offense is categorized as multiple different specialty panels, the attorney must be eligible for all specialty panels implicated to accept the case.

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

EFFECTIVE DATE:
July 8, 2011

AMENDED:
June 10, 2016 – filing 2016-091

94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Chapter 301: FEE SCHEDULE AND ADMINISTRATIVE PROCEDURES FOR PAYMENT OF COURT OR ~~COMMISSION-ASSIGNED~~COMMISSION-ASSIGNED COUNSEL

Summary: This Chapter establishes a fee schedule and administrative procedures for payment of private ~~Court Assigned~~Court-Assigned -and/or ~~Commission~~ AssignedCommission-Assigned counsel. ~~The-This~~ Chapter sets a standard hourly rate and fee amounts that trigger presumptive review for specific case types. ~~The-This~~ Chapter also establishes rules for the payment of mileage and other expenses that are eligible for reimbursement by the Commission. Finally, this Chapter requires Counsel that all vouchers for attorney fees and reimbursable expenses must be submitted using the MCILS electronic case management system.

SECTION 1. DEFINITIONS

1. ~~Court Assigned~~Court-Assigned Counsel. “~~Court Assigned~~Court-Assigned Counsel” means private counsel licensed to practice law in Maine, designated eligible to receive an assignment to a particular case, and initially assigned by a Court to represent a particular client in a particular matter. For the purposes of this rule, “~~Court Assigned~~Court-Assigned Counsel” does not include any employee of MCILS.
2. ~~Commission- Assigned~~ Counsel. “~~Commission- Assigned~~ Counsel” means private counsel licensed to practice in Maine, designated eligible to be assigned to provide a particular service or to represent a particular client in a particular matter, and assigned by MCILS to provide that service or represent a client. For the purposes of this rule, “~~Commission Assigned~~Commission-Assigned Counsel” does not include any employee of MCILS.
- 2.3. Commission-Employed Counsel. “Commission-Employed Counsel” means counsel employed by the Commission to provide direct representation to indigent persons.
4. ~~Counsel~~. As used in this Chapter “Counsel” means a ~~Court Assigned~~Court-Assigned Counsel or ~~Commission Assigned~~Commission-Assigned Counsel, or both.

3. _____

- 4.5. MCILS or Commission. "MCILS" or "Commission" means the Commissioners of the Maine Commission on Indigent Legal Services.
6. Executive Director. "Executive Director" means the Executive Director of MCILS or the Executive Director's decision-making designee.
7. Home Court. "Home Court" means the physical location of the court in closest proximity to Counsel's office or reasonably accessible private meeting space as contemplated by 94-649 C.M.R. ch. 2 § 3.
8. MCILS Liaison. "MCILS Liaison" means the attorney ~~that~~who performs services for clients as part of the specialty court team but who ~~otherwise~~ has not ~~otherwise~~ been appointed to represent a specific client in a specific docket.
9. Interim Voucher. "Interim Voucher" means any voucher submitted in a case before ~~counsel's professional responsibility in a matter ends. a terminal case event is docketed.~~
10. Particular Client Assignment. "Particular Client Assignment" means an assignment of Counsel to represent a particular client in a particular matter either by MCILS or the Court under Rule 44 of the Maine Rules of Unified Criminal Procedure or Rule 88 of the Maine Rules of Civil Procedure. ~~For the purpose of this rule a "particular matter" is a matter described by a particular docket number in a Court.~~
11. Days. "Days" means calendar days.
~~Secretarial services mean staff support services other than paralegal services.~~
12. Paralegal. A "paralegal" is a person, qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.
13. Paralegal services. "Paralegal services" constitute specifically delegated substantive legal work for which a lawyer is responsible.
14. Secretarial services. "Secretarial services" means ~~s~~ staff support services other than paralegal services.
15. Resource Counsel. Counsel designated eligible to serve as Resource Counsel pursuant to Chapter 3 of the Commission Rules.

SECTION 2. HOURLY RATE OF PAYMENT

Effective ~~July 1, 2021~~ March 1, 2023:

A rate of One Hundred Fifty Dollars (\$150) per hour is authorized for time spent by Counsel, and billed using the MCILS electronic case management system, on an assigned case on or after March 1, 2023. A rate of Eighty Dollars (\$80.00) per hour ~~is~~ remains authorized for time spent by Counsel, ~~and billed using MCILS electronic case management system, on~~ an assigned case on or after July 1, 2021. A rate of Sixty Dollars (\$60.00) per hour remains authorized for time spent by Counsel on an assigned case between July 1, 2015 and June 30, 2021. A rate of Fifty-five Dollars (\$55.00) per hour remains authorized for time spent by Counsel on an assigned case between July 1, 2014 and June 30, 2015. A rate of Fifty Dollars (\$50.00) per hour remains authorized for time spent by Counsel on an assigned case between the inception of the Commission and June 30, 2014.

SECTION 3. EXPENSES

1. **Routine Office Expenses.** Routine ~~Office-office~~ expenses will not be paid by MCILS. Routine office expenses include, but are not limited to, ~~;~~ postage other than overnight and express postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, the first 100 pages of any one print or copy job, local phone calls, parking (except as stated below), and office supplies, ~~etc.~~ ~~Secretarial services mean staff support services other than paralegal services. A paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible. Paralegal services constitute specifically delegated substantive legal work for which a lawyer is responsible. Any and all requests for fees or reimbursement for Paralegal time paralegal services and secretarial services may be billed submitted~~ to MCILS only through the non-counsel cost procedures.
2. **Itemized Non-Routine Expenses.** Itemized non-routine expenses, such as discovery from the State or other agency, long distance calls (only if billed for long distance calls by your phone carrier), overnight and express postage, collect phone calls, copy costs for print or copy jobs in excess of 100 pages, beginning with the 101st page, printing/copying/binding of legal appeal brief(s), relevant in-state mileage (as outlined below), tolls (as outlined below), and fees paid to third parties, may be paid by MCILS after review. Necessary parking fees associated with multi-day trials and hearings will be reimbursed. Parking tickets, fines, and/or fees for other violations will not be reimbursed.
3. **Travel Reimbursement.** Mileage reimbursement shall be made at the State rate applicable to confidential state employees on the date of the travel. Mileage reimbursement will be paid for travel to and from courts other than Counsel's home

~~district and superior~~ court. Mileage reimbursement will not be paid for travel to and from a Counsel's home ~~district and superior~~ courts. Tolls will be reimbursed; ~~except that tolls will not be reimbursed for travel to and from Counsel's home district and superior court.~~ All out-of-state travel or any overnight travel must be approved by MCILS in writing prior to incurring the expense. All out-of-state travel, overnight travel, and any other expense associated with such travel including but not limited to airfare, lodging, and food, must be approved by MCILS in writing prior to incurring the expense. Counsel Reimbursement will be subject ~~limited~~ subject to the State's per diem maximum rate policies with respect to the reimbursement of any expense. Use of the telephone, video equipment, and email in lieu of travel is encouraged as appropriate.

4. **Itemization of Claims.** Claims for all expenses must be itemized and include documentation. All expense documentation must be attached to the voucher used to seek reimbursement for the expense claimed. Claims for mileage shall be itemized and include the start and end points for the travel in question.
5. **Discovery Materials.** MCILS will reimburse only for one set of discovery materials per assignment. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel within one week of notice of new counsel's assignment. Counsel may retain a copy of a file transferred to new counsel, or to a client. Counsel shall perform any scanning or make any copies necessary to retain a copy of the file at counsel's expense. The client owns the file. The original file shall be tendered to new counsel, or to the client, as directed.
6. **Expert and Investigator Expenses.** Other non-routine expenses for payment to third parties, (*e.g.*, investigators, interpreters, medical and psychological experts, testing, depositions, etc.) shall be approved in advance by MCILS. Funds for third-party services will be provided by MCILS only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with MCILS rules and procedures governing requests for funds for experts and investigators. See Chapter 302 Procedures Regarding Funds for Experts and Investigators.
7. **Witness, Subpoena, and Service Fees.** Witness, subpoena, and service fees will be reimbursed only pursuant to the Maine Rules of Court. ~~It is unnecessary for counsel to~~ Counsel should not advance these costs; ~~and t~~ these costs shall not be included as a voucher expense without prior consent from the Executive Director ~~or designee~~. Fees for service of process by persons other than the sheriff shall not exceed those allowed by 30-A M.R.S. § 421. The same procedure shall be followed in civil cases.

SECTION 4. PRESUMPTIVE REVIEW

Vouchers submitted for amounts in excess of the applicable trigger for presumptive review will be considered for payment after review by the Executive Director ~~or designee~~. Vouchers submitted in excess of the trigger for presumptive review must be accompanied by an explanation of the time spent on the matter. The explanation shall be set forth in the notes section of a voucher or invoice.

1. Trial Court Criminal Fees

- A. Triggers for presumptive review, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the trigger limit.
- 1) **Murder.** All murder cases shall trigger presumptive review.
 - 2) **Class A.** ~~\$5,000~~9,400
 - 3) **Class B and C (against person).** ~~\$7,500~~4,000
 - 4) **Class B and C (against property).** ~~\$4,700~~2,500
 - 5) **Class D and E.** ~~\$4,700~~2,500
 - 6) Repealed
 - 7) **Post-Conviction Review.** ~~\$3,000~~5,600
 - 8) **Probation Revocation.** ~~\$1,500~~2,800
 - 9) **Miscellaneous (i.e., witness representation on 5th Amendment grounds, etc.)** ~~\$1,900~~1,000
 - 10) **Juvenile.** ~~\$2,800~~1,500
 - 11) **Bindover:** applicable criminal class trigger.
- B. In cases involving multiple counts against a single defendant, the triggering fee shall be that which applies to the ~~most serious count~~count assigned with the highest class. In cases where a defendant is charged with ~~a number of multiple~~ unrelated offenses, counsel shall coordinate and consolidate services as much as possible.
- C. Criminal and juvenile cases will include all proceedings through a terminal case event as defined in Section 6, below. Any subsequent proceedings, such as probation revocations, will require new application and appointment.

- D. Repealed.
- E. Upon written request to MCILS, a second Counsel~~s~~ may be assigned in a murder ~~case~~ or other complicated cases, to provide for mentorship, or for other good cause at the discretion of the Executive Director:
- 1) the duties of each Counsel must be clearly and specifically defined, and ~~counsel~~ Counsel must avoid unnecessary duplication of effort;
 - 2) each Counsel must submit a voucher to MCILS. Counsel should coordinate the submission of vouchers so ~~that~~ they can be reviewed together. Co-counsel who practice in the same firm may submit a single voucher that reflects the work done by each Counsel.

2. District Court Child Protection

- A. Triggering fees, excluding any itemized expenses, for Commission-assigned counsel in child protective cases are ~~set in accordance with the following schedule:~~
- 1) **Child protective cases** ~~(each stage)~~. \$1,500-10,200
 - 2) ~~Termination of Parental Rights stage (with a hearing)~~. \$ ~~2,500~~
- ~~B. Counsel must provide MCILS with written justification for any voucher that exceeds the triggering limit. Each child protective stage ends when a proceeding results in a Preliminary Protective Order, Judicial Review Order, Jeopardy Order, Order on Petition for Termination of Parental Rights, or entry of a Family Matter or other dispositional order. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the triggering fee for that case.~~

3. Other District Court Civil

- A. Triggering fees in District Court civil actions, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the triggering fee.
- 1) **Application for Involuntary Commitment.** \$1,900
 - 2) **Petition for Emancipation.** \$~~1,500~~2,800
 - 3) **Petition for Modified Release Treatment.** \$1,900
 - 4) **Petition for Release or Discharge.** \$1,900

4. Law Court

- A. Repealed
- B. Repealed
- C. Appellate: ~~\$3,7502,000~~

SECTION 55: MINIMUM FEES

Counsel may bill a minimum fee of 3 hours for appearances as Lawyer of the Day, or MCILS Liaison in specialty or diversionary courts or programs. A single minimum fee may be charged for each appearance at which the Counsel serves. If Counsel serves as Lawyer of the Day for a morning session that continues into the afternoon, that will be one appearance. If Counsel serves as Lawyer for the Day for a morning session and then a subsequent afternoon session with a second appearance time and list, that will be two appearances. Vouchers seeking the minimum fee must show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged per appearance regardless of the number of clients consulted at the request of the court.

SECTION 66: ADMINISTRATION

1. Timing

- A. Vouchers for payment of counsel fees and expenses associated with a particular client assignment shall be submitted within 90 (ninety) calendar days of a terminal case event. Lawyer of the Day ~~and~~, specialty courts, Resource Counsel, and all other services rendered on behalf of the Commission and not associated with a particular client assignment shall be billed within 90 days of the service provided.
- B. The period for submitting a voucher established by subsection (1)(A) of this section shall run from the date that the terminal case event is docketed, or the date Counsel receives actual notice of the terminal case event, whichever is later. Services are rendered on Lawyer of the Day assignments on the date Counsel appears in Court and ~~aetsserves~~ as Lawyer of the Day. Services in specialty courts as an MCILS liaison, Resource Counsel, or as part of any other MCILS-sponsored program are rendered on the date the individual tasks were performed as indicated by the date associated with the time entry recorded to account for that time.

- C. Vouchers not submitted within 90-days of a terminal case event~~the timeframe established by subsection (1)(A) of this section cannot be paid~~shall be reduced according to the schedule established by subsection (3)(C) of this section below, except on a showing by counsel that a voucher could not have been timely submitted for reasons outside the actual or constructive control of counsel.
- D. Counsel~~are encouraged to~~may submit interim vouchers not more often than once every 90 days~~calendar month~~ per case. Counsel may request reconsideration of a voucher rejected between April 1, 2021 and the effective date of this rule if that voucher would be payable under this rule.
- E. Cases must be entered in the MCILS case management system within seven days upon receipt of the Notice of Appointment. If counsel has been informed that they have been assigned to a case but have not received the Notice of Appointment, counsel shall exercise due diligence in obtaining a copy of the Notice as soon as possible.

2. Terminal Case Events~~case events are:~~

A terminal case event is the event that signifies the final resolution of a matter from the perspective of assigned counsel such that substantive work before the court is no longer necessary. Terminal case events include:

- 1)A. The withdrawal of counsel;
- 2)B. The entry of dismissal of all charges or petitions;
- 3)C. Judgment in a case;³ or
- 4)D. Final resolution of post-judgment proceedings for which counsel is responsible.

~~The 90 day period for submitting a voucher shall run from the date that an Order, Judgment, or Dismissal is docketed.~~

3. Penalty for Untimely Voucher Submission

- A. The total penalty applied to vouchers submitted after the 90-day deadline outside the timeframe established by subsection (1)(A) of this section is calculated by multiplying the total voucher amount by the applicable percentage according to the schedule established by subsection (3)(C) of this section.
- B. The days elapsed since the relevant terminal case event are calculated in the same manner as in determining compliance with the 90-day deadline. subsection (1)(A) of this section. “Days” means calendar days.

C. Penalty Schedule:

<u>Days After Terminal Case Event</u>	<u>Penalty</u>
<u>91 – 104</u>	<u>10%</u>
<u>105 – 150</u>	<u>25%</u>
<u>151 – 180</u>	<u>50%</u>
<u>181 or more</u>	<u>75%</u>

D. Any penalty for the untimely submission of a voucher may only be applied after Counsel is provided with an opportunity to request an exception pursuant to subsection (1)(C) of this section.

4. Voucher Submission

- A. All vouchers must be submitted using MCILS electronic case management ~~program system~~ and comply with all instructions for use of the system.
- B. All time on vouchers shall be detailed and accounted for in .10 of an hour increments rounding up to the nearest .10 of an hour. The purpose ~~for of~~ each time entry must be ~~self-evident or~~ specifically stated by using the most relevant time entry category and providing a reasonably descriptive time entry comment/note for each time entry. ~~Use of the comment section is recommended.~~
- B.C. Unless otherwise stated in this Chapter, Counsel may only record and seek payment for actual time spent working on Counsel's appointed or assigned cases using the MCILS electronic case management ~~program system~~. Counsel may not record a minimum amount for any time entries notwithstanding any previous policy or practice of the Commission.
- D. All expenses claimed for reimbursement must be fully itemized on the voucher. Copies of receipts for payments to third parties shall be retained and appended to the voucher.

5. Payments & Reimbursement of Expenses for Attending Training

A. Payments to attend and reimbursement of expenses incurred incidental to attending trainings are governed by Chapter 301-A.

B. Vouchers submitted in accordance with Chapter 301-A shall be submitted within 90 calendar days of attending the training.

Notwithstanding any other provision of this Chapter or other Commission rules, untimely vouchers for payment or reimbursement of expenses governed by Chapter 301-A will not be paid.

SECTION 7. RESOURCE COUNSEL

1. Resource Counsel may bill pursuant to Section 6(4), above, for any billable tasks outlined in subsection 2 and subject to the limitations in subsection 3 of this section.
2. Billable Tasks:
 - a. Meeting with Court-Assigned, Commission-Assigned, and Commission-Employed counsel upon the request of the Executive Director.
 - b. Meetings and other communications with Court-Assigned, Commission-Assigned, and Commission-Employed counsel about the practice of law or ethical or legal issues related to assigned cases.
 - c. Assisting Court-Assigned, Commission-Assigned, and Commission-Employed counsel with drafting documents and with litigation preparation for assigned cases.
 - d. Meetings and other communications with members of the judiciary or prosecution about matters pertaining to indigent representation.
 - e. Preparing and presenting trainings at the request of the Executive Director or Training & Supervision staff.
 - f. In-court observation of Counsel if requested by the Executive Director or MCILS Training & Supervision staff.
 - g. Responding to calls, emails, and/or webform submissions from individuals who contact MCILS through the MCILS hotline and/or website. This includes:
 - i. Communication with the person who called;
 - ii. Communication with others to address the individual's matter; and
 - iii. Limited scope representation undertaken to resolve urgent issues for indigent persons concerning matters for which the person would be entitled to appointment of counsel.
 - h. Other tasks as deemed appropriate by the Executive Director and with prior written authorization of the Executive Director.
3. Limitations:
 - a. Any services rendered as Resource Counsel must be strictly limited to matters relating to assigned—not retained or pro bono—cases.
 - b. Resource Counsel may not bill for services rendered to an attorney who is not a Court-Assigned, Commission-Assigned, or Commission-Employed counsel.
 - c. If Resource Counsel serves as co-counsel on an assigned case, then Resource Counsel must enter the case in the Commission's electronic case management system and bill for it as a typical case, not as Resource Counsel.
 - d. Prior to preparing a training at the Commission's request, Resource Counsel must have prior written authorization from the Executive Director or MCILS Training & Supervision staff, which must include a cap on the maximum number of hours the Commission will pay Resource Counsel to prepare and present the training.
 - e. Resource Counsel must be licensed to practice law in Maine and eligible to accept MCILS case assignments at all times while performing Resource Counsel duties. Resource Counsel will not be paid for work done unless Resource Counsel is licensed to practice law in Maine and eligible to accept MCILS case assignments.

-
- f. As a condition of the opportunity to serve as Resource Counsel, Resource Counsel must maintain detailed records of the services they perform and provide copies of those records to MCILS upon request. At a minimum, those records must include:
 - i. The number of attorneys to whom Resource Counsel services are rendered; and
 - ii. A running log of the number of hours Resource Counsel spends on:
 - 1. Rendering general Resource Counsel services to attorneys;
 - 2. Rendering client-specific services; and
 - 3. Preparing and presenting trainings.
 - g. Resource Counsel will not be paid for billing more than 40 hours in one seven-day period.
 - h. Resource Counsel do not develop any property interest in the opportunity to serve in that role. There is no guarantee that MCILS will provide any number of hours to Resource Counsel.
 - i. Resource Counsel may not incur any expenses of any type on behalf of MCILS without prior written approval from the Executive Director.
4. Court-Assigned and Commission-Assigned Counsel may bill pursuant to Section 6(4), above, for time spent receiving the services of Resource Counsel.
-

STATUTORY AUTHORITY: 4 M.R.S. §§ 1804(2)(F), (3)(B), (3)(F) and (4)(D)

EFFECTIVE DATE:

August 21, 2011 – filing 2011-283

AMENDED:

March 19, 2013 – filing 2013-062

July 1, 2013 – filing 2013-150 (EMERGENCY)

October 5, 2013 – filing 2013-228

July 1, 2015 – filing 2015-121 (EMERGENCY)

June 10, 2016 – filing 2016-092

July 21, 2021 – filing 2021-149 (EMERGENCY)

January 17, 2022 – filing 2022-007

94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Chapter 301-A: PAYMENT FOR ATTENDING AND REIMBURSEMENT OF EXPENSES INCIDENTAL TO ATTENDING TRAININGS

Summary: This Chapter establishes eligibility for payment to private court and/or Commission ~~assigned-counsel~~ Assigned Counsel for attending and reimbursement of expenses incidental to attending trainings. This Chapter also sets forth administrative procedures for payment and reimbursement of eligible training expenses. This Chapter supersedes the Payments for Attending Training Policy, which was promulgated on February 22, 2023.

SECTION 1. DEFINITIONS

1. ~~Court~~ Assigned Counsel. “~~Court~~ Assigned Counsel” means private counsel licensed to practice law in Maine, designated eligible to receive an assignment to a particular case, and initially assigned by a Court to represent a particular client in a particular matter. For the purposes of this rule, “~~Court~~ Assigned Counsel” does not include any employee of MCILS.
2. ~~Commission~~ Assigned Counsel. “~~Commission~~ Assigned Counsel” means private counsel licensed to practice in Maine, designated eligible to be assigned to provide a particular service or to represent a particular client in a particular matter, and assigned by MCILS to provide that service or represent a client. For the purposes of this rule, “~~Commission~~ Assigned Counsel” does not include any employee of MCILS.
3. Counsel. As used in this Chapter, “Counsel” means a ~~court assigned-counsel~~ Court- Assigned Counsel or ~~Commission- assigned-counsel~~ Assigned Counsel, or both.
4. MCILS or Commission. “MCILS” or “Commission” means the Commissioners of the Maine Commission on Indigent Legal Services.
5. Training Provided by the Commission. “Training Provided by the Commission” means and includes any training, whether or not that training qualifies for CLE credit through the Board of Overseers, that is:
 - a. Prepared and/or presented by MCILS staff at a MCILS sponsored event; or,
 - b. Prepared and/or presented on behalf of, or at the direction of, MCILS or its staff; and,
 - c. Is presented live, including live webcast; or,
 - d. Is presented through proctored playback of a recording, in whole or in part.

6. Executive Director. "Executive Director" means the Executive Director of MCILS or the Executive Director's decision-making designee.
7. On Camera. "On Camera" means that Counsel's camera is turned on, pointing toward Counsel, and Counsel's entire face is visible on the screen.

SECTION 2. ELIGIBILITY

1. The prerogative to request payment or reimbursement pursuant to this Chapter is limited to Counsel who—on the date the training occurs—are eligible to receive assignments through the MCILS system and are representing five or more assigned clients.
2. Payment or reimbursement pursuant to this Chapter will only be made to eligible ~~counsel~~Counsel for payment to attend or reimbursement of expenses incidental to attending a training provided by the Commission.

SECTION 3. PAYMENT

1. To receive payment for attending a training, counsel must attend personally, be engaged with the training, and not otherwise engaged or multitasking during its presentation. Driving while attending a training is strictly prohibited. Counsel will be removed from the training and not paid for any training time while driving. Where a training may be provided remotely, counsel must be on camera during the entire presentation absent specific direction from the presenter to the contrary.
2. Notwithstanding any other provisions of this or other Commission rules, payment will only be made if counsel attends at least 75% of the instructional time of a training provided by the Commission. No payment will be made to counsel who attend less than 75% of the instructional time.
3. Payment will be made at the authorized rate in effect on the date of the training.
4. Payment will be made for actual training time attended, exclusive of breaks.
5. Payment will also be made at the then-current hourly rate for time spent traveling to and from the training.
6. Payment will be made in increments of .1 hours and only for time spent attending the training or traveling to and from the training. Counsel may not record, or seek payment for, any time spent opening or closing the case file as described in section ~~5(26(3))~~, below.

SECTION 4. REIMBURSABLE EXPENSES

1. Reimbursable expenses include only:
~~+~~

- a. Training registration fees.
- b. Mileage. Mileage reimbursement shall be made at the State rate applicable to confidential state employees on the date of the travel. Mileage is calculated based upon the distance between the attorney's office address, or the location from which the attorney departs for the training, whichever is nearer to the training, and the location of the training. If multiple attorneys travel to a training in a single vehicle, only one attorney may be reimbursed for the mileage.
- c. Tolls. Tolls for travel to and from the training. The attorney must have a receipt
- d. Hotels. Hotel stays necessary to attend a training are reimbursable at the [Standard Rate](#), as set by the U.S. General Services Administration, that is effective on the date of the hotel stay.
 - i. Counsel must receive prior written authorization from MCILS for hotel stays to be reimbursable.
 - ii. Absent exceptional circumstances and at the discretion of the Executive Director, hotel stays for attending trainings will not be authorized if the training is less than 35 miles from Counsel's office.
- e. Parking. Fees paid to park at a training.

SECTION 5. LIMITS.

1. Counsel is only eligible for payment under this Chapter for a maximum of 40 hours per fiscal year, beginning on July 1, 2023. There is no maximum number of billable hours pursuant to this Chapter prior to July 1, 2023.
2. The 40-hour maximum includes time spent attending and travel for the purpose of attending eligible trainings.
3. For purposes of calculating the maximum billable hours, the relevant date is the date of the training for which counsel is seeking payment.

SECTION 6. ADMINISTRATION.

1. Enforcement. MCILS staff reserve the right to deny Counsel access to a training or to remove Counsel from a training to enforce compliance with this policy, Commission Rules, or eligibility requirements for a particular training. If Counsel is removed from a training by MCILS staff, they will not be paid for the period during which they were removed, nor will that period count toward the 75% attendance provision of Section 3(2), above.
- 1.2. Itemization of Claims. Claims for all expenses must be itemized and include documentation. Claims for mileage shall be itemized and include the start and end points for the travel in question.
- 2.3. Payment will be made through the MCILS electronic case management system. To request payment, counsel must:

- a. Create a “case” in ~~defenderData~~ the MCILS electronic case management system for each training for which counsel requests payment or reimbursement. Do not enter a case in the MCILS electronic case management system until after the training has occurred. If one training lasts multiple days, only one case should be entered for the entire training;
- b. Court must be set to:- “Training;”;
- c. The file type must be set to:- “TRAIN;”;
- d. Client information must reflect counsel’s first and last names. Other client demographic information does not need to be completed;
- e. The docket number will be provided at the training and must be entered precisely as provided; or payment will not be available;
- f. Assignment and disposition date must both be the date of the training for which payment is sought;
- g. The charge sequence number must be: 100031;
- h. The disposition must be:- “Attend Training;”;
- i. The time entry for attendance must be:- “Attend MCILS ~~training;~~ Training;”;
- j. The time entry for travel must be:- “Training Travel;”;
- k. Expenses, if any, must be itemized; and
- l. Then create and submit a voucher.

3.4. Notwithstanding any other provision of any MCILS rule or policy, vouchers for payment for attending a training must be submitted within 90 days of the training without exception. Attorneys are encouraged to submit their vouchers at the conclusion of the training without delay.

4.5. The opportunity to request payment for attending trainings does not create a right to attend any specific number of trainings, or any particular training. There are, or may be, limits on the number of people who may attend a particular training. There are, or may be, limits on the eligibility to attend a particular training.

STATUTORY AUTHORITY: 4 M.R.S. §1804(2)(F),

EFFECTIVE DATE:

The following are the current MCILS roster applications for reference.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Application for Indigent Case Assignments

Name _____

Law Firm _____

Office Address _____

Office Phone _____ Fax _____

Email _____ Cell Phone _____

Home Address _____

ME Bar Number _____ Admission Date to ME Bar _____

Law School/Graduation Date _____

Please list the courts in which you seek assignments:

Please check all the case types for which you are interested in receiving assignments:

- Drug Offense
- Other Felonies
- Other Misdemeanors
- Juvenile Misdemeanors
- Emancipation
- Civil Commitments
- Not Criminally Responsible Release Hearings

1. Please provide a resume describing education and employment history.

2. As an attorney, have you ever been disbarred, suspended, reprimanded, censured, or otherwise formally disciplined, publicly or privately?

Yes

No

If **yes**, please explain.

3. To your knowledge, is there currently any complaint or investigation pertaining to your practice of law pending before the Board of Bar Overseers in any jurisdiction?

Yes

No

If **yes**, please explain.

4. Have you ever been convicted of a crime in Maine or in any other jurisdiction?

Yes

No

If **yes**, please explain.

5. Are there currently any criminal charges pending against you?

Yes

No

If **yes**, please explain.

6. Do you maintain an office or have the use of space that is reasonably accessible to clients and that permits the private discussion of confidential and other sensitive matters?

Yes

No

If **no**, please explain.

7. Do you maintain a telephone number staffed by personnel available for answering telephone calls or an answering service, answering machine, or voicemail that ensures client confidentiality?

Yes

No

8. Do you maintain a working confidential email address?

Yes

No

9. Have you completed a Commission-sponsored training course for the area(s) of law in which you are seeking to receive assignments?

Yes

No

If no, see question 10. If yes, please identify the training by date, location, and subject:

Training:	Date(s):	Location:

10. If your answer to question 9 is no and you wish to be exempted from the Commission training requirement on the basis of commitment to and proficiency in the practice area(s) for which you are seeking assignments:

- a. Please set forth in detail your experience representing clients in the relevant practice area(s) over the course of at least the last three (3) years. Include specific trial experience, the portion of your practice devoted to such representation, and any other information demonstrating your commitment to and proficiency in such practice area(s):

b. Please include the name and email address for two (2) references who are familiar with your commitment to and proficiency in the practice area(s) for which you are seeking assignments:

Reference Name:	Reference Email Address:

I hereby certify that the above information is true, accurate, and complete. I further certify that I have read, understood, and agree to be bound by all applicable statutes regarding MCILS and all MCILS rules.

By submitting this application, I agree to honor all of my obligations to the Commission, including by cooperating with Commission monitoring, performance evaluations, assessments, audits, and investigation of complaints that may reflect on my work on assigned cases. I understand that being eligible to receive assignments does not guarantee that I will receive any certain number or types of assignments.

I further agree to keep the Commission and the courts in which I represent indigent clients apprised of my telephone number and postal and email addresses.

Signature

Date

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Applications for OUI & Domestic Violence Specialized Case Types

Applicant Name: _____ Bar Number: _____

Please check the case type(s) you are applying for:

___ Domestic Violence ___ Operating Under the Influence

Operating Under the Influence

A. Do you have at least one year of criminal law experience?

Yes _____ No _____

If your answer to (A) is no, please provide information on the last page of this application explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with OUI despite your lack of the required years of criminal law experience.

B. Have you tried before a judge or jury as first chair at least two criminal cases within the last ten years?

Yes _____ No _____ How many? _____

C. Have you conducted at least two contested hearings within the last ten years?

Yes _____ No _____ How many? _____

If your answer to any part of questions (B) or (C) is no, please provide information on the last page of this application explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with OUI despite your lack of the required trial experience.

D. In the past three years have you earned at least 4 hours of CLE credit on topics relevant to OUI defense?

Yes _____ No _____

E. Please outline your reasons for interest in and qualifications for representing individuals charged with OUI (attach additional sheets if necessary).

Domestic Violence

A. Do you have at least one year of criminal law experience?

Yes _____ No _____

If your answer to (A) is no, please provide information on the last page of this application explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with domestic violence offenses despite your lack of the required years of criminal law experience.

B. Have you tried before a judge or jury as first chair at least two criminal cases within the last ten years?

Yes _____ No _____ How many? _____

C. Have you conducted at least two contested hearings within the last ten years?

Yes _____ No _____ How many? _____

If your answer to any part of questions (B) or (C) is no, please provide information on the last page of this application explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with domestic violence offenses despite your lack of the required litigation experience.

D. In the past three years have you earned at least 4 hours of CLE credit on topics relevant to domestic violence defense which included training on the collateral consequences of such convictions?

Yes _____ No _____

E. Please outline your reasons for interest in and qualifications for representing individuals charged with a domestic violence crime (attach additional sheets if necessary).

WAIVER

Statement of reasons for waiver request (may attach additional sheets if necessary). Please note the case type(s) and question(s) you are responding to.

If you seek a waiver, please submit three letters of reference from attorneys with whom you do not practice that assert that you are qualified to provide representation in the case type(s) you are applying for. The letters of reference must be submitted directly to the Executive Director by the author.

Applicant's Signature

Date

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Application for Juvenile Assignments

Name: _____ Bar Number: _____

There are two categories for the juvenile specialized panel: Felony/Sex Offense & Bind-over Hearings. For each case type that you are interested in becoming eligible for please complete that part of the application.

If you do not satisfy the experience, trial practice, or CLE requirements for any category, you may apply for a waiver in Part 3 of this application.

PART 1 – FELONY AND SEX OFFENSE CASES

A. Experience

1. Do you have at least one year of juvenile law practice experience (excluding law school experience) Yes_____ No_____
2. Have you handled at least ten juvenile cases to conclusion? Yes_____ No_____
3. Have you tried at least five contested juvenile hearings (including but not limited to, detention hearings, evidentiary hearings, adjudication hearings, and dispositional hearings)? Yes_____ No_____

B. Continuing Legal Education - In the past three years have you earned at least 4 hours of CLE credit on two or more of the following topics related to juvenile defense:

- Placement options and dispositional alternatives
- Child development, adolescent mental health diagnosis and treatment
- Collateral consequences of juvenile adjudication
- Competence

Yes_____ No_____

C. Letter of Interest - Please provide a letter explaining your interest in and qualifications for representing juveniles in felony and sex offense cases.

PART 2 –BIND-OVER HEARINGS

A. Experience

1. Do you have at least two years of juvenile law practice experience (excluding law school experience) Yes_____ No_____
2. Have you handled at least twenty juvenile cases to conclusion in the past ten years?
Yes_____ No_____

3. Have you tried at least ten contested juvenile hearings (including but not limited to, detention hearings, evidentiary hearings, adjudication hearings, and dispositional hearings in the past ten years)? Yes_____ No_____

B. **Continuing Legal Education** - In the past three years have you earned at least 8 hours of CLE credit that cover all of the following topics related to juvenile defense:

- Placement options and dispositional alternatives
- Child development, adolescent mental health diagnosis and treatment
- Collateral consequences of juvenile adjudication
- Competency and bind-over procedures

Yes_____ No_____

C. **Letter of Interest** - please provide a letter explaining your interest in and qualifications for representing juveniles in bind-over hearings.

PART 3: WAIVER

Statement of reasons for waiver request (may attach additional sheets if necessary):

If you seek a waiver from any of the specific requirements, please submit three (3) letters of reference from attorneys with whom you do not practice that assert you are qualified to provide representation in the case type(s) you are applying for. The letters of reference must be submitted directly to the Executive Director by the author.

Please provide the names of the attorneys who will be submitting letters on your behalf:

1. _____
2. _____
3. _____

Applicant's Signature

Date

Please submit this application to MCILS by email, fax, or mail:

mcils@maine.gov • Fax 207-287-3293

MCILS, 154 State House Station, Augusta, ME 04333-0154

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Application for Protective Custody Cases

Attorney's Name:

Bar Number:

A. Have you conducted at least four contested hearings in civil or criminal cases within the last five years?

Yes _____ No _____ How many? _____

Identify four contested hearings you have conducted by docket number and hearing type:

Contested Hearing Type:	Docket Number:	Year:

If your answer to (A) is, "No", are you requesting a waiver from this requirement? _____

If you are requesting a waiver, you must complete section (D).

B. In the last three years, have you attended at least four hours of CLE credit on topics related to the representation of parents in protective custody proceedings?

Yes _____ No _____

List the CLE presentation(s) you attended that satisfy this requirement and attach proof of completion for each:

Name of CLE:	Date Completed:

C. Provide a statement explaining reasons for interest in and qualifications for representing parents in protective custody proceedings:

D. If you are requesting a waiver of the contested hearing requirement:

a Provide a statement below explaining the need for a waiver and your experience and qualifications to provide representation in protective custody matters:

b Provide the names and email addresses of attorneys with whom you do not practice who will submit letters of reference directly to the Executive Director that describe your qualifications to represent parents in protective custody matters.

- i _____
- ii _____
- iii _____

E. Have you tried as a first or second chair a termination of parental rights hearing?

Yes _____ No _____

F. If you have not tried as a first or second chair a termination of parental rights hearing, or if you have less than six months of child protection experience, then you must file a request with MCILS for a more experienced attorney to serve as a second chair to assist you with your first contested termination of parental rights hearing irrespective of how many consented-to termination hearings you may have participated in.

Initial here to acknowledge this requirement: _____

I acknowledge that by submitting this application, or by accepting assignments made in reliance on this application, I certify the accuracy of its contents. I further certify that I have read, understand, and agree to be bound by all of the Commission rules.

Date:

Signature: _____

Bar Number: _____

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Application for Appeals & PCR Specialized Case Types

Applicant Name: _____ Bar Number: _____

Please check the case type(s) you are applying for:

_____ Law Court Appeals

_____ Post-Conviction Review

Post-Conviction Review

A. Do you have at least three years of criminal law experience? Yes _____ No _____

If your answer to (A) is no, please provide information on the last page of this application explaining the need for a waiver and your experience and qualifications to provide representation in post-conviction review cases despite your lack of the required years of criminal law experience.

B. Please explain your interest in and qualifications for providing representation in post-conviction review cases, including a description of your criminal law experience generally and how that experience prepared you to address the issues applicable to post-conviction review cases (attach additional sheets if necessary).

Law Court Appeals

- A. Have you provided representation to the conclusion in six cases? “Conclusion” means:
- In criminal and juvenile cases, the entry of sentence or disposition either after plea or trial or the entry into a deferred disposition;
 - In child protective cases, the issuance of a jeopardy order or an order terminating parental rights.

Yes _____ No _____

If your answer to (A) is no, please provide information on the last page of this application explaining the need for a waiver and your experience and qualifications to provide appellate representation despite lack of the required trial experience.

- B. If you have provided representation in three or more appeals, including appeals to the Law Court and Rule 80B or Rule 80C appeals to the Superior Court, please submit copies of briefs you have filed in the three appeals most closely pre-dating the date of this application.
- C. If you have not provided representation in three or more appeals, please submit copies of any briefs you have filed in an appeal, together with copies of a sufficient number of memoranda of law submitted to any court so that the submissions total three.
- D. Please explain your interest in and qualifications for providing representation on appeals, including a description of your experience with appeals, representative examples of issues raised on appeal, and a summary of the results of those appeals (attach additional sheets if necessary).

WAIVER

Statement of reasons for waiver request (may attach additional sheets if necessary). Please note the case type(s) and question(s) you are responding to.

If you seek a waiver, please submit three letters of reference from attorneys with whom you do not practice that assert that you are qualified to provide representation in the case type(s) you are applying for. The letters of reference must be submitted directly to the Executive Director by the author.

Applicant's Signature

Date

Please submit this application to MCILS by email, fax, or mail:

mcils@maine.gov • Fax 207-287-3293
MCILS, 154 State House Station, Augusta, ME 04333-0154

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Application for Serious Violent Felony Assignments

Name: _____ Bar Number: _____

1. Do you have at least two years of criminal law experience?
Yes _____ No _____ How many? _____ year(s) _____ months

If your answer to (1) is no, please provide information explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with a serious violent felony despite your lack of the required years of criminal law experience.
(may attach additional sheets if necessary)

2. Have you tried before a judge or jury as first chair at least four criminal or civil cases in the last ten years? Yes _____ No _____ How many? _____
- a. Were at least two of these cases tried before a jury? Yes _____ No _____ How many? _____
Name the Court and approximate date(s) for at least two of the jury cases:
- b. Were at least two of these cases criminal trials? Yes _____ No _____ How many? _____
Name the most serious charge of these criminal cases:

- c. If your answer to any part of question (2) is no, please provide information explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with a serious violent felony despite your lack of the required trial experience. *(may attach additional sheets if necessary)*

3. Please outline your reasons for interest in and qualifications for representing individuals charged with a serious violent felony. *(may attach additional sheets if necessary)*

4. If you seek a waiver from any specific requirements, please submit three (3) letters of reference from attorneys with whom you do not practice that describe your qualifications to represent individuals charged with a serious violent felony. These letters of reference must be submitted by the author directly to the Executive Director via email to MCILS@maine.gov. Please provide the names of the attorneys who will be submitting letters on your behalf:

1. _____

2. _____

3. _____

Applicant's Signature

Date

Please submit this application to MCILS by email, fax, or mail:

mcils@maine.gov • Fax 207-287-3293
MCILS, 154 State House Station, Augusta, ME 04333-0154

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Application for Sex Offense Assignments

Name: _____ Bar Number: _____

1. Do you have at least three years of criminal law experience?
Yes _____ No _____ How many? _____ year(s) _____ month(s)

If your answer to (1) is no, please provide information explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with a sex offense despite your lack of the required years of criminal law experience (*may attach additional sheets if necessary*).

2. Have you tried before a judge or jury as first chair at least three felony criminal cases within the last ten years? Yes _____ No _____ How many? _____
- a. Were at least two of these cases tried before a jury?
Yes _____ No _____ How many? _____

Name the court and approximate date(s) for at least two of the jury cases:

Name the most serious charge of these criminal cases:

b. If your answer to any part of question (2) is no, please provide information explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with a sex offenses despite your lack of the required trial experience (*may attach additional sheets if necessary*).

3. Please outline your reasons for interest in and qualifications for representing individuals charged with a sex offense (*may attach additional sheets if necessary*).

4. If you seek a waiver from any specific requirements, please submit three (3) letters of reference from attorneys with whom you do not practice that describe your qualifications to represent individuals charged with sex offenses. These letters of reference must be submitted directly to Executive Director Justin Andrus by the author.

Please provide the names of the attorneys who will be submitting letters on your behalf:

1. _____
2. _____
3. _____

Applicant's Signature

Date

Please submit this application to MCILS by email, fax, or mail:

mcils@maine.gov • Fax 207-287-3293
MCILS, 154 State House Station, Augusta, ME 04333-0154

Maine Commission on Indigent Legal Services

Chapter 3: Eligibility Requirements for Specialized Case Types

Attorney's Name:

Bar Number:

1. Application for Homicide Assignments

A. Do you have at least five years of criminal law experience?

Yes _____ No _____ How many? _____ year(s) _____ month(s)

If your answer to (A) is no, are you requesting a waiver from this requirement? _____

If you are requesting a waiver please provide information explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with Homicide despite your lack of the required years of criminal law experience.

B. Have you tried before a judge or jury as first chair at least five felony cases within the last ten years?

Yes _____ No _____ How many? _____

a. Are at least two of these five felony cases serious violent felonies, homicide, or Class C or higher sex offense cases?

Yes _____ No _____ How many? _____

Name the most serious charge for at least two of these cases?

b. Were at least two of these five felony cases tried before a jury? Yes _____ No _____ How many?

_____ Name the Court and approximate date(s) for at least two of the jury cases?

If your answer to any question under (B) is no, are you requesting a waiver from this requirement? Yes _____ No _____. If you are requesting a waiver please provide information explaining the need for a waiver and your experience and qualifications to provide representation for individuals charged with Homicide despite your lack of required trial experience.

C. Have you tried as first chair a homicide case in the last fifteen years OR have you tried as second chair at least one homicide case with an experienced homicide defense attorney within the past five years?

Yes _____ No _____

Name the Court, the case name, docket number, and approximate trial date(s). If you served as second chair, please identify lead counsel.

D. Please outline your knowledge and familiarity with the evidentiary issues relevant to homicide cases, including but not limited to forensic and scientific issues relating to DNA testing and fingerprint analysis, mental health issues, and eyewitness identification.

E. Please outline your reasons for interest in and qualifications for representing individuals charged with homicide.

F. Provide the names of attorneys with whom you do not practice who will be submitting letters of reference directly to MCILS that describe your qualifications to represent individuals charged with homicide, including OUI manslaughter.

a. _____

b. _____

c. _____

Please attach additional sheets if needed.