

**MCILS**

**August 14, 2018  
Commissioner's Meeting  
Packet**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**AUGUST 14, 2018**

**COMMISSION MEETING**

**JUDICIARY COMMITTEE ROOM, ROOM 438, STATEHOUSE, AUGUSTA**

**AGENDA**

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- 1) Approval of July 10, 2018, Commission Meeting Minutes
- 2) Operations Reports
- 3) Action Items Discussion – Fee Schedule Rule
- 4) Miscellaneous Report Back
- 5) Public Comment
- 6) Set Date, Time and Location of Next Regular Meeting of the Commission
- 7) Executive Session, if needed (Closed to Public)

**(1.)**

**July 10, 2018  
Commission Meeting  
Minutes**

**Maine Commission on Indigent Legal Services – Commissioners Meeting  
July 10, 2018**

**Minutes**

**Commissioners Present:** Steven Carey, William Logan, Carlann Welch

**MCILS Staff Present:** Ellie Maciag, John Pelletier

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Approval of the June 12, 2018 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Logan moved for approval, Commissioner Welch seconded. All voted in favor. Approved.
Operations Reports Review	<u>June 2018 Operations Report:</u> 2,369 new cases were opened in the DefenderData system in June. This was a 16 case increase over May. The number of submitted vouchers in June was 2,690, a decrease of 2 vouchers from May, totaling \$1,612,543, an increase of \$98,000 over May. The average price per voucher was \$582.98, up \$15.88 per voucher over May. Appeal and Post-Conviction Review cases had the highest average vouchers. There were 11 vouchers exceeding \$5,000 paid in June. The Commissioners had an extended discussion about a substantial Post-Conviction Review voucher. Several ideas regarding fee cap rule changes were discussed. Chair Carey anticipates providing Commissioners with a draft revised fee rule to discuss at the next meeting. 96 authorizations to expend funds were issued in June, and we paid \$152,326 for experts and investigators, etc. Director Pelletier noted that this higher than usual amount was due to staff paying all invoices received prior to the end of the fiscal year. The monthly transfer from the Judicial Branch for counsel fees for June, which reflects May's collections, totaled \$95,855, down approximately \$44,000 from May. In FY'18, the Commission collected \$1,069,205 in counsel fee reimbursements, approximately \$300,000 more than the previous highest collection total. No attorney complaints were received in June. Director Pelletier informed the Commissioners that even with paying all expenses incurred during the fiscal year	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	and the de-appropriation of \$110,000 to fund the Sixth Amendment Center study, the Commission was still left with a surplus of \$1,122,350 at the end of the fiscal year. He noted that this marked the third year in a row that the Commission was flat funded and that two years ago the Commission had also returned \$1 million to the General Fund.	
Budget Update	Director Pelletier reviewed the recently completed FY'18 budget, noting that while costs were up slightly, overall costs were under projections. Due to all attorney vouchers and non-counsel expenses being paid prior to the end of the fiscal year, there are no FY'18 carry-over costs into FY'19. The entire Revenue Account allotment was spent, leaving a cash balance of \$331,309, which will require a financial order in order to spend those funds. Director Pelletier indicated that the \$18.3 million for the FY'19 budget, which represents basically a fourth year in a row of flat funding, should be sufficient based on recent history. As for the FY'20-21 biennial budget, the Commissioners agreed that flat funding (\$18.3 million) should be requested, and that the Revenue allotment should to be increased to \$1 million so that if robust collections continue, staff will have the authority to spend all collected funds as they come in. Director Pelletier cautioned that since the FY'19 All Other account is an Other Special Revenue account and not a General Fund account, it will not create a baseline budget in the biennial budgeting process, and the Commission's budget will therefore have to be included in the unfunded structural gap to be addressed by the next Legislature.	
Legislative Update	Director Pelletier reviewed the three bills that the Legislature passed that related to the Commission: LD 1812 (Sixth Amendment Center study of indigent legal services); LD 1817 (altering number of Commissioners and the qualifications for service); and LD 1897 (reinstatement of the Commission's other special revenue funds).	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Resource Counsel Program	Director Pelletier updated the Commissioners on the rollout of the Resource Counsel program. The anticipated start date of the program is August 1.	
Miscellaneous Report Back	Director Pelletier reviewed the items listed on the miscellaneous items report back memo. For the immigration consultation contract, Commissioners asked Director Pelletier to request that the vendor list the number of hours worked on the invoice in addition to the number of cases, and to also inquire about consultations to pro se defendants.	
Public Comment	<u>Robert J. Ruffner, Esq.</u> : Attorney Ruffner was glad Commissioner Logan brought up reviewing low vouchers in addition to high vouchers since both are important to scrutinize. In terms of the feedback form, the Commission should encourage feedback, especially from clients. Attorney Ruffner relayed that sometimes in Alfred there is no lawyer of the day or a waiver of counsel at initial appearance. He noted that sometimes bail is set so representation at this proceeding is important. Attorney Ruffner stated that the hourly rate paid to attorneys is ridiculously low and urged the Commissioners to start the process to raise the rate, including inviting the legislature to participate at the beginning of every 2 year budget cycle.	
Executive Session	None	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on August 14, 2018 at 9:30 a.m.	Commissioner Welch moved to adjourn. Commissioner Logan seconded. All present in favor.

**(2.)**

## **Operations Reports**

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## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**SUBJECT:** JULY 2018 OPERATIONS REPORTS  
**DATE:** AUGUST 7, 2018

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Attached you will find the July, 2018, Operations Reports for your review and our discussion at the Commission meeting on August 14, 2018. A summary of the operations reports follows:

- 2,494 new cases were opened in the DefenderData system in July. This was a 125 case increase over June and the highest monthly total for the past twelve months.
- The number of vouchers submitted electronically in July was 2,823, an increase of 133 vouchers over June, totaling \$1,445,379.65, a decrease of \$167,000 from June. In July, we paid 1,635 electronic vouchers totaling \$816,694.68, representing a decrease of 1,395 vouchers and \$950,000 compared to June. The large decreases in voucher payments was caused, in part, by a delay in getting access to our funds as various state systems adjusted to the new configuration of our accounts for the current fiscal year.
- There were no paper vouchers submitted and paid in July.
- The average price per voucher in July was \$499.51, down \$83.47 per voucher from June.
- Appeal and Post-Conviction Review cases had the highest average vouchers in July. There were 5 vouchers exceeding \$5,000 paid in July. See attached addendum for details.
- The contract amount paid for representation in Somerset County in July was \$22,687.50.
- In July, we issued 118 authorizations to expend funds: 80 for private investigators, 27 for experts, and 11 for miscellaneous services such as interpreters and transcriptionists. In July, we paid \$27,551.60 for experts and investigators, etc. In July, one request for funds was modified to reduce the amount.
- In July, we received no complaints about attorneys.

In our All Other Account, the total expenses for the month of July were \$882,611.39. Of that amount, just under \$16,000 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$55,638.04 in expenses for the month of July.



In what we commonly refer to as our Revenue and Conference accounts, there was no activity in July because the legislation providing allotment for these accounts did not take effect until August 1, 2018. Moreover, that legislation simply lumped the allotment for these accounts into the same Other Special Revenue account where the Legislature placed our operating budget for the current fiscal year. This will make accounting for, and especially reporting, activities traditionally tied to these accounts difficult. The staff will work on sorting this out, to the extent we can, as we go forward into the fiscal year.

Nevertheless, the amount collected by the Judicial Branch in June, which normally would have hit our account in July, was \$83,016.89.

VOUCHERS EXCEEDING \$5,000 PAID JULY 2018

	Voucher Total	Case total
Voucher after 2-day trial on 9 counts of Possession of Sexually Explicit Material. Litigation also included two-day suppression hearing regarding statements (partially successful) and search for and seizure of a computer. Experts on both sides.	\$9,118	\$9,118
Voucher covering 3 juvenile cases. Client was homeless for part of the representation. The court continued the case multiple times in hopes of addressing chronic truancy. DHHS custody also considered, but never pursued by State. Multiple detention hearings. Matters resolved with a plea to theft and a shock sentence plus probation.	\$6,717	\$6,717
Voucher after a 4-day trial in an alleged theft of over \$200,000. Defendant found Not Guilty. Complicated case involving care-giver defendant and over 3000 pages of discovery.	\$5,814	\$11,508 (\$5,694 paid to co-counsel from a different firm)
Voucher after a 4-day trial in an alleged theft of over \$200,000. Defendant found Not Guilty. Complicated case involving care-giver defendant and over 3000 pages of discovery.	\$5,694	\$11,508 (\$5,814 paid to co-counsel from a different firm)
Voucher from new counsel on appeal from a murder conviction after a multi-week trial involving co-defendants.	\$5,437	\$5,437

FUNDS REQUESTS DENIED/MODIFIED JULY 2018

- One request for funds was modified to authorize a reduced amount.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

7/31/2018

DefenderData Case Type	Jul-18						Fiscal Year 2019			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	11	31	\$ 44,605.57	20	\$ 22,901.25	\$ 1,145.06	11	20	\$ 22,901.25	\$ 1,145.06
Child Protection Petition	245	378	\$ 230,184.45	242	\$ 138,921.20	\$ 574.05	245	242	\$ 138,921.20	\$ 574.05
Drug Court	0	4	\$ 4,296.00	4	\$ 4,296.00	\$ 1,074.00	0	4	\$ 4,296.00	\$ 1,074.00
Emancipation	6	3	\$ 828.90	1	\$ 246.00	\$ 246.00	6	1	\$ 246.00	\$ 246.00
Felony	578	558	\$ 448,755.27	312	\$ 237,863.48	\$ 762.38	578	312	\$ 237,863.48	\$ 762.38
Involuntary Civil Commitment	106	120	\$ 23,239.28	50	\$ 9,305.70	\$ 186.11	106	50	\$ 9,305.70	\$ 186.11
Juvenile	47	84	\$ 36,565.78	64	\$ 32,893.76	\$ 513.97	47	64	\$ 32,893.76	\$ 513.97
Lawyer of the Day - Custody	238	234	\$ 62,429.20	131	\$ 38,335.92	\$ 292.64	238	131	\$ 38,335.92	\$ 292.64
Lawyer of the Day - Juvenile	34	51	\$ 10,290.14	34	\$ 6,681.94	\$ 196.53	34	34	\$ 6,681.94	\$ 196.53
Lawyer of the Day - Walk-in	117	110	\$ 27,664.53	68	\$ 17,076.83	\$ 251.13	117	68	\$ 17,076.83	\$ 251.13
Misdemeanor	828	838	\$ 344,291.30	470	\$ 185,828.62	\$ 395.38	828	470	\$ 185,828.62	\$ 395.38
Petition, Modified Release Treatment	0	1	\$ 750.00	1	\$ 750.00	\$ 750.00	0	1	\$ 750.00	\$ 750.00
Petition, Release or Discharge	1	1	\$ 576.00	1	\$ 576.00	\$ 576.00	1	1	\$ 576.00	\$ 576.00
Petition, Termination of Parental Rights	15	39	\$ 36,285.60	21	\$ 16,007.00	\$ 762.24	15	21	\$ 16,007.00	\$ 762.24
Post Conviction Review	13	9	\$ 11,535.95	4	\$ 4,257.00	\$ 1,064.25	13	4	\$ 4,257.00	\$ 1,064.25
Probate	3	0		0			3	0		
Probation Violation	196	205	\$ 81,705.28	112	\$ 44,960.34	\$ 401.43	196	112	\$ 44,960.34	\$ 401.43
Represent Witness on 5th Amendment	9	6	\$ 3,563.76	4	\$ 2,441.76	\$ 610.44	9	4	\$ 2,441.76	\$ 610.44
Resource Counsel Criminal	1	0		0			1	0		
Resource Counsel Juvenile	0	0		0			0	0		
Resource Counsel Protective Custody	0	0		0			0	0		
Review of Child Protection Order	45	150	\$ 77,608.64	95	\$ 53,147.88	\$ 559.45	45	95	\$ 53,147.88	\$ 559.45
Revocation of Administrative Release	1	1	\$ 204.00	1	\$ 204.00	\$ 204.00	1	1	\$ 204.00	\$ 204.00
<b>DefenderData Sub-Total</b>	<b>2,494</b>	<b>2,823</b>	<b>\$ 1,445,379.65</b>	<b>1,635</b>	<b>\$ 816,694.68</b>	<b>\$ 499.51</b>	<b>2,494</b>	<b>1,635</b>	<b>\$ 816,694.68</b>	<b>\$ 499.51</b>
<b>Paper Voucher Sub-Total</b>		<b>0</b>		<b>0</b>	<b>\$ -</b>	<b>#DIV/0!</b>		<b>0</b>		<b>#DIV/0!</b>
<b>TOTAL</b>	<b>2,494</b>	<b>2,823</b>	<b>\$1,445,379.65</b>	<b>1,635</b>	<b>\$816,694.68</b>	<b>\$ 499.51</b>	<b>2,494</b>	<b>1,635</b>	<b>\$ 816,694.68</b>	<b>\$ 499.51</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY19 FUND ACCOUNTING**  
AS OF 07/31/2018

Account 014 95F Z258 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY19 Total
FY19 Professional Services Allotment		\$ 4,455,000.00		\$ 4,347,001.00		\$ 4,595,478.00		\$ 4,795,226.00	
FY19 General Operations Allotment		\$ 45,000.00		\$ 45,000.00		\$ 45,000.00		\$ 45,000.00	
Budget Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Encumbered Balance Forward FY18		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 4,500,000.00</b>		<b>\$ 4,392,001.00</b>		<b>\$ 4,640,478.00</b>		<b>\$ 4,840,226.00</b>	<b>\$ 18,372,705.00</b>
Total Expenses	1	\$ (882,611.39)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Encumbrances (Somerset PDP & Justice Works)		\$ (313,685.00)		\$ -		\$ -		\$ -	
Encumbrances (B Taylor, business cards)		\$ (21,666.66)		\$ -		\$ -		\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 3,282,036.95</b>		<b>\$ 4,392,001.00</b>		<b>\$ 4,640,478.00</b>		<b>\$ 4,840,226.00</b>	<b>\$ 17,154,741.95</b>

**Q1 Month 1**

**INDIGENT LEGAL SERVICES**

Counsel Payments	\$ (816,694.68)
Somerset County	\$ (22,687.50)
Somerset County Discovery	\$ (150.00)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (3,163.58)
Mental Health Expert	\$ (12,140.46)
Transcripts	\$ (1,507.00)
Other Expert	\$ (10,250.00)
Lodging for Trial	\$ -
Process Servers	\$ (185.36)
Interpreters	\$ (200.20)
Misc Prof Fees & Serv	\$ (105.00)
<b>SUB-TOTAL ILS</b>	<b>\$ (867,083.78)</b>

**OPERATING EXPENSES**

Risk Management Insurances	\$ (1,701.34)
DefenderData	\$ (5,877.50)
Annual Meeting - meals	\$ -
Mileage/Tolls/Parking	\$ (779.81)
Mailing/Postage/Freight	\$ -
West Publishing Corp	\$ (168.30)
OIT/TELCO charges	\$ (2,364.69)
Office Supplies/Equip.	\$ -
Cellular Phones	\$ (107.85)
Subscriptions	\$ -
Office Equipment Rental	\$ (115.54)
Printing & Binding	\$ (79.25)
Barbara Taylor monthly fees	\$ (4,333.33)
<b>SUB-TOTAL OE</b>	<b>\$ (15,527.61)</b>

**TOTAL** \$ (882,611.39)

**INDIGENT LEGAL SERVICES**

Q1 Allotment	\$ 4,500,000.00
Q1 Encumbrances for Somerset PDP & Justice Works contracts	\$ (313,685.00)
Barbara Taylor Contract	\$ (21,666.66)
Q1 Expenses to date	\$ (872,811.39)
Encumbered at month end	\$ (9,800.00)
<b>Remaining Q1 Allotment</b>	<b>\$ 3,282,036.95</b>

**Non-Counsel Indigent Legal Services**

Monthly Total	\$ (27,551.60)
Total Q1	\$ (27,551.60)
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
<b>Fiscal Year Total</b>	<b>\$ (27,551.60)</b>

MAINE COMMISSION ON INDIGENT LEGAL SERVICES  
FY19 FUND ACCOUNTING  
AS OF 07/31/2018

Account 014 95F 2258 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY19 Total
FY19 Allotment	\$	197,081.00	\$	223,111.00	\$	197,084.00	\$	215,289.00	\$ -
Financial Order Adjustments	\$	-	\$	-	\$	-	\$	-	
Financial Order Adjustments	\$	-	\$	-	\$	-	\$	-	
Budget Order Adjustments			\$	-	\$	-			
<b>Total Budget Allotments</b>	<b>\$</b>	<b>197,081.00</b>	<b>\$</b>	<b>223,111.00</b>	<b>\$</b>	<b>197,084.00</b>	<b>\$</b>	<b>215,289.00</b>	<b>\$ 832,565.00</b>
Total Expenses	1 \$	(55,638.04)	4 \$	-	7 \$	-	10 \$	-	
	2 \$	-	5 \$	-	8 \$	-	11 \$	-	
	3 \$	-	6 \$	-	9 \$	-	12 \$	-	
<b>TOTAL REMAINING</b>	<b>\$</b>	<b>141,442.96</b>	<b>\$</b>	<b>223,111.00</b>	<b>\$</b>	<b>197,084.00</b>	<b>\$</b>	<b>215,289.00</b>	<b>\$ 776,926.96</b>

Q1 Month 1	
Per Diem Payments	\$ (165.00)
Salary	\$ (24,939.86)
Vacation Pay	\$ (2,203.95)
Holiday Pay	\$ (1,594.88)
Sick Pay	\$ (1,227.99)
Employee Hlth Svs/Workers Comp	\$ -
Health Insurance	\$ (9,643.58)
Dental Insurance	\$ (223.22)
Employer Retiree Health	\$ (3,603.36)
Employer Retirement	\$ (2,046.63)
Employer Group Life	\$ (266.00)
Employer Medicare	\$ (434.16)
Retiree Unfunded Liability	\$ (6,438.73)
Retro Pymt	\$ -
Perm Part Time Full Ben	\$ (2,850.68)
<b>TOTAL</b>	<b>\$ (55,638.04)</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Court**

7/31/2018

Jul-18							Fiscal Year 2019			
Court	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	8	7	\$ 5,058.00	3	\$ 3,948.00	\$ 1,316.00	8	3	\$ 3,948.00	\$ 1,316.00
AUBSC	2	2	\$ 1,391.84	2	\$ 1,391.84	\$ 695.92	2	2	\$ 1,391.84	\$ 695.92
AUGDC	45	74	\$ 31,585.25	54	\$ 21,736.97	\$ 402.54	45	54	\$ 21,736.97	\$ 402.54
AUGSC	7	18	\$ 9,311.00	10	\$ 6,090.00	\$ 609.00	7	10	\$ 6,090.00	\$ 609.00
BANDC	71	103	\$ 35,612.85	44	\$ 16,159.17	\$ 367.25	71	44	\$ 16,159.17	\$ 367.25
BANSC	0	0		0			0	0		
BATSC	0	0		0			0	0		
BELDC	4	17	\$ 9,707.10	13	\$ 8,779.00	\$ 675.31	4	13	\$ 8,779.00	\$ 675.31
BELSC	0	0		0			0	0		
BIDDC	69	85	\$ 39,823.94	59	\$ 34,375.00	\$ 582.63	69	59	\$ 34,375.00	\$ 582.63
BRIDC	12	12	\$ 9,462.51	12	\$ 9,239.63	\$ 769.97	12	12	\$ 9,239.63	\$ 769.97
CALDC	8	16	\$ 9,180.32	4	\$ 3,088.48	\$ 772.12	8	4	\$ 3,088.48	\$ 772.12
CARDC	8	7	\$ 2,579.85	3	\$ 1,818.00	\$ 606.00	8	3	\$ 1,818.00	\$ 606.00
CARSC	3	3	\$ 605.44	1	\$ 216.00	\$ 216.00	3	1	\$ 216.00	\$ 216.00
DOVDC	9	16	\$ 4,062.00	14	\$ 3,684.00	\$ 263.14	9	14	\$ 3,684.00	\$ 263.14
DOVSC	0	1	\$ 162.00	0			0	0		
ELLDC	17	22	\$ 12,912.00	10	\$ 4,680.00	\$ 468.00	17	10	\$ 4,680.00	\$ 468.00
ELLSC	0	0		0			0	0		
FARDC	15	20	\$ 9,426.82	13	\$ 4,437.16	\$ 341.32	15	13	\$ 4,437.16	\$ 341.32
FARSC	0	0		0			0	0		
FORDC	2	8	\$ 6,065.02	3	\$ 2,144.96	\$ 714.99	2	3	\$ 2,144.96	\$ 714.99
HOUDC	27	28	\$ 13,054.01	11	\$ 3,690.06	\$ 335.46	27	11	\$ 3,690.06	\$ 335.46
HOUSC	0	0		0			0	0		
LEWDC	71	118	\$ 50,978.90	82	\$ 37,878.98	\$ 461.94	71	82	\$ 37,878.98	\$ 461.94
LINDC	17	11	\$ 4,584.96	5	\$ 2,010.48	\$ 402.10	17	5	\$ 2,010.48	\$ 402.10
MACDC	15	16	\$ 4,482.00	6	\$ 1,884.00	\$ 314.00	15	6	\$ 1,884.00	\$ 314.00
MACSC	1	3	\$ 834.00	1	\$ 252.00	\$ 252.00	1	1	\$ 252.00	\$ 252.00
MADDC	1	3	\$ 563.36	2	\$ 563.36	\$ 281.68	1	2	\$ 563.36	\$ 281.68
MILDC	7	2	\$ 717.72	2	\$ 717.72	\$ 358.86	7	2	\$ 717.72	\$ 358.86
NEWDC	19	20	\$ 6,888.18	13	\$ 4,203.38	\$ 323.34	19	13	\$ 4,203.38	\$ 323.34
PORDC	85	110	\$ 52,824.22	50	\$ 33,181.20	\$ 663.62	85	50	\$ 33,181.20	\$ 663.62
PORSC	0	1	\$ 546.00	1	\$ 546.00	\$ 546.00	0	1	\$ 546.00	\$ 546.00
PREDC	12	18	\$ 4,800.00	6	\$ 1,578.00	\$ 263.00	12	6	\$ 1,578.00	\$ 263.00
ROCD	21	15	\$ 10,706.68	10	\$ 5,931.16	\$ 593.12	21	10	\$ 5,931.16	\$ 593.12
ROCSC	0	3	\$ 599.16	3	\$ 599.16	\$ 199.72	0	3	\$ 599.16	\$ 199.72
RUMDC	9	10	\$ 7,609.56	6	\$ 3,402.60	\$ 567.10	9	6	\$ 3,402.60	\$ 567.10
SKODC	16	59	\$ 46,659.69	38	\$ 25,518.80	\$ 671.55	16	38	\$ 25,518.80	\$ 671.55
SKOSC	0	0		0			0	0		
SOUDC	4	6	\$ 3,300.53	4	\$ 1,090.36	\$ 272.59	4	4	\$ 1,090.36	\$ 272.59
SOUSC	0	1	\$ 653.20	0			0	0		
SPRDC	50	59	\$ 31,715.36	41	\$ 20,203.48	\$ 492.77	50	41	\$ 20,203.48	\$ 492.77
Law Ct	10	21	\$ 33,194.75	14	\$ 17,613.83	\$ 1,258.13	10	14	\$ 17,613.83	\$ 1,258.13
YORCD	238	231	\$ 154,055.90	130	\$ 75,830.71	\$ 583.31	238	130	\$ 75,830.71	\$ 583.31
AROCD	101	116	\$ 58,873.72	74	\$ 39,292.20	\$ 530.98	101	74	\$ 39,292.20	\$ 530.98
ANDCD	178	210	\$ 91,940.24	107	\$ 50,695.04	\$ 473.79	178	107	\$ 50,695.04	\$ 473.79
KENCD	156	189	\$ 81,182.88	128	\$ 44,010.28	\$ 343.83	156	128	\$ 44,010.28	\$ 343.83
PENCD	280	209	\$ 108,940.74	126	\$ 62,008.49	\$ 492.13	280	126	\$ 62,008.49	\$ 492.13
SAGCD	24	30	\$ 17,468.62	14	\$ 12,069.60	\$ 862.11	24	14	\$ 12,069.60	\$ 862.11
WALCD	32	24	\$ 11,814.36	15	\$ 8,274.51	\$ 551.63	32	15	\$ 8,274.51	\$ 551.63
PISCD	10	14	\$ 3,797.75	7	\$ 2,465.75	\$ 352.25	10	7	\$ 2,465.75	\$ 352.25
HANCD	122	90	\$ 44,360.38	25	\$ 25,330.04	\$ 1,013.20	122	25	\$ 25,330.04	\$ 1,013.20
FRACD	42	61	\$ 28,982.08	40	\$ 19,085.84	\$ 477.15	42	40	\$ 19,085.84	\$ 477.15
WASCD	45	63	\$ 26,507.56	25	\$ 10,395.60	\$ 415.82	45	25	\$ 10,395.60	\$ 415.82
CUMCD	406	402	\$ 223,924.67	219	\$ 98,488.33	\$ 449.72	406	219	\$ 98,488.33	\$ 449.72
KNOCD	54	52	\$ 23,768.66	46	\$ 24,988.42	\$ 543.23	54	46	\$ 24,988.42	\$ 543.23
SOMCD	0	1	\$ 627.00	0			0	0		
OXFCD	61	68	\$ 24,890.00	50	\$ 17,428.64	\$ 348.57	61	50	\$ 17,428.64	\$ 348.57
LINCD	33	51	\$ 29,910.04	26	\$ 14,627.72	\$ 562.60	33	26	\$ 14,627.72	\$ 562.60
WATDC	28	56	\$ 33,419.83	39	\$ 19,429.69	\$ 498.20	28	39	\$ 19,429.69	\$ 498.20
WESDC	20	20	\$ 7,295.28	12	\$ 3,858.00	\$ 321.50	20	12	\$ 3,858.00	\$ 321.50
WISDC	11	10	\$ 6,048.68	3	\$ 1,854.00	\$ 618.00	11	3	\$ 1,854.00	\$ 618.00
WISSC	1	2	\$ 1,231.04	2	\$ 1,231.04	\$ 615.52	1	2	\$ 1,231.04	\$ 615.52
YORDC	7	9	\$ 4,682.00	7	\$ 2,678.00	\$ 382.57	7	7	\$ 2,678.00	\$ 382.57
<b>TOTAL</b>	<b>2,494</b>	<b>2,823</b>	<b>\$ 1,445,379.65</b>	<b>1,635</b>	<b>\$ 816,694.68</b>	<b>\$ 499.51</b>	<b>2,494</b>	<b>1,635</b>	<b>\$ 816,694.68</b>	<b>\$ 499.51</b>



# MAINE COMMISSION ON INDIGENT LEGAL SERVICES

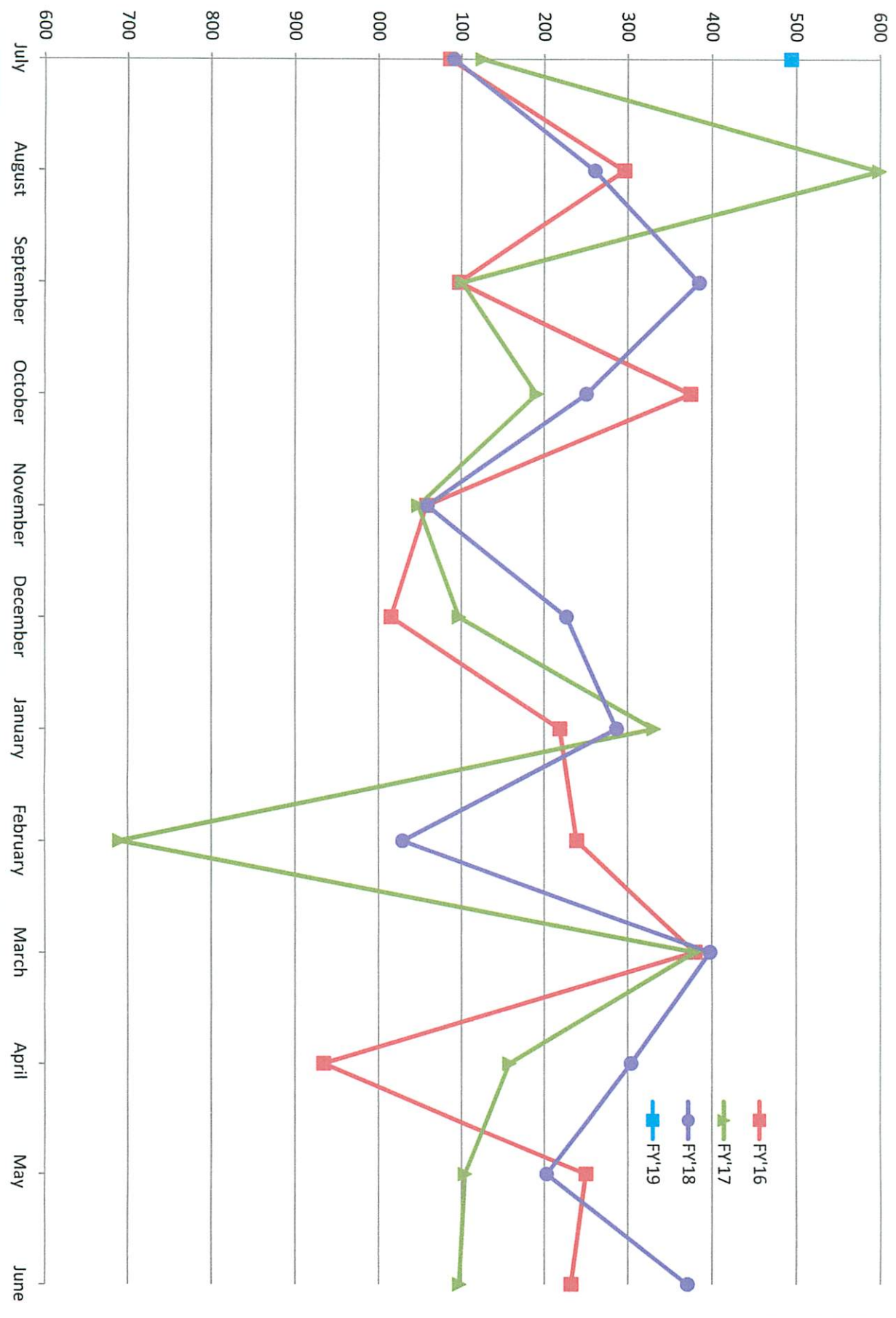
## Number of Attorneys Rostered by Court

07/31/2018

Court	Rostered Attorneys
Augusta District Court	95
Bangor District Court	47
Belfast District Court	45
Biddeford District Court	133
Bridgton District Court	89
Calais District Court	12
Caribou District Court	19
Dover-Foxcroft District Court	25
Ellsworth District Court	35
Farmington District Court	33
Fort Kent District Court	11
Houlton District Court	15
Lewiston District Court	120
Lincoln District Court	24
Machias District Court	17
Madawaska District Court	12
Millinocket District Court	18
Newport District Court	34
Portland District Court	155
Presque Isle District Court	16
Rockland District Court	39
Rumford District Court	24
Skowhegan District Court	29

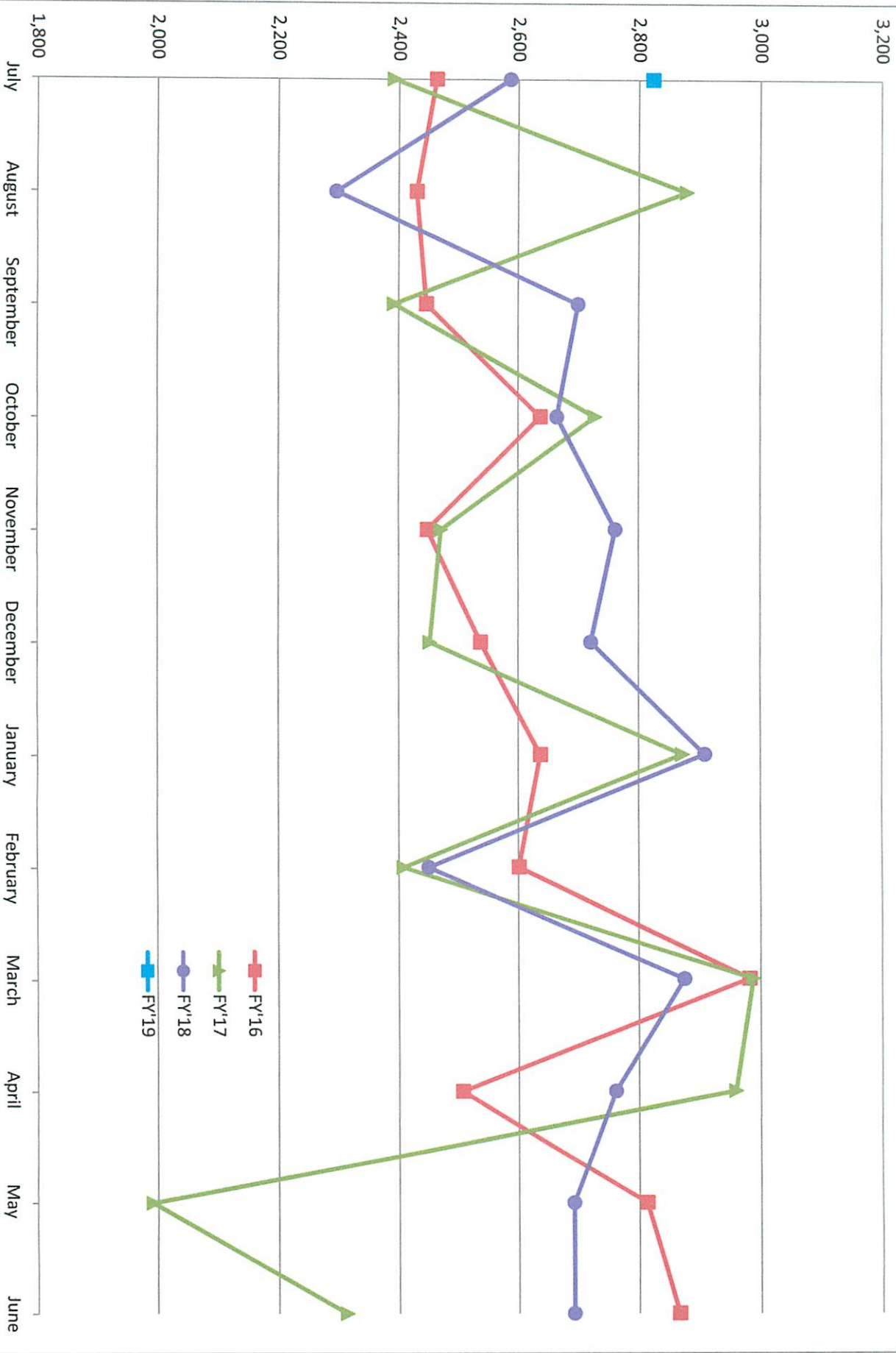
Court	Rostered Attorneys
South Paris District Court	56
Springvale District Court	119
Unified Criminal Docket Alfred	120
Unified Criminal Docket Aroostook	24
Unified Criminal Docket Auburn	100
Unified Criminal Docket Augusta	88
Unified Criminal Docket Bangor	50
Unified Criminal Docket Bath	93
Unified Criminal Docket Belfast	45
Unified Criminal Docket Dover Foxcroft	21
Unified Criminal Docket Ellsworth	38
Unified Criminal Docket Farmington	35
Unified Criminal Docket Machias	18
Unified Criminal Docket Portland	155
Unified Criminal Docket Rockland	36
Unified Criminal Docket Skowhegan	22
Unified Criminal Docket South Paris	77
Unified Criminal Docket Wiscasset	55
Waterville District Court	49
West Bath District Court	111
Wiscasset District Court	59
York District Court	101

# NEW CASES

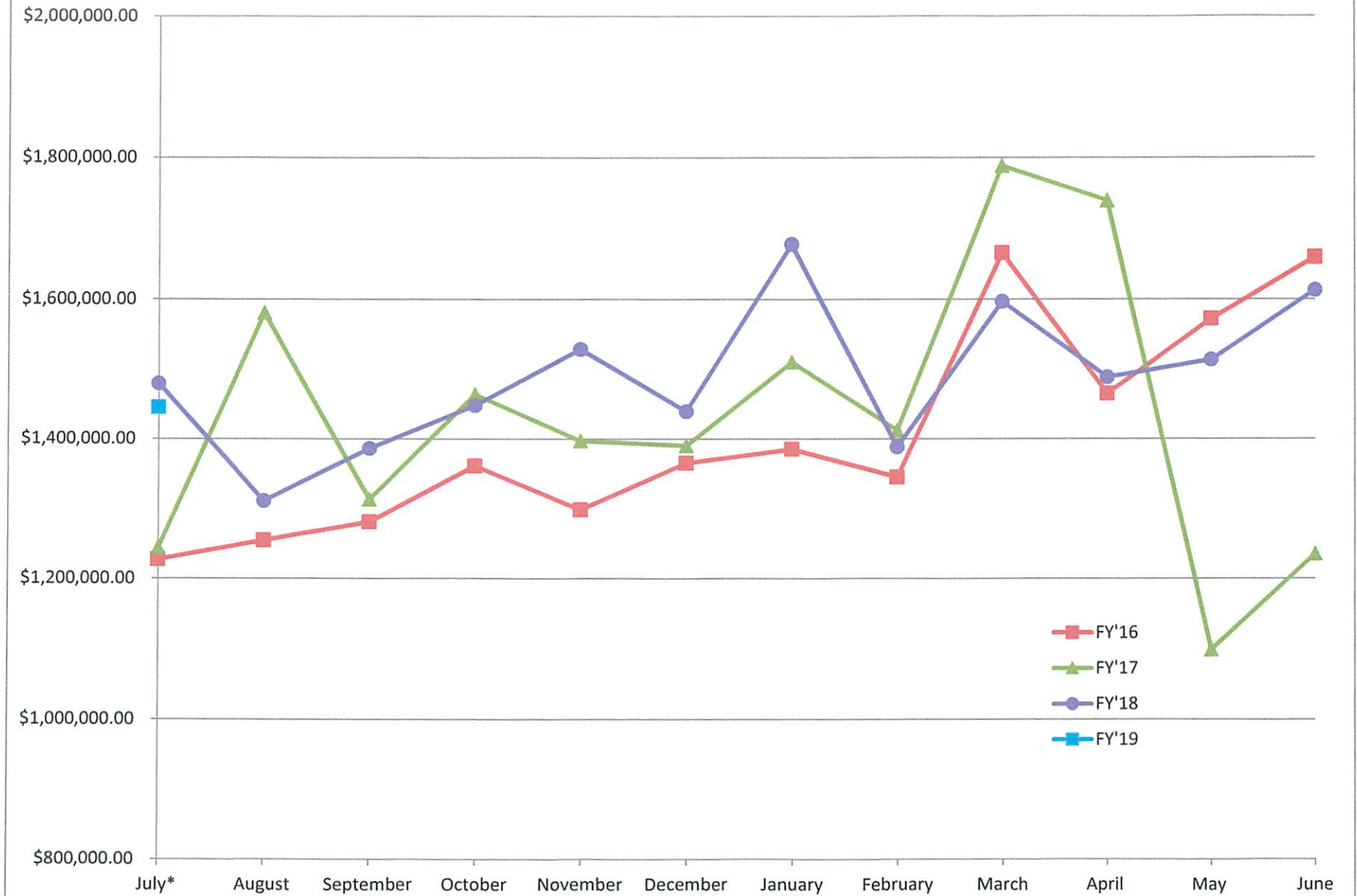




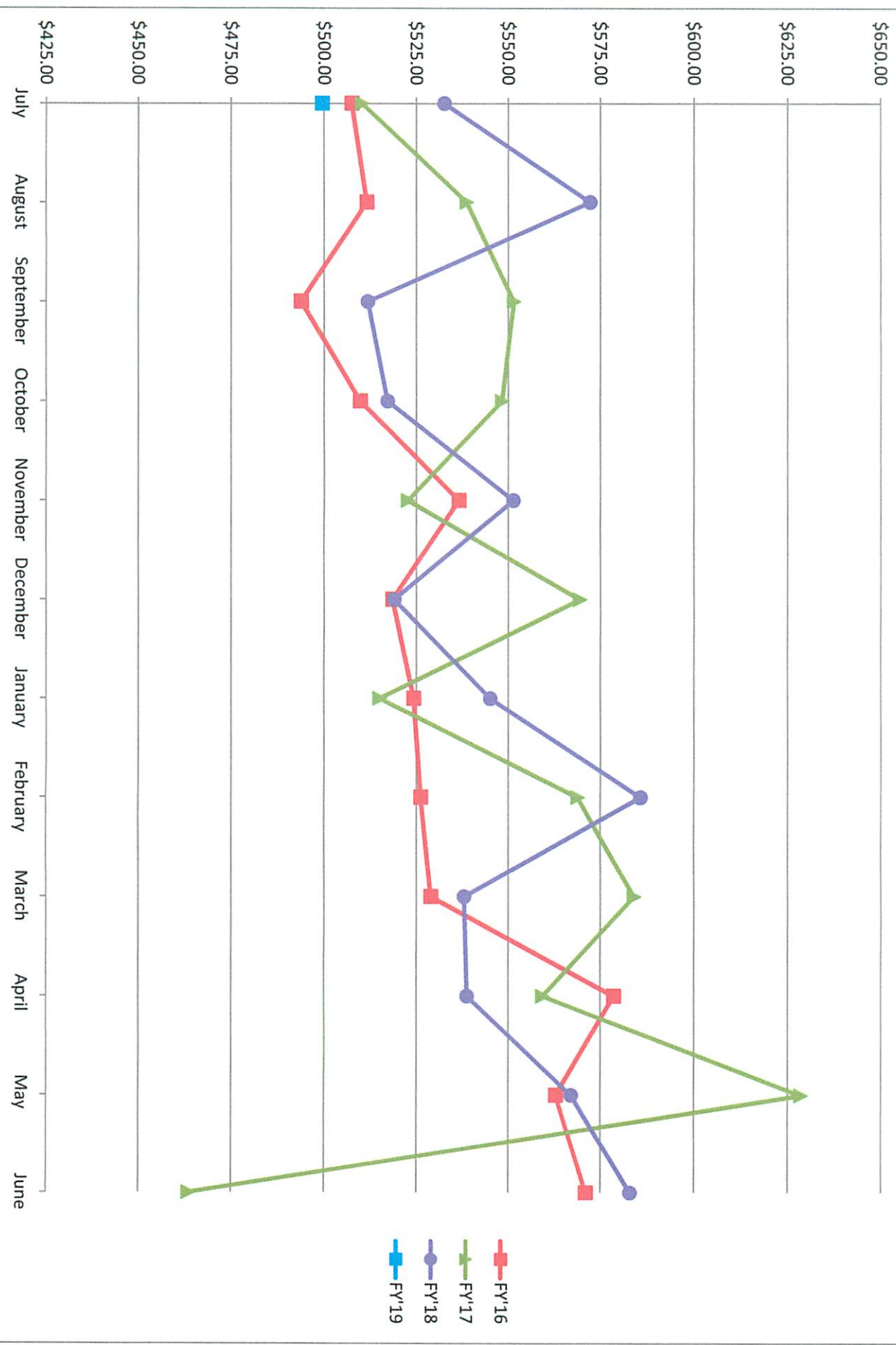
# Submitted Vouchers



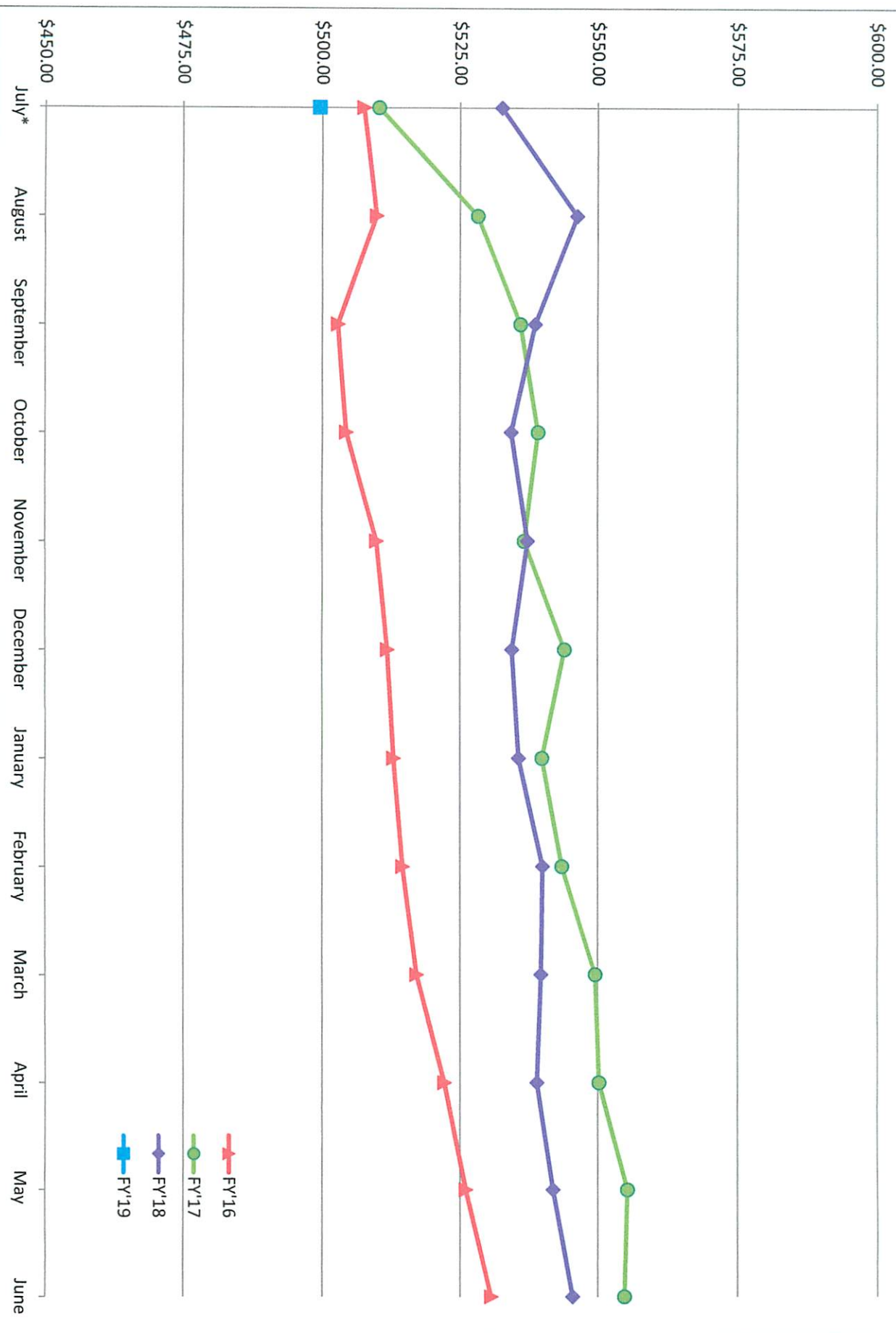
## Submitted Voucher Amount



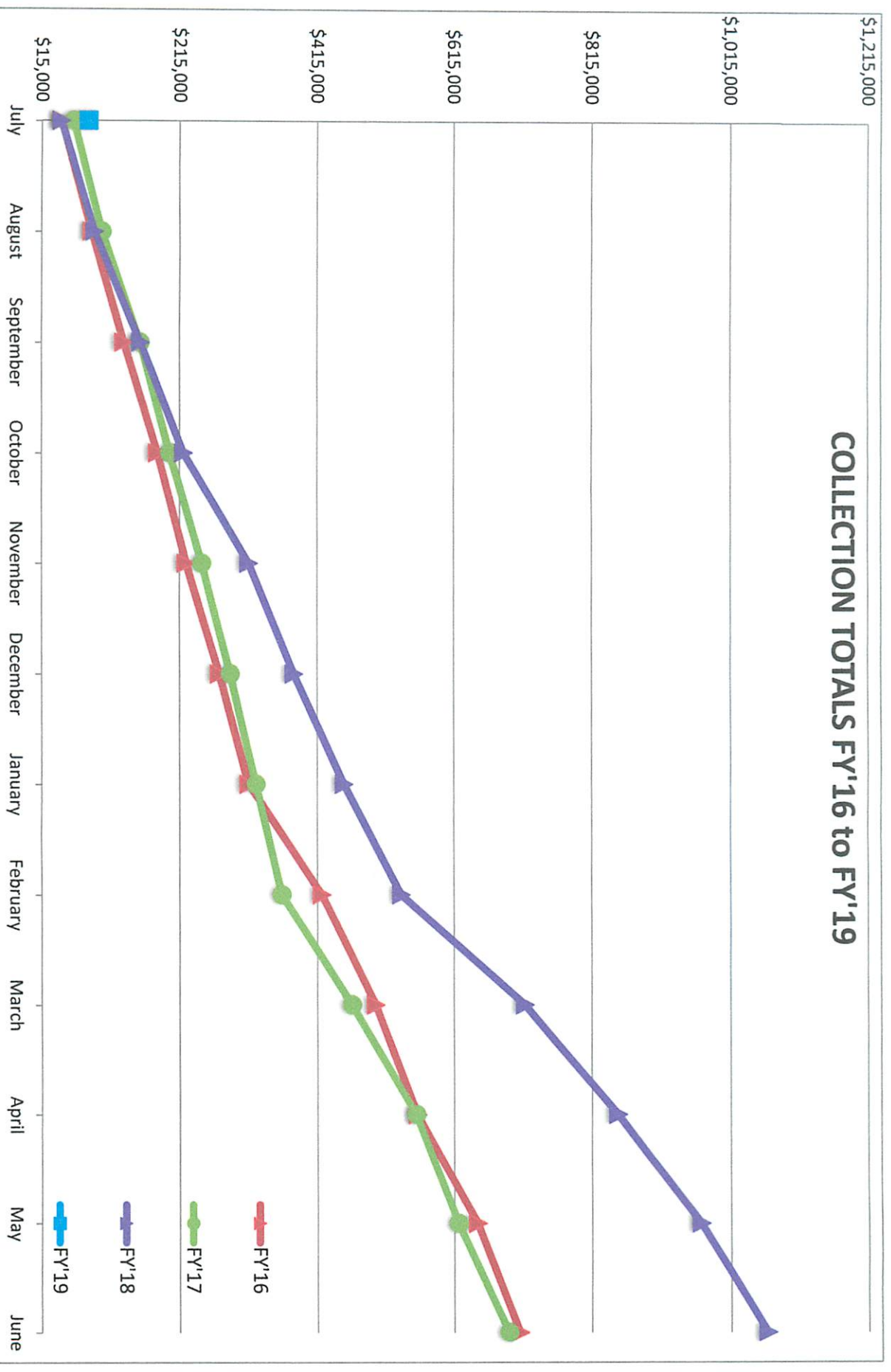
# Monthly Price Per Voucher



## Average Voucher Price Fiscal Year to Date



# COLLECTION TOTALS FY'16 to FY'19



**(3.)**

**Action Items Discussion**

**Fee Schedule Rule**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** ACTION ITEMS DISCUSSION  
**DATE:** AUGUST 8, 2018

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During the past several meetings, and particularly at the meeting in July, the Commission has discussed the need to examine and consider changes to the Fee Schedule related to fee caps and various other items. Chair Carey has offered to prepare a draft of an amended Fee Schedule to form the basis of further discussion. It is expected that Chair Carey will circulate a draft to the other Commissioners prior to the meeting on August 14<sup>th</sup>, but that draft is not available at this time.

The Resource Counsel program launched on August 1, 2018. Notice has been sent to all rostered attorneys relating the identity and contact information for the Resource Counsel in their region for their area(s) of practice. New lawyers who came onto the roster through the June Minimum Standards Training have been instructed to meet with resource counsel within 30 days. Finally, changes have been made to the DefenderData system so that resource counsel can submit invoices and the Commission can monitor resource counsel activity.

A revised Action Items list is attached.

## POTENTIAL ACTION ITEMS – AUGUST 2018

### PRIORITY

Address fee schedule rule, including 1) adequacy of current fee caps, 2) whether to institute a pre-approval process for exceeding the cap or consider hard caps, 3) travel, mileage and geographic limitations issues, and 4) late vouchers.

- Draft for discussion purposes to be reviewed at August meeting.

Review of the Criminal, Juvenile, and Child Protective Practice Standards. – The Commission will review the standards to determine whether any updates or changes are necessary. The Commission asked the staff to review the Criminal Standards, with the Juvenile and Child Protective Standards to be reviewed by various Commissioners.

### COMPLETED ITEMS

Resource Counsel system. – Initial implementation of the Resource Counsel program was completed on August 1, 2018. Staff will monitor Resource Counsel activities and report to the Commission on how the program is being utilized. The Commission will review of the Policies and Procedures governing the program six months after implementation.

System to facilitate filing of complaints by clients. – Action: A feedback form for use by clients and other actors in the system has been developed and distributed.

New form for application for counsel. – A new request for assigned counsel and affidavit of indigency was developed with input from MCILS and is now in use by the Judicial Branch. Because the order for assignment was removed from the application itself, the new form has room for additional financial information and expanded warnings about the need to be truthful and to cooperate with follow-up investigations and the consequences of failing to do so. The new order of assignment highlights any payment order that is entered, makes clear that first-party bail is available to cover counsel fees, and imposes a requirement that the client keep the court advised of any change of address until any payment order is fully satisfied.

Early interface with new court case management system. Staff met with Judicial Branch staff, including Judges, clerks, and technology managers, as well as representatives of the case management system vendor to discuss the outline and requirements of any interface.



## OTHER ITEMS

New procedure for collection hearings. An outline of a new procedure has been forwarded to the Judicial Branch, but follow-up is required.

### Review and Possible amendment of the Criminal Practice Standards

#### Items requiring court cooperation:

Reimbursement of counsel fees when client with assigned counsel retains counsel.

Block case assignments.

Less formal briefs (avoid printing costs) in the Law Court.

Refusing to pay for discovery.

Closing rosters to new lawyers in areas flush with lawyers.

Identifying locales similar to Somerset that could benefit from a contract.

Evaluation surveys.

**94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES****Chapter 301: FEE SCHEDULE AND ADMINISTRATIVE PROCEDURES FOR PAYMENT OF COMMISSION ASSIGNED COUNSEL**

**Summary:** This Chapter establishes a fee schedule and administrative procedures for payment of Commission assigned counsel. The Chapter sets a standard hourly rate and ~~maximum~~ fee amounts for specific case types. The Chapter also establishes rules for the payment of mileage and other expenses that are eligible for reimbursement by the Commission. ~~Finally, t~~ This Chapter requires that, ~~unless an attorney has received prior authorization to do otherwise,~~ all vouchers must be submitted using the MCILS electronic case management system.

**SECTION 1. DEFINITIONS**

1. Attorney. "Attorney" means an attorney licensed to practice law in the State of Maine.
2. MCILS or Commission. "MCILS" or "Commission" means the Commissioners of the Maine Commission on Indigent Legal Services.
3. Executive Director. "Executive Director" means the Executive Director of MCILS or the Executive Director's decision making designee.

**SECTION 2. HOURLY RATE OF PAYMENT**

Effective July 1, 2015:

A rate of Sixty Dollars (\$60.00) per hour is authorized for time spent on an assigned case.

**SECTION 3. EXPENSES**

1. **Routine Office Expenses.** Routine Office expenses are considered to be included in the hourly rate. Routine office expenses, including but not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, routine copying (under 100 pages), local phone calls, parking (except as stated below), and office supplies, etc., will not be reimbursed.
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), collect phone calls, extensive copying (over 100 pages), 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. Necessary parking fees associated with multi-day trials and hearings will be reimbursed, ~~but must be approved in advance by the Executive Director.~~
3. **Travel Reimbursement.** Mileage reimbursement shall not exceed the applicable State rate. Mileage reimbursement will be paid for travel to and from courts other than an attorney's home district and superior court. Mileage reimbursement will not be paid for

travel to and from an attorney's home district and superior courts. Tolls will be reimbursed, except that tolls will not be reimbursed for travel to and from attorney's home district and superior court. All out-of-state travel or any overnight travel must be approved by the MCILS in writing prior to incurring the 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.
5. **Discovery Materials.** The MCILS will reimburse only for one set of discovery materials. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel forthwith.
6. **Expert and Investigator Expenses.** Other non-routine expenses for payment to third parties, ~~such as which historically required preapproval by the Court before July 1, 2010 (e.g., investigators, interpreters, medical and psychological experts, testing, depositions, etc.)~~ are required to be approved in advance by MCILS. Funds for third-party services will be provided by the MCILS only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with the 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.** In criminal and juvenile cases, witness, subpoena, and service fees will be reimbursed only pursuant to M.R. Crim. P. 17(b). It is unnecessary for counsel to advance these costs, and they shall not be included as a voucher expense. 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. MAXIMUM FEES SUGGESTED FEE CAPS**

Vouchers submitted for amounts greater than the ~~suggested fee caps~~ applicable maximum fees outlined in this section will not be approved for payment must be accompanied by written justification by counsel and will not be approved for payment unless approved by the Executive Director or Deputy Executive Director, except as approved by the Executive Director. Any amount greater than twice the suggested fee cap must be approved in advance by the Executive Director or Deputy Executive Director. Any amount greater than triple the suggested fee cap must be approved by the Commission.

##### **1. Trial Court Criminal and Juvenile Fees**

- A. ~~Maximum Suggested Fee Caps~~ fees, excluding any itemized expenses, are set in accordance with this subsection. ~~Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.~~

Effective July 1, 2015:

- 1) **Murder. \$10,000.** ~~Fee to be set by the Executive Director on a case-by-case basis.~~
- 2) **Class A. \$3,000**

- 3) **Class B and C (against person).** \$2,250
- 4) **Class B and C (against property).** \$1,500
- 5) **Class D and E (Superior or Unified Criminal Court).** \$750
- 6) ~~Class D and E (District Court).~~ \$540
- 7) **Post-Conviction Review.** ~~\$1,200~~ \$2,500
- 8) **Probation Revocation.** ~~\$540~~ \$750
- 9) **Miscellaneous (i.e. witness representation on 5<sup>th</sup> Amendment grounds, etc.)** \$540
- ~~10) **Juvenile.** \$540~~

B. In cases involving multiple counts against a single defendant, the maximum fee shall be that which applies to the most serious count. In cases where a defendant is charged with a number of unrelated offenses, Counsel is expected to coordinate and consolidate services as much as possible.

C. Criminal and juvenile cases will include all proceedings through disposition as defined in Section 5.1.A below. Any subsequent proceedings, such as probation revocation, will require new application and appointment.

~~D. When doing so will not adversely affect the attorney-client relationship, Commission assigned counsel are urged to limit travel and waiting time by cooperating with each other to stand in at routine, non-dispositive matters by having one attorney appear at such things as arraignments and routine non-testimonial motions, instead of having all Commission assigned counsel in an area appear.~~

~~ED.~~ Upon written request to MCILS, assistant counsel may be appointed in a murder case or other complicated Class A cases:

- 1) the duties of each attorney must be clearly and specifically defined and counsel must avoid unnecessary duplication of effort;
- 2) each attorney must submit a voucher to MCILS. Counsel should coordinate the submission of voucher 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 attorney. Co-counsel shall~~ not be appointed within the same firm.

## 2. **District Court Child Protection**

- A. ~~Maximum fees~~ Suggested fee caps, excluding any itemized expenses, for Commission-assigned counsel in child protective cases are set in accordance with the following schedule:

Effective July 1, 2015:

- 1) **Child protective cases** (each stage). \$900
- 2) **Termination of Parental Rights** (with a hearing). \$ 1,260

- B. ~~Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.~~ Each child protective stage ends when a proceeding results in a court order as defined in Section 5.1.B below. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the suggested fee cap ~~maximum fee~~. A separate voucher must be submitted at the end of each stage.

### 3. **Other District Court Civil**

- A. ~~Maximum fees~~ Suggested fee caps, excluding any itemized expenses, are set in accordance with this subsection. ~~Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.~~

Effective July 1, 2015:

- 1) **Application for Involuntary Commitment.** \$420
- 2) **Petition for Emancipation.** \$420, if hearing held \$750
- 3) **Petition for Modified Release Treatment.** \$420
- 4) **Petition for Release or Discharge.** \$420

### 4. **Law Court**

- A. ~~Maximum fees~~ Suggested fee caps, excluding any itemized expenses, for Commission-assigned counsel are set in accordance with the following schedule:

Effective July 1, 2015:

- 1) **Appellate work following the grant of petition for certificate of probable cause.** ~~\$1,200~~ \$2,500
- B. Expenses shall be reimbursed for printing costs and mileage to oral argument at the applicable state rate. Vouchers for payment of counsel fees and expenses must be submitted, including an itemization of time spent.

**SECTION 5: LAWYER OF THE DAY MINIMUM FEES**

Effective July 1, 2015:

1. Attorneys may charge a minimum fee of \$150.00 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall 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 regardless of the number of clients consulted at the request of the court.

**SECTION 6: ADMINISTRATION**

1. Vouchers for payment of counsel fees and expenses shall be submitted within ~~ninety~~ sixty days after the date of disposition of a criminal, juvenile or appeals case, or completion of a stage of a child protection case resulting in an order. Vouchers submitted more than ~~ninety~~ sixty days after final disposition, or completion of a stage of a child protection case, shall not be paid unless good cause provided and must be approved by the Executive Director. 15

A. For purposes of this rule, "disposition" of a criminal or juvenile case shall be at the following times:

- 1) entry of judgment (sentencing, acquittal, dismissal, or filing);
- 2) upon entry of a deferred disposition;
- 3) upon issuance of a warrant of arrest for failure to appear;
- 4) upon granting of leave to withdraw;
- 5) upon decision of any post-trial motions;
- 6) upon completion of the services the attorney was assigned to provide (e.g., mental health hearings, "lawyer of the day," bail hearings, etc.); or
- 7) specific authorization of the Executive Director to submit an interim voucher.

B. For purposes of this rule, "each stage" of a child protection case shall be:

- 1) Order after Summary Preliminary hearing or Agreement
- 2) Order after Jeopardy Hearing

- 3) Order after each Judicial Review
  - 4) Order after a Cease Reunification Hearing
  - 5) Order after Permanency Hearing
  - 6) Order after Termination of Parental Rights Hearing
  - 7) Law Court Appeal
- 
2. ~~Unless otherwise authorized in advance, a~~ All vouchers must be submitted using the MCILS electronic case management program and comply with all instructions for use of the system.
  3. All time on vouchers shall be detailed and accounted for in .10 of an hour increments. The purpose for each time entry must be self-evident or specifically stated. Use of the comment section is strongly encouraged ~~recommended~~.
  4. All expenses claimed for reimbursement must be fully itemized on the voucher. Copies of receipts for payments to third parties shall be retained and supplied upon request.
  5. ~~Legal services provided in the district court for cases subsequently transferred to the superior court shall be included in the voucher submitted to the MCILS at disposition of the case.~~

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

**(4.)**

**Miscellaneous Report Back**



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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** MISCELLANEOUS ITEMS REPORT BACK  
**DATE:** AUGUST 8, 2018

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At its last meeting, the Commission asked the staff to undertake various tasks and provide information on other items. An update on these items is set forth below.

**BUDGET:** At the July meeting, the Commission was advised that a biennial budget request was due to be submitted to the Governor's office by August 1, 2018, and agreed that the request should reflect flat funding of the All Other account, but increased allotment in the revenue account to reflect the increase in counsel fee reimbursements seen in FY'18. The Executive Director submitted the budget request as authorized.

**6<sup>TH</sup> AMENDMENT CENTER STUDY:** During July, the 6<sup>th</sup> Amendment Center requested data showing the distribution of cases and payments to rostered attorneys over the past five years. The data was extracted from our DefenderData system and provided to the 6<sup>th</sup> Amendment Center and was also shared with Commissioners. In addition, the Sixth Amendment Center has conducted a telephone interview with the Executive Director, who understands telephone interviews with rostered attorneys have also commenced.

**IMMIGRATION CONSULTATION CONTRACT:** At the last meeting, the Executive Director reported on the number of cases handled each month by the contract attorney. The Commission asked staff to request that the contract attorney provide the number of hours worked each month in addition to the number of cases addressed. The contract attorney has agreed to do so. The Commissioners also requested that the Executive Director explore the possibility of providing advice to pro se defendants under any future contract. The current provider expressed reluctance to do so.

**CRIMINAL PRACTICE STANDARDS:** The Commission asked the staff to undertake a careful review of the criminal practice standards and to add that review as a priority item on the Action Items list. The staff has not had time to undertake this review because the Executive Director was out of the office for one week in July and because the unusual status of the Commission's operating budget for FY'19 required substantial work with other agencies to adjust various systems to the Commission's newly created accounts.