

MCILS

**December 21, 2020
Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

**DECEMBER 21, 2020
ZOOM COMMISSION MEETING
AGENDA**

- 1) Public Hearing on Proposed Rule Amendments
- 2) Approval of November 4, 2020, November 17, 2020, and December 7, 2020 Commission Meeting Minutes
- 3) Operations Reports
- 4) Executive Director Search
- 5) Budget Discussion
- 6) New Attorney Rostering
- 7) Parents Attorney Shortage
- 8) Complaint Process Discussion
- 9) Annual Report
- 10) Public Comment
- 11) Set Date, Time and Location of Next Regular Meeting of the Commission
- 12) Executive Session, if needed (Closed to Public)

(1.)

**Public Hearing on
Proposed Rule
Amendments**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: PUBLIC HEARING ON PROPOSED RULE AMENDMENTS

DATE: December 17, 2020

Copies of Chapter 2 and 3 that were sent to the Secretary of State's office are included for your reference.

**Chapter 2: STANDARDS FOR QUALIFICATIONS OF ROSTEREDASSIGNED
COUNSEL**

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

SECTION 1. Application

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

SECTION 1A. Qualifications for Previously Rostered Counsel at the Time These Amended Rules and Standards are Implemented.

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

1. Currently rostered counsel shall maintain their current status on rosters for the first year after the enactment of this rule. The Executive Director shall create an application for all currently rostered counsel to complete to demonstrate they meet all new eligibility requirements. After the first year following the enactment of these rules and standards, rostered counsel must comply with all eligibility requirements of this rule.
2. Any attorney not previously rostered to receive assignments from the Commission when this rule is enacted must comply with all requirements to be rostered.

SECTION 1B. General Eligibility Requirements

1. The Executive Director or their designee, shall have the sole discretion to make the determination if an attorney is qualified to be placed on a roster. In addition, the Executive Director or their designee, shall have the sole discretion, to grant or deny a waiver pursuant to, and in accordance with waiver of eligibility requirements. The Executive Director's decision to not roster 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.

2. The Executive Director or their designee, may, in their sole discretion, remove an attorney from a roster at any time if the attorney is not meeting the minimum qualifications and standards as determined by the Executive Director or their designee. This 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 their designee, to remove an attorney from any roster at any time.
3. All attorneys must comply with all standards, procedures, and rules of the Commission.
4. The Executive Director or their designee may deny the rostering of an attorney who meets the minimum qualifications necessary to be placed on a roster, including specialized rosters, if there are a sufficient number of rostered attorneys as determined by the Executive Director or their designee currently on the roster in the region the applicant attorney plans to practice.
5. A newly rostered attorney cannot be assigned a case until a rostered mentor has been assigned.

SECTION 1C. General Policies Applicable to All Rostered Counsel

1. Rostered counsel must register with the Commission annually in a manner prescribed by the Commission.
2. Rostered counsel must also comply with any Commission request, investigation or audit on any topic relating to the representation, including, complaints, time records, billing, financial practices, discovery in the matter, and pleadings or other filings. Rostered counsel shall provide other information that, in the view of the Executive Director or their designee, concerns the question of whether the attorney is fit to remain on the roster.
3. Rostered counsel shall not knowingly make a false statement of material fact or law to the court, the Commission, or a third person.
4. Rostered counsel must keep all clients, 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.
5. Rostered counsel shall not accept any compensation or other consideration for assigned cases except through the Commission.
6. Rostered counsel must enter a new assignment into the Commission billing system within 5 days of receiving notice of the assignment

SECTION 2. Minimum Experience, Training, ~~A~~ and Other Eligibility Requirements to be Rostered

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

~~1. Licensed To Practice Repealed.~~

- ~~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. Repealed.~~
- ~~b.) The attorney must promptly inform the Commission, in writing, of any complaint against the attorney filed with the Maine Board of Overseers of the Bar that has been set for a grievance panel hearing or hearing before a single justice of the Supreme Judicial Court. Failure to comply with this requirement is grounds for removal from the roster. Repealed.~~
- ~~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. Repealed.~~

2. Attorney Cooperation with Procedures and Monitoring

- ~~a. The attorney must register with the Commission annually in a manner prescribed by the Commission. Repealed.~~
- ~~b. The attorney must comply with all applicable Commission rules and procedures. Repealed.~~
- ~~c. Rostered counsel The attorney must cooperate comply with Commission monitoring, and performance evaluations, and provide information as requested regarding complaints or billing discrepancies. Failure to comply in a timely manner could result in the rostered counsel's vouchers not being paid and/or suspension from the roster(s). 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.~~

~~3. Rostered counsel must be in good standing with the Board of Overseers of the Bar and licensed to practice law in the State of Maine prior to being rostered.~~

~~4. Any attorney not previously rostered must satisfactorily complete a Commission-sponsored or Commission-approved training course in order to be eligible to receive assignments.~~

~~5. Attorneys applying to be rostered and rostered counsel must disclose any criminal convictions. The Executive Director or their designee shall use their discretion to~~

determine if the conviction disqualifies the applicant attorney.

6. An attorney applying to be rostered who has any pending disciplinary matters or pending criminal charges cannot be rostered until the outcome of the proceeding is concluded. The allegations and outcome of the proceeding must be considered by the Executive Director in deciding if the attorney is eligible to be rostered.

SECTION 3. Office, Telephone, and Electronic Mail

1. The attorney Rostered counsel 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 or the use of secure virtual office meetings.
2. The attorney Rostered counsel 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. Rostered counsel must be able to accept calls from correctional institutions in the counties in which they primarily practice and should accept such calls if available to speak with the client.
3. The attorney Rostered counsel must maintain a confidential working e-mail account as a means of receiving information from and providing information to the Commission, the Courts, and clients.
4. The attorney Rostered counsel 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 Rostered counsel must ensure that the court has the ability to contact the attorney by mail and by telephone.

SECTION 4. ~~Experience and Proficiency~~ Repealed.

~~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 Repealed.~~

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 the 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. Repealed.~~

SECTION 5. Training and CLE Requirements for Rostered Counsel

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

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

1. An attorney may be accepted for placement on a 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 the assignment.
2. At a minimum, rostered counsel shall annually complete 8 hours of continuing legal education (CLE) approved by the Commission.
 - A. These hours are not in addition to any other Commission CLE requirements but are included in any other Commission CLE requirements. CLE credits applicable to specialized panel CLE requirements may also satisfy this 8-hour CLE requirement.
 - B. Rostered counsel eligible to receive assignments in both criminal and child protection cases shall annually complete 8 hours of criminal law related CLE and 8 hours of child protection law CLE, but only if the Commission offers such CLE training.

SECTION 6. Removal or Suspension from the Roster

1. The Executive Director may remove indefinitely or suspend ~~an attorney a rostered counsel~~ from the roster completely or from the roster for ~~certain specialized~~ case types and court locations for any failure to comply with ~~any Commission this or any other Commission~~ rule or standard or in the interest of the Commission. In addition, the Executive Director may remove indefinitely or suspend ~~an attorney a rostered counsel~~ from the roster completely or from the roster for certain case types and court locations if the Executive Director determines ~~rostered counsel that the attorney~~ rostered counsel is no longer qualified to provide quality indigent legal services

~~based on the nature of any criminal charge or on investigation by the Executive Director or the Executive Director's designee of any complaint or other information.~~ The Executive Director's decision to remove or suspend an attorney from the roster shall be in writing and shall reflect the Executive Director's reasoning in a manner sufficient to inform the attorney and the public of the basis for the ~~Executive Director's action.~~ The Executive Director may consult with Commissioners in determining the appropriate action to be taken, if any.

2. ~~Rostered counsel Attorneys~~—removed indefinitely must re-apply to the Commission if they wish to receive assignments in the future. Rostered counsel Attorneys—suspended from the roster need not re-apply; but must demonstrate compliance with any conditions made part of a suspension. Removal or suspension may also include a requirement that the attorney immediately identify to the Commission all open assigned cases and file a motion to withdraw in each case.
3. 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.

SECTION 7. Affirmative Duty to Report Complaints or Potential Conflicts

1. Rostered counsel shall notify the Executive Director or their designee in writing within five business days of learning of any of the following:
 - a. Being summonsed, charged, or convicted of a crime, a rostered attorney must disclose in writing the summons, charge, conviction to MCILS. The Executive Director shall have the discretion to reassign any MCILS case currently assigned to the rostered attorney and/or suspend the rostered counsel from the roster(s). Rostered counsel has an ongoing obligation to keep the Executive Director or their designee apprised of the allegation and the outcome of said allegation
 - b. A rostered counsel who has been convicted of a Title 17-A, Chapter 45 (Drugs) or Title 29-A, § 2411 (OUI) or similar crimes in a different jurisdiction while rostered cannot receive any new assignments until the rostered counsel has completed a substance abuse evaluation and is engaged in any recommend counseling and confirmed that a referral has been made to the Maine Assistance Program for Lawyers and Judges.
 - c. A complaint has been filed against rostered counsel before the Maine Board of Overseers of the Bar or similar institution in any jurisdiction or court;
 - d. Rostered counsel is the subject of disciplinary action before any non-attorney professional licensing board or agency;
 - e. Rostered counsel's license to practice law has been suspended or terminated for any reason, including for administrative reasons such as non-payment of bar dues;

- f. A court or agency has found the attorney engaged in conduct which is subject to mandatory reporting under the Maine Rules of Professional Conduct;
 - g. Any condition or circumstance that exist that renders the rostered attorney unable to comply with applicable Commission standards, procedures, or rules; or
 - h. Any conduct that constitutes a violation of any of the rostered counsel's ethical duties.
2. The obligations set forth above apply independently of each other and without regard to either the jurisdiction in which the proceedings are instituted or take place, or whether any portion of said proceedings are otherwise considered to be private or confidential.
 3. With regard to a complaint opened or petition for discipline filed by the Maine Board of Overseers of the Bar or the attorney licensing authority of any state or jurisdiction rostered counsel shall, within five business days of learning of such complaint or disciplinary action, provide a copy of the complaint or petition to the Executive Director or their designee. The attorney shall also provide to the Executive Director or their designee a copy of rostered counsel's answer to the complaint or petition within one week after its filing. Finally, within one week after the disposition or resolution of a complaint or disciplinary action before the Maine Board of Overseers of the Bar or the attorney licensing authority of any state or jurisdiction, including a disposition or resolution under which imposed discipline does not take effect immediately, rostered counsel shall provide to the Executive Director or their designee a copy of any order, agreement, or other document which sets forth the disposition or resolution of the matter.
 4. The requirements of this section shall apply regardless of whether the complaint or other disciplinary action, including the final disposition or resolution of the complaint or disciplinary action, is treated as a public or private matter by the Maine Board of Overseers of the Bar or the attorney licensing authority of any state or jurisdiction.
 5. Any information obtained or gathered by the Commission when performing an evaluation or investigation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated or investigated.
 6. Rostered counsel who receives a disciplinary sanction or criminal conviction with regards to the obligations set forth above cannot receive any new assignments and must reapply to become rostered. The Executive Director shall have the discretion to reassign any Commission case currently assigned to the rostered counsel and

mandate the rostered counsel withdraw from those cases.

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

EFFECTIVE DATE:

June 25, 2010

AMENDED:

Chapter 3: ELIGIBILITY REQUIREMENTS FOR SPECIALIZED CASE TYPES

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

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

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

Aggravated Assault on a Pregnant Person), 301 (Kidnapping), 401(1)(B)(1), (2), or (3) (Burglary with a Firearm, Burglary with Intent to Inflict Bodily Harm, and Burglary with a Dangerous Weapon), 651 (Robbery), 802 (Arson), 803-A (Causing a Catastrophe), 1105-A (Aggravated Trafficking of Scheduled Drugs), 1105-B (Aggravated Trafficking of Counterfeit Drugs), and 1105-C (Aggravated Furnishing of Scheduled Drugs).

B. “~~Serious-Violent~~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.

4. Sex Offense. “Sex Offense” means:

A. An offense under 17-A M.R.S.A. §§ 251-259-A (Sexual Assaults), §§ 281-285 (Sexual Exploitation of Minors), § 556 (Incest), § 511(1)(D) (Violation of Privacy), § 852 (Aggravated Sex Trafficking), § 853 (Sex Trafficking), § 853-A (Engaging in Prostitution), § 853-B (Engaging a Prostitute), and § 855 (Patronizing Prostitution of Minor or Person with Mental Disability).

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

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

5. Specialized Case Types. “Specialized Case Types” means those cases that are complex in nature due to the allegations against the person as well as the severity of the consequences if a conviction occurs. They include the following case types:

A. Murder and manslaughter-Homicide, including OUI manslaughter

B. Sex ~~e~~Offenses

C. ~~Serious-violent felonies~~-Major Felony

D. Operating ~~U~~nder the ~~I~~nfluence (OUI)

E. Domestic ~~V~~violence

F. Juvenile ~~D~~efense

G. Protective custody matters

H. Repealed.

- I. Appellate Panel
- J. Post-Conviction Review
- K. Bind-over Hearings
- L. Felonies
- M. Lawyer of the Day

6. Felony. "Felony" means any crime where the defendant could be sentenced to 1 year or more and otherwise not included in the definition of another specialized panel.
7. Rostered Counsel means an attorney who meets all the qualifications to accept assignments from the Commission and is actually placed on a roster.
8. Newly Rostered Counsel means an attorney not previously rostered to receive assignments from MCILS when these standards and rules are enacted.

SECTION 1A. Qualifications for Previously Rostered Counsel at the Time This Amended Rule is Implemented.

Currently Rostered Counsel shall maintain their current status on rosters for the first year after the enactment of this rule. The Executive Director shall create an application for all currently Rostered Counsel to complete to demonstrate they meet all new minimum experience, training, and other eligibility requirements. After the first year following the enactment of these rules and standards, rostered counsel must comply with all eligibility requirements for all the panels they are rostered on.

SECTION 2. Powers and Duties of the Executive Director

1. The Executive Director, or ~~his or her~~their designee, shall develop an application process for an attorney seeking ~~appointment~~assignment(s) in Specialized Case Types to demonstrate the minimum qualifications necessary to be placed on Specialized Case Type Rosters. An applicant for a Specialized Case Type Roster must present additional information beyond the minimum requirements of this Chapter if requested by the Executive Director, or ~~his or her~~their designee in order to determine that the applicant meets all applicable qualification requirements.
2. The Executive Director, or ~~his or her~~their designee, shall have the sole discretion to make the determination if an attorney is qualified to be placed on a Specialized Case Type Roster. In addition, the Executive Director, or ~~his or her~~their 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~~ their designee, may, in his or her sole discretion, remove an attorney from a Specialized Case Type Roster at any time if the attorney is not meeting the minimum qualifications and standards as determined by the Executive Director, or their ~~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~~ her ~~their~~ designee, to remove an attorney from any Specialized Case Type Roster at any time.

SECTION 3. Minimum Eligibility Requirements for Specialized Case Types.

1. **Murder and non OUI Manslaughter Homicide.** In order to be rostered for ~~homicide cases~~ Murder and non OUI Manslaughter cases for adult and juvenile clients an attorney must:

- ~~A. Have at least five years of criminal law practice experience; Repealed~~
- ~~B. Have tried before a judge or jury as first chair at least five felony cases within the last ten years, at least two of which were serious violent felony, homicide, or Class C or higher sex offense cases, AND at least two of which were jury trials; Repealed~~
- ~~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; Repealed~~
- ~~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; Repealed~~
- ~~E. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with homicide; and Repealed~~
- ~~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. Repealed~~

- G. Have at least five years of experience as a criminal defense attorney;
- H. Have been co-counsel on at least 3 Murder or non OUI Manslaughter cases;
- I. Have been an attorney of record on at least 5 jury trials of which the attorney has been lead counsel on 2 of the jury trials;
- J. Attend and complete the Commission minimum standards training for Murder and non OUI Manslaughter panel.
 - 1. If the Commission has not established a minimum standards training for Murder and non OUI Manslaughter panel, the attorney must complete 12 CLE hours addressing one the following topics within the previous 2 years: defense of homicides, forensic and scientific issues relating to DNA testing, fingerprint analysis, mental health issues, and eyewitness identification.
 - 2. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;
- K. Provide a letter explaining your reasons for interest in and qualifications for representing individuals charged with homicide. This letter must demonstrate a knowledge and familiarity with the evidentiary issues relevant to homicide cases, must demonstrate experience in the utilization of expert witnesses and investigators, must demonstrate experience with forensic and psychiatric evidence, must demonstrate experience with litigating suppression motions, and must demonstrate training or experience with eyewitness identification;
- L. Must submit to the Executive Director or their designee three letters of reference from attorneys with at least 10 years of experience and with whom the applicant does not practice, that assert the applicant is qualified to represent individuals charged with homicide and non OUI manslaughters.
- M. Additional Letters of reference shall also be submitted upon the request of the Executive Director or their designee; and
- N. Must recertify every year that all requirements are met to remain on the murder and non OUI manslaughter panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

1A. OUI Manslaughter. In order to be rostered for OUI Manslaughter cases for adult and juvenile clients an attorney must:

- A. Qualify for the Murder and non OUI Manslaughter for adult and juvenile panel and the OUI panel; and

B. Recertify every year that all requirements are met to remain on the OUI manslaughter panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

2. **Sex Offenses.** In order to be rostered for Ssex Offense cases for adult or juvenile clients an attorney must:

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

~~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; Repealed~~

~~C. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a sex offense; and Repealed~~

~~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. Repealed~~

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

~~F. Have at least 4 years of experience as a criminal defense attorney;~~

~~G. Have been co-counsel on at least 3 Sex Offender Registry and Notification Act (SORNA) registerable criminal Sex Offense cases or analogous juvenile offenses;~~

~~H. Have completed to dismissal or sentencing a minimum of 50 felony assignments or analogous juvenile offenses;~~

~~I. Have been an attorney of record in at least 1 jury trial;~~

~~J. Attend and complete the Commission minimum standards training for Sex Offenses panel.~~

~~1. If the Commission has not established a minimum standards training, the attorney must complete 6 CLE hours addressing at least 1 of the following topics within the previous 2 years: forensic and scientific issues relating to DNA testing, applicability of SORNA to criminal cases, cross-examination of the child witness, sexual assault forensic examinations, and eyewitness identification.~~

~~2. These CLE requirements are only applicable if Commission-approved courses~~

are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;

K. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a Sex Offense. This letter must demonstrate a knowledge and familiarity with the evidentiary issues relevant to sex offense cases, must demonstrate experience with litigating DNA issues, must demonstrate experience in the utilization of expert witnesses and investigators, must demonstrate experience with forensic and psychiatric evidence, must demonstrate experience with litigating suppression motions, and demonstrate training with eyewitness identification.

L. Three letters of reference from attorneys with whom the applicant does not practice shall also be submitted upon the request of the Executive Director or their designee if seeking a waiver; and

M. Must recertify every year that all requirements are met to remain on the Sex Offense panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

3. ~~Serious Violent Felonies~~**Major Felonies.** In order to be rostered for Major Felony serious violent felony cases for adult or juvenile clients an attorney must:

~~A. Have at least two years of criminal law practice experience; Repealed.~~

~~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; Repealed.~~

~~C. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a serious violent felony; and Repealed.~~

~~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 felony. The letters of reference must be submitted directly to the Executive Director, or his or her designee, by the author. Repealed.~~

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

F. Have at least 3 years of experience as a criminal defense attorney;

G. Have been co-counsel on at least 5 Major Felony counsel cases;

- H. Have been attorney of record in at least 1 jury trial;
- I. Have completed to dismissal or sentencing a minimum of 25 felony cases.
- J. Attend and complete the Commission minimum standards training for Major Felony panel.
 - 1. If the Commission has not established a minimum standards training, the attorney must complete 6 CLE hours addressing at least 1 of the following topics within the previous 2 years: cross-examination of prosecution witnesses, chain of custody evidentiary issues, admission of medical records, and eyewitness.
 - 2. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;
- K. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a Major Felony. The letter must demonstrate a knowledge and/or familiarity with the cross-examination of prosecution witnesses, chain of custody evidentiary issues, admission of medical records, and eyewitness identification.
- L. Three letters of reference from attorneys with whom the applicant does not practice shall also be submitted upon the request of the Executive Director or their designee if seeking a waiver; and
- M. Must recertify every year that all requirements are met to remain on the Major Felony panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

4. **Operating Under the Influence.** In order to be rostered for juvenile or adult OUI cases an attorney must:

- A. ~~Have at least one year of criminal law practice experience; Repealed.~~
- 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; Repealed.~~
- C. ~~Have obtained in the last three years at least four hours of CLE credit on topics relevant particularly to OUI defense; Repealed.~~
- D. Provide a letter explaining reasons for interest in and qualifications for representing

~~individuals charged with an OUI; and~~ Repealed.

- ~~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.~~ Repealed.
- ~~F. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.~~ Repealed.
- G. Have at least 1 year of experience as a criminal defense attorney;
- H. Have been an attorney of record in at least 1 jury trial;
- I. Attend and complete the Commission minimum standards training for OUI panel.
 - 1. If the Commission has not established a minimum standards training, the attorney must complete 6 CLE hours dedicated specifically to the defense of OUIs during the previous 2 years.
 - 2. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;
- J. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged OUIs. The letter must demonstrate a knowledge and/or familiarity with the cross-examination of prosecution witnesses;
- K. Three letters of reference from attorneys with whom the applicant does not practice shall also be submitted upon the request of the Executive Director or their designee if seeking a waiver; and
- L. Must recertify every year that all requirements are met to remain on the OUI panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

5. **Domestic Violence.** In order to be rostered for ~~adult~~ ~~Domestic~~ ~~Violence~~ cases an attorney must:

- ~~A. Have at least one year of criminal law practice experience;~~ Repealed.
- ~~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;~~
Repealed.

- ~~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;~~ Repealed.
- ~~D. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged with a domestic violence crime; and~~ Repealed.
- ~~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.~~ Repealed.
- ~~F. Letters of reference shall also be submitted upon the request of the Executive Director, or his or her designee.~~ Repealed.
- G. Have at least 1 year of experience as a criminal defense attorney;
- H. Have been the attorney of record for at least 1 jury trial;
- I. Attend and complete the Commission minimum standards training for Domestic Violence panel.
 - 1. If the Commission has not established a minimum standards training, the attorney must complete 6 CLE hours dedicated specifically to the defense of Domestic Violence cases in the previous 2 years.
 - 2. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;
- J. Provide a letter explaining reasons for interest in and qualifications for representing individuals charged Domestic Violence allegations;
- K. Three letters of reference from attorneys with whom the applicant does not practice shall also be submitted upon the request of the Executive Director or their designee if seeking a waiver; and
- L. Must recertify every year that all requirements are met to remain on the Domestic Violence panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

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

A. Repealed.

~~B. For felony cases and sex offense cases: Repealed.~~

~~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 Hearings: Repealed.~~

~~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.~~

D. An attorney with less than 1-year experience must agree to work with a rostered mentored attorney for at least 18 months. The attorney will be provisionally rostered until the 18-month period is completed;

E. The attorney will be provisionally rostered until they have been co-counsel or lead counsel for at least 5 contested juvenile hearings, including but not limited to detention hearings, evidentiary hearings, adjudication hearings, and dispositional hearings. Provisionally rostered counsel must continue working with a rostered mentored attorney until this requirement is met even if the 18 month period referenced above has expired;

F. Prior to being provisionally rostered for juvenile assignments, the attorney must:

1. Attend and complete the Commission minimum standards training for juvenile defense panel.

a. If the Commission has not established a minimum standards training, the attorney must complete 6 CLE hours on two or more of the following topics within the previous 2 years: juvenile defense, placement options and dispositions for juveniles, child development, adolescent brain development, adolescent mental health diagnosis and treatment, and the collateral consequences of juvenile adjudications plus 1 CLE hour on ethics related to the defense of juveniles.

b. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these

requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;

2. Provide a letter explaining reasons for interest in and qualifications for representing juveniles; and

3. Three letters of reference from attorneys with whom the applicant does not practice shall also be submitted upon the request of the Executive Director or their designee if seeking a waiver; and

G. Must recertify every year that all requirements are met to remain on the juvenile defense panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year

6A. Bind-over hearings

1. Rostered Counsel representing a juvenile who receives notice from the State, whether formal or informal, that it may be seeking bind-over, must immediately notify the Executive Director or their designee.

2. To be eligible to continue to represent the juvenile, the Rostered Counsel must meet the following requirements. If the Rostered Counsel does not meet the requirements, then the Executive Director or their designee shall assign a second Rostered Counsel who does meet the requirements. Two attorneys shall be assigned to every bind-over hearing. One attorney must be a bind-over Rostered Counsel and one attorney must be on the adult murder, adult Sex Offense or adult Major Felony panel. The same attorney can meet both qualifications but there must be at least two attorneys. The minimum requirements for at least 1 of the attorneys are:

a. Have been rostered to represent juveniles for at least 5 years;

b. Have been Rostered Counsel on at least 50 juvenile cases to conclusion;

c. Have been co-counsel or lead counsel for at least 10 contested juvenile hearings, including but not limited to detention hearings, evidentiary hearings, adjudication hearings, and dispositional hearings; and

d. Attend and complete the Commission minimum standards training for the bind-over hearings panel.

1. If the Commission has not established a minimum standards training, the attorney must have attended in the previous five years at least 17 CLE hours that cover 4 of the following topics: juvenile defense, placement options and dispositional alternatives for juveniles, child development, adolescent

mental health diagnosis and treatment, issues and case law related to adolescent competency, bind-over procedures, and the collateral consequences of juvenile adjudications plus 1 CLE hour on adolescent brain development.

2. These CLE requirements are only applicable if the Commission offers Commission-approved courses that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine.

e. Must recertify every year that all requirements are met to remain on the bind-over hearings panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

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-previous five years;

C. Have attended in the last-previous 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 their designee, by the author.

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

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

G. In order to be eligible for protective custody matters, Rostered Counsel must provide satisfactory proof of attendance and observation at the following proceedings prior to representing clients:

1. Two Preliminary Protection Order waivers,
2. One contested Preliminary Protection Order Hearing,
3. Two Jeopardy agreement on the record,
4. One contested Jeopardy Hearing,
5. One Termination of Parental Rights consent on the record, and
6. One contested Termination of Parental Rights Hearing.

H. Upon accepting Commission assignments, Rostered Counsel shall have co-counsel for at least two contested hearings prior to representing a client on their own in a contested hearing. If necessary, Rostered Counsel should consult with a mentor/resource counsel or request experienced co-counsel to ensure quality representation of the parent.

I. Rostered Counsel shall annually complete 8 hours of continuing legal education (CLE) approved by the Commission and related to child protection law and issues, including but not limited to mental health, substance abuse, parental rights and responsibilities, domestic violence, intellectual disabilities, criminal conduct, psychological evaluations, and expert witnesses.

J. Must recertify every year that all requirements are met to remain on the protective custody panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

8. Repealed.

9. ~~**Law Court Appeals**~~**Appellate Panel.** In order to be rostered for appellate assignments for adult criminal, child protection, or juvenile clients 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; Repealed.

~~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. Repealed.~~

~~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. Repealed.~~

~~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 Repealed.~~

~~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. Repealed.~~

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

~~G. This rule is not applicable to cases where trial counsel continues on appeal. Repealed.~~

H. Have at least 3 years of experience as a Rostered Counsel or 1 year of law court clerkship experience;

I. Attend and complete the Commission minimum standards training for the appellate panel.

1. If the Commission has not established a minimum standards training for the appellate panel, the applicant must complete 6 CLE hours dedicated specifically to criminal appeals including but not limited to brief writing, legal writing, legal research, substantive criminal law updates; standards of review; using technology to write briefs; effective oral arguments; tips for everyday appellate practice; effective sentence appeals; and ethics in an appellate practice within the previous 2 years.

2. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8

hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;

J. Submit a letter explaining the applicant's interest in and qualifications for providing representation on appeal, 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. This should include the name and docket number of the cases the applicant has written a brief on;

K. Three letters of reference from attorneys with whom the applicant does not practice shall also be submitted upon the request of the Executive Director or their designee if seeking a waiver;

L. Must recertify every year that all requirements are met to remain on the appellate panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year; and

M. This panel is applicable to all appeals except those appeals regarding the setting of bail.

10. **Post-Conviction Review.** In order to be rostered for post-conviction review assignments for adult or juvenile clients ~~eases~~ an attorney must:

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

~~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; Repealed.~~

~~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 Repealed.~~

~~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. Repealed.~~

~~E. Letters of reference and writing samples shall also be submitted upon the request of the Executive Director, or his or her designee. Repealed.~~

~~F. Be Rostered Counsel on the Specialized Case Type Roster for the type of the case~~

being challenged on post-conviction review;

G. Attend and complete the Commission minimum standards training for the post-conviction review panel.

1. If the Commission has not established a minimum standards training for the post-conviction review panel, the applicant must complete 6 CLE hours dedicated specifically to post-conviction review or ineffective assistance of counsel claims within the previous two years.

2. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;

H. 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;

I. Three letters of reference from attorneys with whom the applicant does not practice and writing samples shall also be submitted upon the request of the Executive Director or their designee; and

J. Must recertify every year that all requirements are met to remain on the post-conviction review panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

11. **Felonies.** In order to be rostered for felony cases an attorney must:

A. Have completed the mentor-mentee 10 case assignment requirement;

B. Work with 2 different mentors on your first 2 felony case assignments (1 mentor per assignment). The mentee shall be liberally assigned a mentor for future felony assignments after the first 2 assignments if such a requested is submitted in writing to the Executive Director or their designee.

C. Attend and complete the Commission minimum standards training for felonies panel.

1. If the Commission has not established a minimum standards training, the attorney must complete 6 CLE hours dedicated to felony defense representation, felony sentencing in Maine, sentencing alternatives, probation in Maine, collateral consequences of felony convictions or similar topics within the previous 2 years.

2. These CLE requirements are only applicable if Commission-approved courses

are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine; and

D. Must recertify every year that all requirements are met to remain on the felony panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

12. Lawyer of the Day. In order to be rostered for Lawyer of the Day (LOD) assignments an attorney must:

A. For Juvenile client Lawyer of the Day assignments:

1. Attend and complete the Commission minimum standards training for juvenile LOD.
 - a. If the Commission has not established a minimum standards training for juvenile LODs, the attorney must complete 6 CLE hours on two or more of the following topics within the previous 2 years: juvenile defense, placement options and dispositions for juveniles, child development, adolescent brain development, adolescent mental health diagnosis and treatment, and the collateral consequences of juvenile adjudications plus 1 CLE hour on ethics related to the defense of juveniles.
 - b. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if the Commission authorizes and pays for attendance, travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine.
2. To serve as LOD for a juvenile the attorney serving as the LOD must be Rostered Counsel on the Specialized Case Type Roster for the type of the case of which the juvenile is charged with unless such attorney is not available;
3. Must have shadowed with a Commission staff attorney or rostered LOD mentor counsel for a minimum of 3 occasions at LOD proceedings.
 - a. Shadowing means the shadowing attorney must be present at all time with the Commission staff attorney or rostered LOD counsel from the time they arrive at court until the LOD proceeding is concluded. This also includes reviewing the discovery.
 - b. Attorneys doing the shadowing shall be paid for their time.
4. Must perform 5 LOD assignments with a Commission staff attorney or rostered

LOD mentor counsel.

5. The Commission staff attorney or mentor rostered staff attorney must recommend to the Executive Director or their designee in writing that the LOD applicant attorney should be rostered on the juvenile LOD panel.
 - a. If the Commission staff attorney or mentor rostered staff attorney cannot recommend the LOD applicant attorney to be placed on the juvenile LOD roster the Commission staff attorney or mentor rostered staff attorney must explain in writing what areas the attorney needs to improve. The Executive Director or their designee and the mentor will work with the attorney to develop the skills necessary to be placed on the roster including continued work.
 - b. Once the necessary additional training is completed the attorney must perform 1 juvenile LOD assignment with a Commission staff attorney or mentor rostered staff attorney and be recommended for placement on the juvenile LOD roster by the Commission staff attorney or mentor rostered staff attorney before they can be a rostered LOD attorney. This process shall repeat until the Commission staff attorney or mentor rostered staff attorney can recommend the LOD applicant attorney be rostered. The mentor rostered attorney shall be paid for all their time in performing under this subsection;
 - c. If the Commission staff attorney or mentor rostered staff attorney refuse to recommend placement on the juvenile LOD roster, that action may be appealed pursuant to 4 M.R.S. § 1804(3)(J) and Commission Rule 94-649 Chapter 201; and
6. Must recertify every year that all requirements are met to remain on the juvenile LOD panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

B. For Adult client Lawyer of the Day assignments:

1. Attend and complete the minimum training standards for LOD.

- a. If the Commission has not established a minimum standards training standard for adult LOD, the attorney must complete 6 CLE hours dedicated to felony defense representation, felony sentencing in Maine, sentencing alternatives, probation in Maine, collateral consequences of felony convictions or similar topics within the previous 2 years.
- b. These CLE requirements are only applicable if Commission-approved courses are provided in Maine that meet these requirements or if MCILS authorizes and pays for attendance,

- travel, 3 meals, accommodations, and 8 hours of daily pay at the hourly rate to attend an out of state CLE that meets all these requirements when such CLEs are not offered in Maine;
2. Must have shadowed with a Commission staff attorney or rostered LOD mentor counsel for a minimum of 2 occasions.
 - a. Shadowing means the shadowing attorney must be present at all time with the MCILS staff attorney or rostered LOD counsel from the time they arrive at court until the LOD proceeding is concluded. This also includes reviewing the discovery.
 - b. Attorneys doing the shadowing shall be paid for their time;
 3. Must perform 3 LOD assignments with a Commission staff attorney or the same mentor rostered LOD counsel for a minimum of 3 times.
 - a. The Commission staff attorney or mentor rostered staff attorney must recommend to the Executive Director or their designee in writing that the LOD applicant attorney should be rostered on the adult LOD panel.
 - b. If the Commission staff attorney or mentor rostered staff attorney cannot recommend the LOD applicant attorney to be placed on the LOD roster the Commission staff attorney or mentor rostered staff attorney must explain in writing what areas the attorney needs to improve. The Executive Director or their designee and the mentor will work with the attorney to develop the skills necessary to be placed on the roster.
 - c. Once the necessary additional training is completed the attorney must perform 1 adult LOD assignment with a Commission staff attorney or mentor rostered staff attorney and be recommended for placement on the juvenile LOD roster by the Commission staff attorney or mentor rostered staff attorney before they can be a rostered adult LOD attorney. This process shall repeat until the Commission staff attorney or mentor rostered staff attorney can recommend the adult LOD applicant attorney be rostered. The mentor rostered attorney shall be paid for all their time in performing under this subsection;
 - d. If the Commission staff attorney or mentor rostered staff attorney refuse to recommend placement on the juvenile LOD roster, that action may be appealed pursuant to 4 M.R.S. § 1804(3)(J) and Commission Rule 94-649 Chapter 201;
 4. Have concluded a minimum of 50 Commission assigned cases. Rostered Ceounsel are not eligible to shadow a Commission staff attorney or a

Rostered Counsel on the Lawyer of the Day Roster until they have concluded at least 50 Commission assigned cases.;

5. Must be on the felony panel; and
6. Must recertify every year that all requirements are met to remain on the adult LOD panel. Rostered Counsel who are on multiple specialized panel rosters must, in order to maintain eligibility for all panels, complete the CLE requirements for at least one of those panels each year. Rostered Counsel may not satisfy this requirement, however, by meeting the requirements of the same specialized panel two years in a row. Rostered counsel who are on a single specialized panel must meet the requirements of that panel each year.

13. Mentor Panel. In order to be rostered as a mentor an attorney must:

1. Be Rostered Counsel on the Specialized Case Type Roster for the type of the case of which the attorney is willing to accept mentor assignments;
2. Complete the application created by the Commission to be a mentor; and
3. Have at least 5 years of experience as a Rostered Counsel.

SECTION 4. Waiver of Certain Eligibility Requirements

- ~~1. An attorney who wishes to receive assignments for one or more of the specialized case types listed above but who does not meet both requirements of: (1) years of practice experience; and (2) trial or litigation experience, may seek a waiver of either, but not both, requirements. An attorney seeking a waiver must provide the Executive Director, or his or her designee, with written information explaining the need for a waiver and the attorney's experience and qualifications to provide representation to the indigent people whose charges or litigation matters are covered by this rule. Repealed.~~
- ~~2. An attorney may apply for a conditional waiver if additional time is needed to meet CLE requirements. Repealed.~~
- ~~3. The Executive Director, or his or her designee, may consider other litigation experience, total years of practice, and regional conditions and needs in granting or denying a waiver to any particular attorney. Repealed.~~
1. Rostered Counsel seeking to be on a Specialized Case Type Panel can seek a waiver of the requirements. The attorney must:

- (1) Send a letter to the Executive Director or their designee identifying:
 - (a) The Specialized Case Type Panel for which a waiver is sought;
 - (b) The requirements to be waived; and
 - (c) Why the waiver is appropriate.
- (2) Waivers shall be presumptively denied except when exceptional evidence demonstrates a waiver is appropriate:
 - (a) ~~w~~When the requirement being waived is the rostered experience provision from a different jurisdiction or private practice the waiver shall not be presumptively denied;:-
 - (b) If the applicant attorney has equivalent criminal law experience in a different jurisdiction a waiver should be granted if all other requirements are met; and
 - (c) If there is a need for more Rostered Counsel in the geographical location the applicant attorney plans to practice.

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

EFFECTIVE DATE:

July 8, 2011

AMENDED:

June 10, 2016 – filing 2016-091

(2.)

November 4, 2020
November 17, 2020
December 7, 2020
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
November 4, 2020**

Minutes

Commissioners Present by Zoom: Michael Carey, Sarah Churchill, Robert Cummins, Roger Katz, Robert LeBrasseur, Ronald Schneider, Joshua Tardy, Mary Zmigrodski

MCILS Staff Present: Ellie Maciag, John Pelletier

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the October 6, 2020 and October 15, 2020 and Corrected September 23, 2020 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Carey moved to approve. Commissioner Katz seconded. Commissioners Cummins and Zmigrodski not present for the vote. All voted in favor. Approved.
Operations Reports	<u>October 2020 Operations Report</u> : 2,602 new cases were opened in the DefenderData system in October. This was a 137 case decrease from September. The number of submitted vouchers in October was 2,808, an increase of 334 vouchers over September, totaling \$1,339,232, an increase of \$215,000 over September. Director Pelletier noted that has been an increase in court activity and costs are returning to a more normal structure and that new cases continue to run high. He added that the Commission is still under budget for the quarter and that new cases will not impact the budget this quarter. The average price per voucher was \$493.45, up \$45.86 per voucher from September. Appeal and Post-Conviction Review cases had the highest average vouchers. There were 6 vouchers exceeding \$5,000 paid in October. 123 authorizations to expend funds were issued in October, and we paid \$55,460 for experts and investigators, etc. The monthly	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	transfer from the Judicial Branch for counsel fees for October, which reflects September's collections, totaled \$57,481, down approximately \$17,000 from September. Three attorney complaints were received in October.	
Rulemaking Discussion	<p>Commissioner LeBrasseur presented the draft rules for Chapters 2 and 3. Two criminal practice subcommittee members provide input about the proposals. Attorney Andrew Edwards urged support of the proposed rules, explaining that the subcommittee spent a lot of time working on the draft with the primary objective of addressing the criticisms in the Sixth Amendment Center report. Attorney Tina Nadeau added that she understands the burden on rural attorneys but contended that the proposed rules are not too onerous on rural attorneys as argued in the MACDL letter to the Commission and that clients must be the focus.</p> <p>Commissioner Mary Zmigrodski's child protective and involuntary commitment subcommittee also provided changes to the proposed rules. Commissioner Cummins expressed concern that many of the proposed changes were either unnecessary or unnecessarily restrictive. After some discussion, several proposals were determined to fall more appropriately under the practice standards rule, including the mentor panel and a requirement to enter a new case in the billing system within a certain time frame. Chair Tardy suggested a meeting in November to finalize the language and vote on the proposed rules.</p>	
Budget Request	Director Pelletier gave a brief timeline of the budget process and noted that the one-on-one meeting with the budget office have not come up yet and the Commission needs to be proactive about setting one. Chair Tardy added that he had had preliminary discussions with DAFS and will talk with the governor's office about our budget request.	
Executive Director	Director Pelletier announced his resignation from the Commission. Chair Tardy thanked Director Pelletier for staying on until December. Commissioner LeBrasseur thanked Director Pelletier for all his hard work over the years. Chair	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	Tardy suggested the formation of an executive director search subcommittee to review the executive director job description and review applications and suggest two or three candidates for confidential interviews. Commissioner Carey volunteered to be a subcommittee member and moved to allow for the creation of a subcommittee. Commissioner Cummins seconded. All voted in favor.	
Public Comment	<u>Attorney Robert Ruffner</u> : Attorney Ruffner thanked Director Pelletier for all his hard work over the years.	
Adjournment of meeting	The next meeting will be held by Zoom on November 17, 2020 at 1 pm.	

**Maine Commission on Indigent Legal Services – Commissioners Meeting
November 17, 2020**

Minutes

Commissioners Present by Zoom: Michael Carey, Sarah Churchill, Robert Cummins, Roger Katz, Robert LeBrasseur, Ronald Schneider, Joshua Tardy, Mary Zmigrodski

MCILS Staff Present: Ellie Maciag, John Pelletier

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Rulemaking Discussion	Commissioner LeBrasseur presented the revised Chapter 2 and 3 rules for commission consideration and then moved to approve. Commissioner Carey seconded. All voted in favor. A brief discussion ensued about the rulemaking timeline and the necessary review needed to be completed by AAG Hudson. A public hearing was scheduled for December 21, 2020.	
Supplemental Budget Request	Director Pelletier proposed that the Commission submit a supplemental budget initiative transferring the \$2.6 million unencumbered balance remaining in the OSR account to provide sufficient funds to cover the Commission’s obligations for the balance of the fiscal year. Chair Tardy questioned whether the \$2.6 million would be sufficient since the projected budget shortfall amount is \$2.8 million. Director Pelletier explained that the unspent balance from the first quarter added to the \$2.6 million in the OSR account will be sufficient to cover our costs for the remainder of the year. Commissioner Carey inquired about the two positions included in the prior supplemental budget request that was denied and suggested adding that staffing request into this year’s request. Commissioner Cummins moved to allow Director Pelletier to submit his suggested proposal with Commissioner Carey’s staffing suggestion of two new positions. Commissioner Carey seconded. All voted in favor.	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Prosecutor Interactions with Pro Se Defendants	Director Pelletier relayed that at the August meeting, a discussion about prosecutor interactions with pro se defendants was had and one option proposed was to write a letter to the advisory committee on the rules of professional conduct. Director Pelletier drafted a letter for Commission consideration at the following meeting, but no decision on next steps had been made to date. Commissioner Carey requested the Commission review the letter and decide on appropriate next steps. Commissioner Carey moved to adopt the letter as drafted. Commissioner LeBrasseur seconded. All voted in favor. Commissioner Carey also suggested raising the issue with the next legislature and to send a letter to the outgoing Judiciary Committee chairs with a request to relay the Commission’s position to the incoming chairs.	
Executive Director Search Subcommittee	Chair Tardy reported that the executive director search subcommittee met on November 13 and is working on drafting a job description and locating various organizations to help advertise the position. David Carroll of the Sixth Amendment Center was on the Zoom call and urged the Commission to conduct a national search for a new executive director.	
Public Comment	<p><u>Attorney George Hess</u>: Attorney Hess believes that the one jury trial requirement for the sex offense panel is not sufficient enough experience and asked the Commission to give some thought to increasing the number.</p> <p><u>Attorney Logan Perkins</u>: Attorney Perkins raised some concerns about the shortage of attorneys in rural practice. Attorney Perkins noted that she is the only criminal specialist located in Waldo County. Attorney Perkins stated that the bar rules prohibit defense counsel from sponsoring/supervising law students and urged support for a rule change.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Executive Session	Commissioner Carey moved into executive session pursuant to 1 MRS section 405(6)(A) to discuss a personnel matter. Commissioner Churchill seconded. All voted in favor. No action taken during executive session.	
Adjournment of meeting	The next meeting will be held by Zoom on December 21, 2020, following the 1:00 public hearing.	

**Maine Commission on Indigent Legal Services – Commissioners Meeting
December 7, 2020**

Minutes

Commissioners Present by Zoom: Michael Carey, Sarah Churchill, Robert Cummins, Roger Katz, Ronald Schneider, Joshua Tardy, Mary Zmigrodski

MCILS Staff Present: Ellie Maciag, John Pelletier

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Discussion of Executive Director Job Posting	<p>The Commissioners discussed Commissioner Churchill’s proposed revisions to the draft executive director job posting requiring an applicant to have a JD and be licensed or have the ability to become licensed in Maine. Commissioner Carey argued for keeping a JD as preferred and not required to not limit the pool of applicants. Commissioner Churchill countered that several of the duties of the Executive Director could only be done by an attorney, including investigations into attorney complaints. Commissioner Schneider believes that a JD should be required but not licensing in Maine. Commissioner Cummins countered that both a JD and a Maine license should be a requirement. Commissioner Zmigrodski requested language be added about an applicant having experience with child protection and involuntary commitment law. Commissioner Carey requested juvenile law experience be added as well. Commissioner Churchill moved to adopt her suggested changes. Commissioner Schneider seconded. Commissioners Churchill, Cummins, Schneider, and Chair Tardy voted yes. Commissioners Carey and Katz voted no. Commissioner Churchill’s proposed changes were approved. Commissioner Carey moved to adopt Commissioners Zmigrodski and Carey’s suggested changes. Commissioner Cummins seconded. All voted in favor.</p>	
Public Comment	None	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Executive Session	Commissioner Carey moved into executive session pursuant to 1 MRS section 405(6)(A) to discuss a personnel matter. Commissioner Katz seconded. All voted in favor. No action taken during executive session.	
Adjournment of meeting	The next meeting will be held by Zoom on December 21, 2020, following the 1:00 pm public hearing.	

(3.)

Operations Reports

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: NOVEMBER 2020 OPERATIONS REPORTS
DATE: DECEMBER 17, 2020

Attached you will find the November, 2020, Operations Reports for your review and our discussion at the Commission meeting on December 21, 2020. A summary of the operations reports follows:

- 2,139 new cases were opened in the DefenderData system in November. This was a 463 case decrease from October. Year to date, new cases are up 0.4%, from 12,498 at this time last year to 12,548 this year.
- The number of vouchers submitted electronically in November was 2,662, a decrease of 146 vouchers from October, totaling \$1,144,259.52, a decrease of \$194,973 from October. Year to date, the number of submitted vouchers is down by approximately 15%, from 14,378 at this time last year to 12,158 this year, with the total amount for submitted vouchers down 23%, from \$7,104,594 at this time last year to \$5,462,375 this year.
- In November, we paid 2,186 electronic vouchers totaling \$930,118, representing an increase of 91 vouchers and a decrease of \$103,661 compared to October. Year to date, the number of paid vouchers is down approximately 16%, from 13,031 at this time last year to 10,930 this year, and the total amount paid is down approximately 23%, from \$6,457,401 at this time last year to \$4,932,392 this year.
- We paid no paper vouchers in November.
- The average price per voucher in November was \$425.49, down \$67.96 per voucher from October. Year to date, the average price per voucher is down approximately 8.9%, from \$495.54 at this time last year to \$451.27 this year.
- Appeal and Drug Court cases had the highest average voucher in November. There were 2 vouchers exceeding \$5,000 paid in November. See attached addendum for details.
- In November, we issued 77 authorizations to expend funds: 46 for private investigators, 19 for experts, and 12 for miscellaneous services such as interpreters and transcriptionists. In November, we paid \$58,249.62 for experts and investigators, etc. One request for funds was modified to authorize a lower hourly rate based on a reduction in the hourly rate by the provider.

- In November, we received two complaints about one attorney whose roster status was already under review. The Executive Director has issued a decision removing the attorney from the roster. This decision is subject to being appealed.
- In November, we approved seven requests for co-counsel.

In our All Other Account, the total expenses for the month of November were \$1,007,967.84. During November, approximately \$19,500 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$72,59.89 in expenses for the month of November.

In the Revenue Account, the transfer from the Judicial Branch for November, reflecting October's collections, totaled \$77,875.90, an increase of approximately \$20,000 from the previous month.

During November, we had no financial activity related to training.

VOUCHERS EXCEEDING \$5,000 PAID NOVEMBER 2020

	Voucher Total	Case Total
Interim Voucher in a Murder case submitted after litigation of contested motions. Case has been pending 16 months.	\$10,558	\$10,558
Voucher in an appeal from a 9-day Murder Trial. New counsel on appeal. Oral argument pending.	\$8,445	\$8,445

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

11/30/2020

DefenderData Case Type	Nov-20						Fiscal Year 2021			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	11	12	\$ 28,514.10	9	\$ 16,412.55	\$ 1,823.62	33	50	\$ 80,377.29	\$ 1,607.55
Child Protection Petition	144	359	\$ 205,920.38	341	\$ 182,173.71	\$ 534.23	931	1,874	\$ 1,087,243.39	\$ 580.17
Drug Court	0	3	\$ 4,290.00	2	\$ 3,240.00	\$ 1,620.00	1	40	\$ 50,538.00	\$ 1,263.45
Emancipation	5	6	\$ 1,344.00	4	\$ 780.00	\$ 195.00	30	23	\$ 5,858.91	\$ 254.74
Felony	480	514	\$ 299,941.94	413	\$ 249,726.15	\$ 604.66	2,841	1,965	\$ 1,308,340.39	\$ 665.82
Involuntary Civil Commitment	107	101	\$ 20,096.36	75	\$ 13,040.94	\$ 173.88	441	357	\$ 72,232.02	\$ 202.33
Juvenile	50	82	\$ 40,293.59	76	\$ 40,140.12	\$ 528.16	332	305	\$ 146,621.67	\$ 480.73
Lawyer of the Day - Custody	215	184	\$ 44,072.60	171	\$ 41,519.72	\$ 242.81	1,234	1,117	\$ 268,528.48	\$ 240.40
Lawyer of the Day - Juvenile	26	19	\$ 3,706.62	17	\$ 2,552.00	\$ 150.12	126	109	\$ 23,782.07	\$ 218.18
Lawyer of the Day - Walk-in	145	157	\$ 39,349.12	130	\$ 32,772.38	\$ 252.10	931	862	\$ 198,699.07	\$ 230.51
Misdemeanor	779	793	\$ 244,291.36	568	\$ 172,395.44	\$ 303.51	4,613	2,557	\$ 794,935.78	\$ 310.89
Petition, Modified Release Treatment	1	4	\$ 1,722.95	5	\$ 2,010.95	\$ 402.19	5	22	\$ 10,287.92	\$ 467.63
Petition, Release or Discharge	0	1	\$ 174.30	1	\$ 174.30	\$ 174.30	1	4	\$ 2,643.78	\$ 660.95
Petition, Termination of Parental Rights	18	50	\$ 39,604.48	54	\$ 35,553.30	\$ 658.39	126	216	\$ 158,507.43	\$ 733.83
Post Conviction Review	4	13	\$ 11,854.28	11	\$ 6,123.36	\$ 556.67	28	29	\$ 48,847.04	\$ 1,684.38
Probate	0	0		0			9	5	\$ 5,492.80	\$ 1,098.56
Probation Violation	100	142	\$ 53,012.69	109	\$ 38,173.84	\$ 350.22	612	492	\$ 207,646.17	\$ 422.05
Represent Witness on 5th Amendment	1	1	\$ 234.00	0			2	1	\$ 900.00	\$ 900.00
Resource Counsel Criminal	0	2	\$ 210.00	2	\$ 396.00	\$ 198.00	0	8	\$ 1,422.00	\$ 177.75
Resource Counsel Juvenile	0	0		0			1	3	\$ 438.00	\$ 146.00
Resource Counsel Protective Custody	0	0		0			0	1	\$ 408.00	\$ 408.00
Review of Child Protection Order	53	218	\$ 105,620.75	197	\$ 92,927.56	\$ 471.71	246	888	\$ 458,530.44	\$ 516.36
Revocation of Administrative Release	0	1	\$ 6.00	1	\$ 6.00	\$ 6.00	5	2	\$ 111.52	\$ 55.76
DefenderData Sub-Total	2,139	2,662	\$ 1,144,259.52	2,186	\$ 930,118.32	\$ 425.49	12,548	10,930	\$ 4,932,392.17	\$ 451.27
Paper Voucher Sub-Total	0	0	\$ -	0	\$ -	#DIV/0!	0	0	\$ -	#DIV/0!
TOTAL	2,139	2,662	\$1,144,259.52	2,186	\$930,118.32	\$ 425.49	12,548	10,930	\$ 4,932,392.17	\$ 451.27

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY21 FUND ACCOUNTING
AS OF 11/30/2020

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY20 Total
FY21 Professional Services Allotment		\$ 4,372,000.00		\$ 4,312,000.00		\$ 4,452,000.00		\$ 2,113,725.00	
FY21 General Operations Allotment		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00	
FY20 Encumbered Balance Forward		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustment		\$ 80,000.00		\$ -		\$ -		\$ -	
Supplemental Budget Allotment		\$ -		\$ -		\$ -		\$ -	
Reduction due to encumbrance closure		\$ -		\$ -		\$ -		\$ -	
Financial Order Unencumbered Balance Fwd		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 4,500,000.00		\$ 4,360,000.00		\$ 4,500,000.00		\$ 2,161,725.00	\$ 15,521,725.00
Total Expenses	1	\$ (765,783.81)	4	\$ (1,102,607.41)	7	\$ -	10	\$ -	
	2	\$ (940,166.23)	5	\$ (1,007,967.84)	8	\$ -	11	\$ -	
	3	\$ (1,428,757.76)	6	\$ -	9	\$ -	12	\$ -	
Encumbrances (Justice Works)		\$ (62,405.00)		\$ 13,280.00		\$ -		\$ -	\$ (49,125.00)
Encumbrances (B Taylor)		\$ (66,300.00)		\$ 8,840.00		\$ -		\$ -	\$ (57,460.00)
Encumbrances (Videographer & business cards)		\$ -		\$ -		\$ -		\$ -	\$ -
TOTAL REMAINING		\$ 1,236,587.20		\$ 2,271,544.75		\$ 4,500,000.00		\$ 2,161,725.00	\$ 10,169,856.95

Q2 Month 4	
INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (930,118.32)
Interpreters	\$ (260.00)
Private Investigators	\$ (12,433.56)
Mental Health Expert	\$ (12,887.50)
Misc Prof Fees & Serv	\$ (6,839.50)
Transcripts	\$ (13,063.19)
Other Expert	\$ (12,480.00)
Process Servers	\$ (285.87)
Subpoena Witness Fees	\$ -
Out of State Witness Travel	\$ -
SUB-TOTAL ILS	\$ (988,367.94)
OPERATING EXPENSES	
Service Center	\$ -
DefenderData	\$ (6,455.00)
Parking Fees in Biddeford	\$ (600.00)
Mileage/Tolls/Parking	\$ (664.20)
Mailing/Postage/Freight	\$ -
West Publishing Corp	\$ (211.96)
Safety/Protective Supplies	\$ -
Office Supplies/Equip.	\$ (68.39)
Cellular Phones	\$ (167.25)
OIT/TELCO	\$ (2,334.10)
Office Equipment Rental	\$ (99.00)
Training Videographer	\$ -
Barbara Taylor monthly fees	\$ (8,840.00)
Dues	\$ (160.00)
AAG Legal Svcs Quarterly Payment	\$ -
SUB-TOTAL OE	\$ (19,599.90)
TOTAL	\$ (1,007,967.84)

INDIGENT LEGAL SERVICES	
Q2 Allotment	\$ 4,360,000.00
Q2 Encumbrances for Justice Works contract	\$ 13,280.00
Barbara Taylor Contract	\$ 8,840.00
Videographer	\$ -
Q2 Expenses to date	\$ (2,110,575.25)
Remaining Q2 Allotment	\$ 2,271,544.75

Non-Counsel Indigent Legal Services	
Monthly Total	\$ (58,249.62)
Total Q1	\$ 110,837.23
Total Q2	\$ 113,710.22
Total Q3	\$ -
Total Q4	\$ -
Fiscal Year Total	\$ 224,547.45

Conference Account Transactions	
NSF Charges	\$ -
Training Facilities & Meals	\$ -
Printing/Binding	\$ -
Overseers of the Bar CLE fee	\$ -
Collected Registration Fees	\$ -
Current Month Total	\$ -

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY21 FUND ACCOUNTING
As of 11/30/2020

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY20 Total
Total Budget Allotments		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Budget Order Adjustment		\$ -		\$ -		\$ -	12	\$ -	\$ -
Total Budget Allotments		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Cash Carryover from Prior Quarter		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ 88,434.06	4	\$ 57,481.90	7	\$ -	10	\$ -	
Promissory Note Payments		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ 72,639.44	5	\$ 77,875.90	8	\$ -	11	\$ -	
Court Ordered Counsel Fee		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB (late transfer)		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	3	\$ 74,498.74	6	\$ -	9	\$ -	12	\$ -	
Returned Checks-stopped payments		\$ -		\$ -		\$ -		\$ -	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 235,572.24		\$ 135,357.80		\$ -		\$ -	\$ 370,930.04
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -		\$ -		\$ -	
Counsel Payments	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Other Expenses	*	\$ -	**	\$ -	***	\$ -		\$ -	
REMAINING ALLOTMENT		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Overpayment Reimbursements	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
REMAINING CASH Year to Date		\$ 235,572.24		\$ 135,357.80		\$ -		\$ -	\$ 370,930.04

Collections versus Allotment	
Monthly Total	\$ 77,875.90
Total Q1	\$ 235,572.24
Total Q2	\$ 135,357.80
Total Q3	\$ -
Total Q4	\$ -
Allotment Expended to Date	\$ -
Fiscal Year Total	\$ 370,930.04

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY21 FUND ACCOUNTING
AS OF 11/30/2020

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY20 Total
FY21 Allotment		\$ 236,986.00		\$ 245,444.00		\$ 216,987.00		\$ 197,826.00	\$ 897,243.00
Financial Order Adjustments		\$ 20,000.00		\$ (20,000.00)		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 256,986.00		\$ 225,444.00		\$ 216,987.00		\$ 197,826.00	\$ 897,243.00
Total Expenses	1	\$ (72,711.14)	4	\$ (72,760.83)	7	\$ -	10	\$ -	
	2	\$ (72,775.12)	5	\$ (72,759.89)	8	\$ -	11	\$ -	
	3	\$ (102,741.37)	6	\$ -	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 8,758.37		\$ 79,923.28		\$ 216,987.00		\$ 197,826.00	\$ 503,494.65

Q2 Month 5	
Per Diem	\$ (110.00)
Salary	\$ (32,661.28)
Vacation Pay	\$ (3,699.86)
Holiday Pay	\$ (2,238.17)
Sick Pay	\$ (2,169.05)
Empl Hlth SVS/Worker Comp	\$ -
Health Insurance	\$ (11,840.50)
Dental Insurance	\$ (321.20)
Employer Retiree Health	\$ (4,314.87)
Employer Retirement	\$ (2,676.81)
Employer Group Life	\$ (446.88)
Employer Medicare	\$ (601.63)
Retiree Unfunded Liability	\$ (7,826.59)
Longevity Pay	\$ (160.00)
Perm Part Time Full Ben	\$ (3,693.05)
Premium & Standard OT	\$ -
Retro Lump Sum Pymt	\$ -
TOTAL	\$ (72,759.89)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

11/30/2020

Court	Nov-20						Fiscal Year 2021			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	13	7	\$ 2,070.00	4	\$ 810.00	\$ 202.50	22	23	\$ 20,604.00	\$ 895.83
AUBSC	0	0		1	\$ 246.00	\$ 246.00	4	2	\$ 258.00	\$ 129.00
AUGDC	24	53	\$ 25,826.32	55	\$ 21,605.67	\$ 392.83	185	237	\$ 129,632.18	\$ 546.97
AUGSC	4	8	\$ 2,739.90	8	\$ 6,969.65	\$ 871.21	18	35	\$ 18,761.77	\$ 536.05
BANDC	52	99	\$ 29,025.00	118	\$ 32,288.60	\$ 273.63	276	430	\$ 123,187.65	\$ 286.48
BANSC	0	0		0			0	0		
BATSC	0	0		0			1	0		
BELDC	14	20	\$ 6,952.92	20	\$ 8,253.52	\$ 412.68	60	151	\$ 81,349.48	\$ 538.74
BELSC	1	0		0			1	0		
BIDDC	52	60	\$ 30,663.79	59	\$ 30,828.40	\$ 522.52	217	278	\$ 162,420.49	\$ 584.25
BRIDC	9	18	\$ 8,577.30	12	\$ 6,998.68	\$ 583.22	51	85	\$ 41,204.78	\$ 484.76
CALDC	1	5	\$ 3,618.00	7	\$ 2,352.00	\$ 336.00	22	36	\$ 16,207.04	\$ 450.20
CARDC	6	27	\$ 9,417.25	26	\$ 8,838.25	\$ 339.93	39	113	\$ 46,651.42	\$ 412.84
CARSC	0	0		0			0	1	\$ 360.00	\$ 360.00
DOVDC	4	14	\$ 6,364.20	10	\$ 4,264.20	\$ 426.42	29	69	\$ 28,068.36	\$ 406.79
DOVSC	0	0		0			0	0		
ELLDC	12	33	\$ 13,794.00	26	\$ 14,126.20	\$ 543.32	54	136	\$ 99,951.70	\$ 734.94
ELLSC	0	0		0			0	0		
FARDC	4	5	\$ 2,546.77	5	\$ 2,775.51	\$ 555.10	27	62	\$ 43,496.59	\$ 701.56
FARSC	0	0		0			0	3	\$ 2,173.35	\$ 724.45
FORDC	6	5	\$ 1,663.98	3	\$ 870.00	\$ 290.00	44	60	\$ 35,722.61	\$ 595.38
HOUDC	4	18	\$ 13,502.09	17	\$ 11,580.72	\$ 681.22	41	110	\$ 64,605.60	\$ 587.32
HOUSC	1	0		0			2	0		
LEWDC	74	105	\$ 54,003.90	60	\$ 34,986.88	\$ 583.11	345	382	\$ 207,342.18	\$ 542.78
LINDC	8	10	\$ 5,989.16	8	\$ 5,125.16	\$ 640.65	52	54	\$ 27,412.76	\$ 507.64
MACDC	1	2	\$ 1,812.00	4	\$ 2,700.00	\$ 675.00	7	29	\$ 21,572.91	\$ 743.89
MACSC	2	2	\$ 510.00	0			2	1	\$ 1,826.30	\$ 1,826.30
MADDc	0	0		0			3	3	\$ 1,275.52	\$ 425.17
MILDC	10	4	\$ 846.00	9	\$ 3,149.92	\$ 349.99	32	30	\$ 10,945.84	\$ 364.86
NEWDC	8	29	\$ 10,644.40	34	\$ 10,702.84	\$ 314.79	63	138	\$ 46,702.60	\$ 338.42
PORDC	71	139	\$ 73,671.56	118	\$ 58,767.04	\$ 498.03	345	452	\$ 210,504.30	\$ 465.72
PORSC	4	0		0			8	4	\$ 3,259.52	\$ 814.88
PREDC	7	24	\$ 14,162.64	28	\$ 13,619.00	\$ 486.39	58	112	\$ 47,684.80	\$ 425.76
ROCDc	14	19	\$ 7,102.24	16	\$ 5,433.94	\$ 339.62	69	125	\$ 60,582.07	\$ 484.66
ROCDSC	0	0		0			3	5	\$ 996.00	\$ 199.20
RUMDC	19	16	\$ 12,450.50	14	\$ 9,846.60	\$ 703.33	48	102	\$ 83,451.28	\$ 818.15
SKODC	14	54	\$ 24,482.02	53	\$ 22,657.53	\$ 427.50	123	276	\$ 127,754.03	\$ 462.88
SKOSC	0	1	\$ 330.00	1	\$ 330.00	\$ 330.00	2	1	\$ 330.00	\$ 330.00
SOUDC	10	13	\$ 7,663.57	12	\$ 4,903.57	\$ 408.63	34	69	\$ 39,608.67	\$ 574.04
SOUSC	0	0		0			1	0		
SPRDC	28	45	\$ 28,800.80	42	\$ 29,138.76	\$ 693.78	142	185	\$ 108,124.32	\$ 584.46
Law Ct	11	11	\$ 27,986.10	9	\$ 16,412.55	\$ 1,823.62	29	43	\$ 68,883.78	\$ 1,601.95
YORCD	177	161	\$ 86,353.15	130	\$ 67,221.39	\$ 517.09	938	647	\$ 345,784.63	\$ 534.44
AROCD	103	147	\$ 52,514.19	116	\$ 34,085.31	\$ 293.84	729	487	\$ 179,272.88	\$ 368.12
ANDCD	129	207	\$ 78,214.79	184	\$ 61,836.13	\$ 336.07	1,078	781	\$ 255,696.57	\$ 327.40
KENCD	134	170	\$ 64,590.28	176	\$ 66,994.17	\$ 380.65	925	682	\$ 288,944.51	\$ 423.67
PENCD	214	225	\$ 66,565.05	123	\$ 48,361.39	\$ 393.18	1,161	735	\$ 329,383.31	\$ 448.14
SAGCD	29	26	\$ 6,432.40	25	\$ 5,762.00	\$ 230.48	182	148	\$ 61,156.58	\$ 413.22
WALCD	60	48	\$ 16,068.49	38	\$ 15,763.75	\$ 414.84	337	201	\$ 74,870.52	\$ 372.49
PISCD	21	21	\$ 7,388.84	13	\$ 5,525.72	\$ 425.06	103	71	\$ 23,257.66	\$ 327.57
HANCD	54	56	\$ 24,598.12	34	\$ 11,822.40	\$ 347.72	238	188	\$ 73,345.22	\$ 390.13
FRACD	40	41	\$ 16,806.04	27	\$ 9,587.56	\$ 355.09	244	187	\$ 62,011.29	\$ 331.61
WASCD	25	33	\$ 12,000.00	35	\$ 9,738.00	\$ 278.23	257	174	\$ 90,273.92	\$ 518.82
CUMCD	417	371	\$ 157,372.97	276	\$ 124,260.64	\$ 450.22	2,062	1,321	\$ 618,876.26	\$ 468.49
KNOCD	66	54	\$ 17,532.00	32	\$ 12,329.79	\$ 385.31	354	201	\$ 83,163.73	\$ 413.75
SOMCD	48	48	\$ 19,893.27	52	\$ 14,854.38	\$ 285.66	423	309	\$ 79,157.52	\$ 256.17
OXFCD	60	78	\$ 36,909.00	52	\$ 24,212.40	\$ 465.62	533	389	\$ 126,468.01	\$ 325.11
LINCD	23	30	\$ 11,019.60	20	\$ 7,239.32	\$ 361.97	220	160	\$ 54,414.23	\$ 340.09
WATDC	22	48	\$ 20,585.20	41	\$ 17,947.54	\$ 437.74	123	196	\$ 97,291.27	\$ 496.38
WESDC	17	28	\$ 11,001.52	20	\$ 13,726.40	\$ 686.32	108	121	\$ 57,699.68	\$ 476.86
WISDC	3	8	\$ 6,326.58	6	\$ 6,014.58	\$ 1,002.43	37	47	\$ 28,055.38	\$ 596.92
WISSC	0	0		0			1	0		
YORDC	9	16	\$ 4,871.62	7	\$ 2,254.26	\$ 322.04	36	43	\$ 20,357.10	\$ 473.42
TOTAL	2,139	2,662	\$ 1,144,259.52	2,186	\$ 930,118.32	\$ 425.49	12,548	10,930	\$ 4,932,392.17	\$ 451.27

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

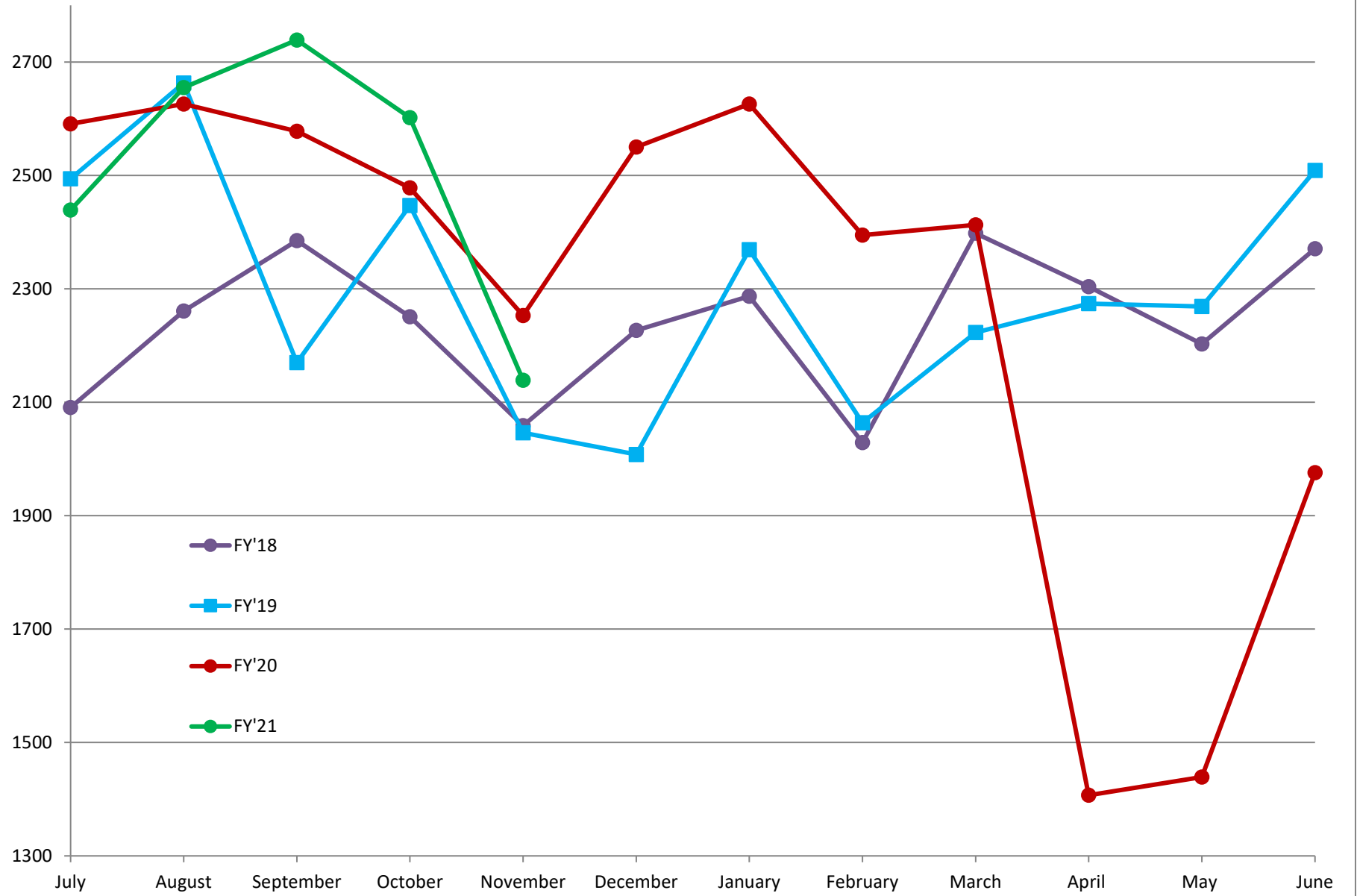
Number of Attorneys Rostered by Court

11/30/2020

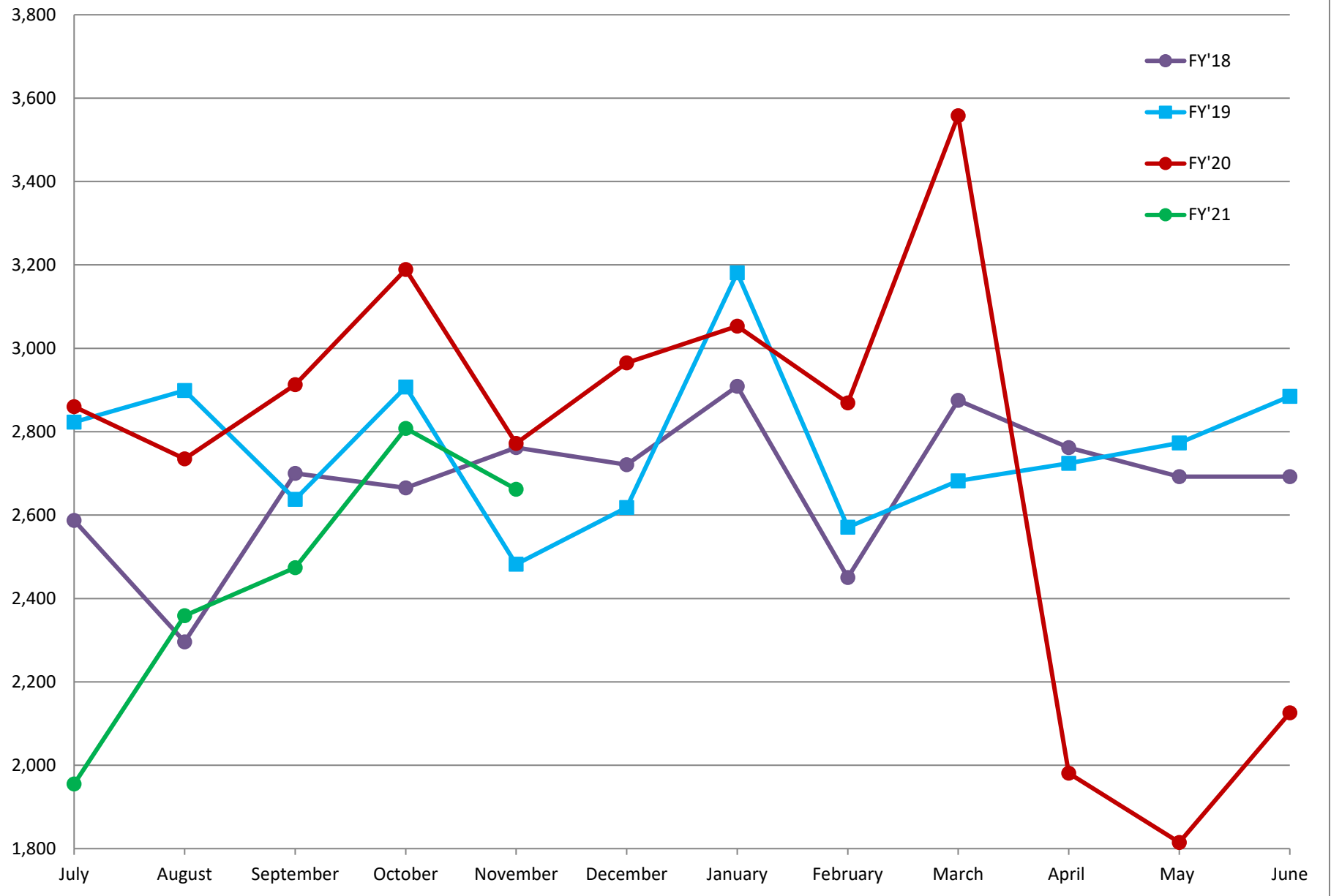
Court	Rostered Attorneys
Augusta District Court	64
Bangor District Court	38
Belfast District Court	36
Biddeford District Court	110
Bridgton District Court	67
Calais District Court	8
Caribou District Court	15
Dover-Foxcroft District Court	24
Ellsworth District Court	31
Farmington District Court	32
Fort Kent District Court	10
Houlton District Court	12
Lewiston District Court	101
Lincoln District Court	21
Machias District Court	12
Madawaska District Court	11
Millinocket District Court	14
Newport District Court	27
Portland District Court	127
Presque Isle District Court	13
Rockland District Court	27
Rumford District Court	22
Skowhegan District Court	20

Court	Rostered Attorneys
South Paris District Court	44
Springvale District Court	96
Unified Criminal Docket Alfred	92
Unified Criminal Docket Aroostook	21
Unified Criminal Docket Auburn	82
Unified Criminal Docket Augusta	62
Unified Criminal Docket Bangor	39
Unified Criminal Docket Bath	69
Unified Criminal Docket Belfast	36
Unified Criminal Docket Dover Foxcroft	22
Unified Criminal Docket Ellsworth	34
Unified Criminal Docket Farmington	33
Unified Criminal Docket Machias	14
Unified Criminal Docket Portland	121
Unified Criminal Docket Rockland	22
Unified Criminal Docket Skowhegan	15
Unified Criminal Docket South Paris	39
Unified Criminal Docket Wiscasset	42
Waterville District Court	31
West Bath District Court	83
Wiscasset District Court	49
York District Court	84

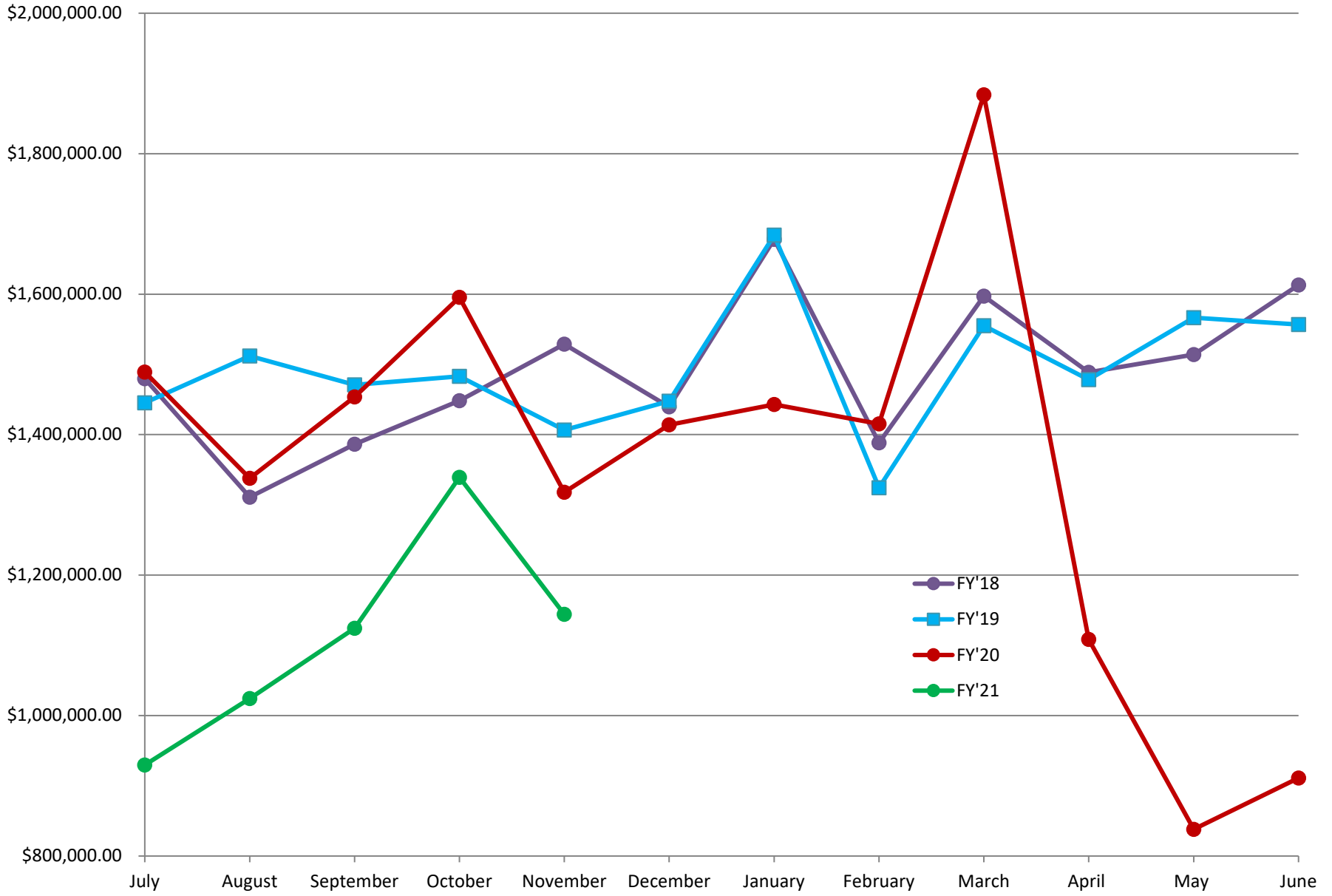
NEW CASES



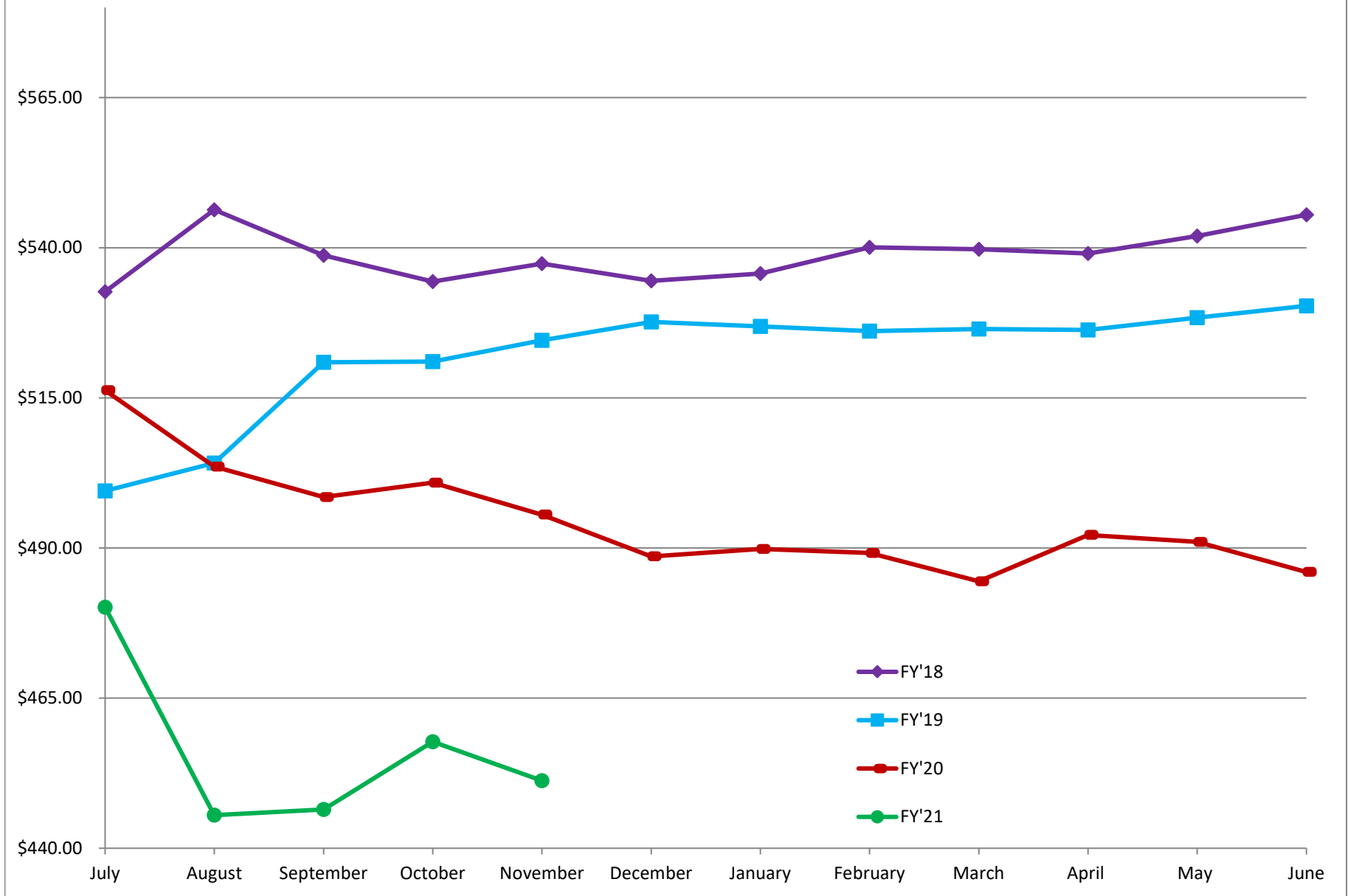
Submitted Vouchers



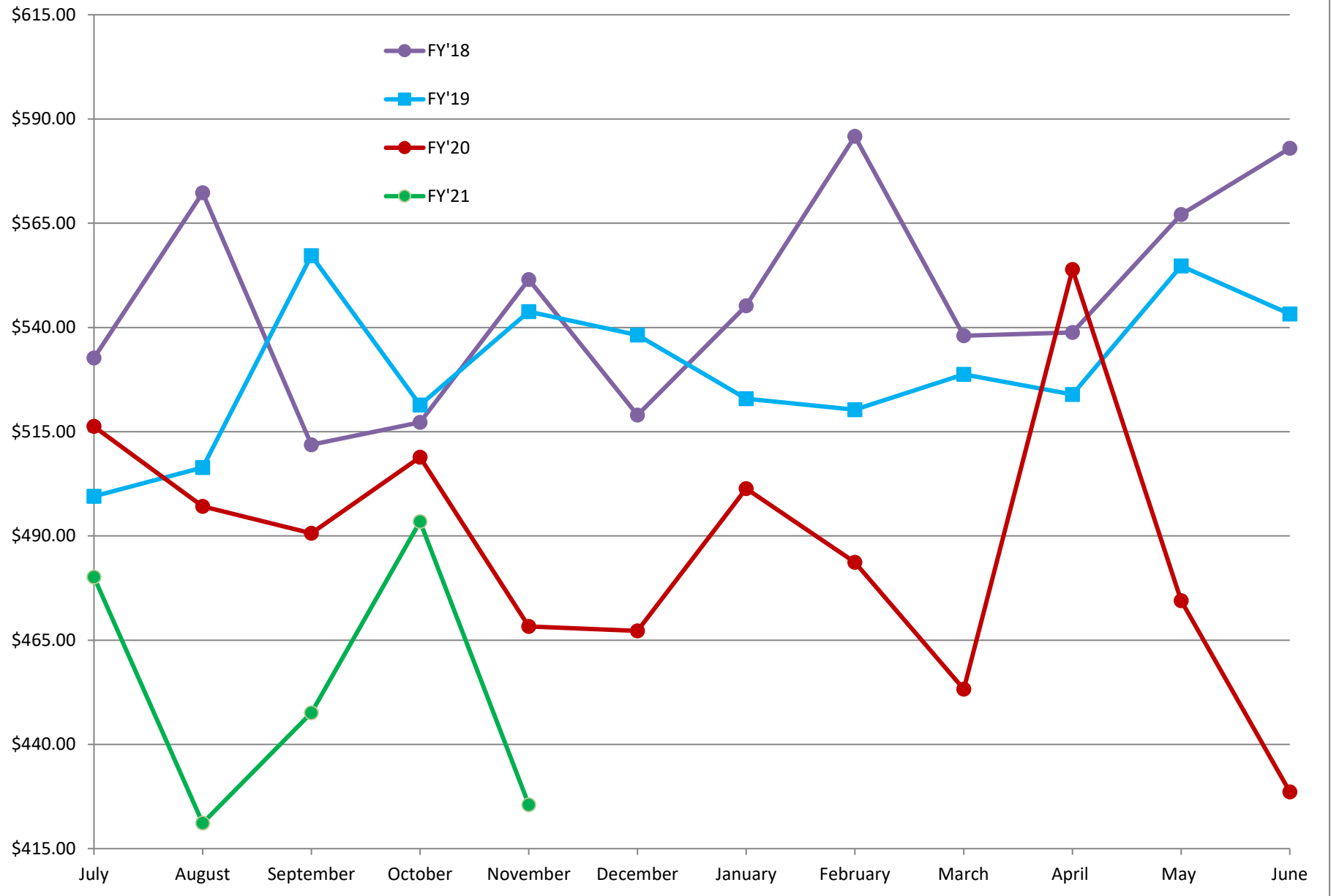
Submitted Voucher Amount



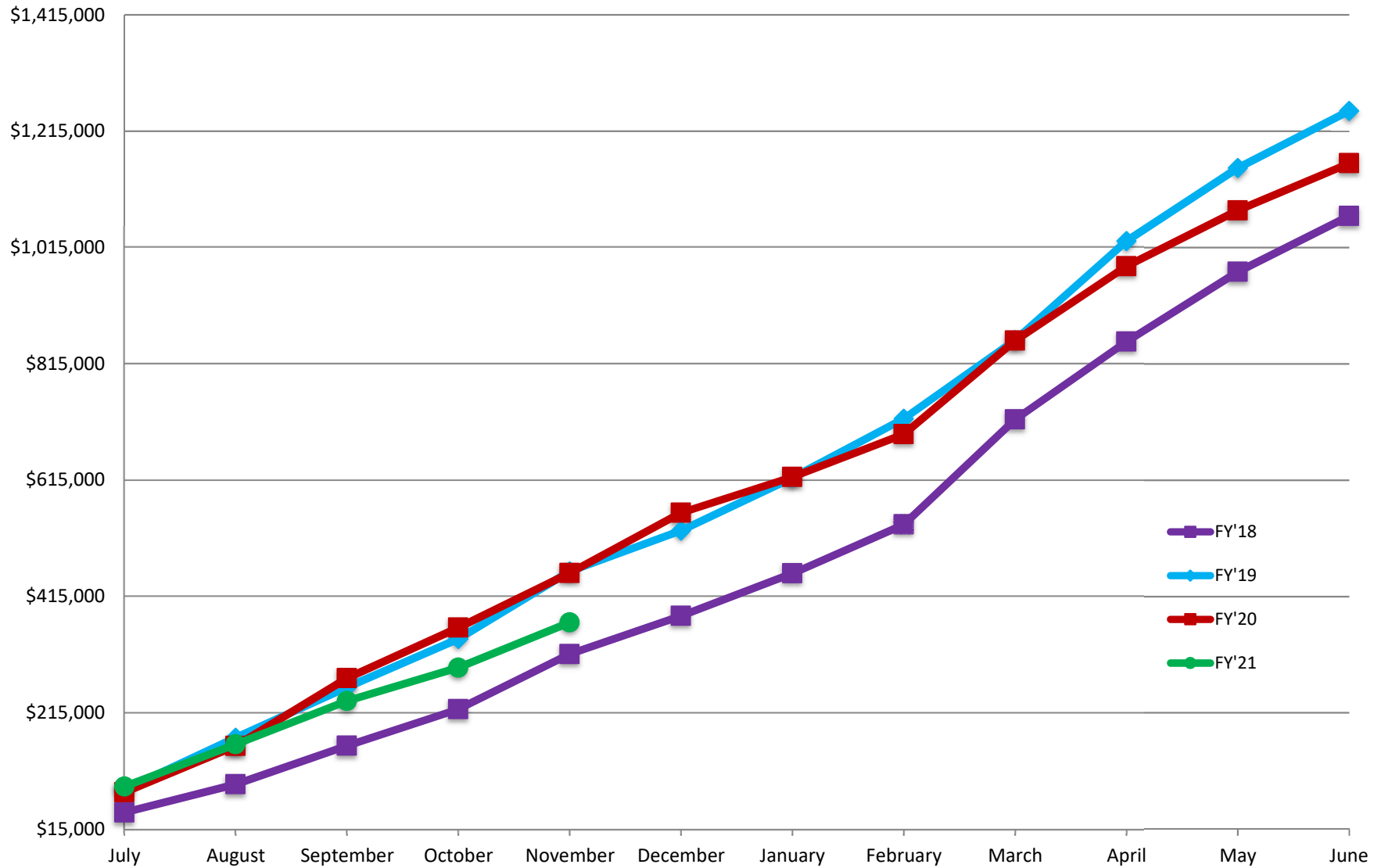
Average Voucher Price Fiscal Year to Date



Monthly Price Per Voucher



COLLECTION TOTALS FY'18 to FY'21



(4.)

Executive Director Search

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: EXECUTIVE DIRECTOR SEARCH

DATE: December 17, 2020

The Executive Director position was posted on the Bureau of Human Resources website on December 9. The job posting was also shared with the following groups:

- Maine Association of Criminal Defense Lawyers
- Maine Law School
- Maine State Bar Association
- MCILS interested party email distribution list
- National Association of Criminal Defense Lawyers
- American Bar Association

(5.)

Budget Discussion

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: BUDGET DISCUSSION

DATE: December 17, 2020

The Budget Office informed staff that only one budget initiative, the \$2.8 million for each year of the biennium, passed the first level of review and is moving forward. The Budget Office asked for a response by December 31 about the Commission's priorities regarding the unincorporated initiatives. Those initiatives are:

- 10 additional Central Office staff members
- Appellate Public Defender Office
- Kennebec County Public Defender Office
- Hourly rate increase from \$60/hr to \$100/hr

(6.)

New Attorney Rostering

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: NEW ATTORNEY ROSTERING

DATE: December 17, 2020

During the past few weeks, staff has fielded many inquiries from newly sworn-in attorneys about when the next minimum standards training will happen and how to get on the rosters. The Commission's revamped new attorney training program will not be ready until Fall 2021. There are several areas in the State where there is a critical need for additional rostered attorneys, particularly in Aroostook County.

To fill the gap in the interim, staff would like the Commission to consider adopting Commissioner LeBrasseur's attached proposal for provisional roster status for these new attorneys. These provisionally rostered attorneys would be required to attend the 5-day new attorney training program in the Fall to remain on the rosters. Due to our juvenile law minimum standards training video being out of date, that training video is not mentioned in the proposal. Attorney Ned Chester has graciously offered to organize a one-day fully remote program on juvenile law and practice. This one-day program would replace the outdated MCILS juvenile law minimum standards training. Commission staff would host the program on zoom and record the program for future viewings.

There is also one additional live training opportunity that could be added to the provisional rostering requirement. As part of the new attorney training contract, Attorney Jamesa Drake is planning a one-day fully remote training program for April 2021, targeted at new lawyers in adult criminal practice. Those applying to be provisionally rostered for adult criminal cases could be required to attend this training as well.

December 16, 2020

Provisionally Rostered Attorney and Resource Counsel during the Pandemic

MCILS is authorizing the interim Executive Director, the Executive Director, or the Deputy Executive Director to accelerate the rostering of attorneys who passed the Maine bar exam and are licensed to practice law in the State of Maine. The provisionally rostered attorney must meet all the standards for qualifications of assigned counsel under chapter 2 of the MCILS rules. The provisionally rostered attorneys must also be in a firm with at least one experienced attorney who can assist with supervision and guidance. The provisionally rostered attorney must watch the video replay of the criminal and/or child protective minimum standards training pursuant to Chapter 2, Section 4(2) prior to accepting assignments.

The provisionally rostered attorney must read the Maine Rules of Unified Criminal Procedure, familiarize themselves with the Criminal Code (Title 17-A), familiarize themselves with the Motor Vehicle Code (Title 29-A), and read the Maine Bail Code (Title 15 §§ 1001 to 1105) of the Maine Revised Statutes to accept adult criminal cases. The provisionally rostered attorney must read the Maine Rules of Unified Criminal Procedure and read the Juvenile Code (Title 15, part 6) of the Maine Revised Statutes to accept juvenile criminal cases. The provisionally rostered attorney must read the Maine Rules of Civil Procedure and read the Child and Family Services and Child Protection Act (Title 22, Chapter 1071) of the Maine Revised Statutes to accept child protective cases. Additionally, the provisionally rostered attorney must read Chapters 2 and 3 of the MCILS adopted rules and must read the practice standard(s) for the practice area(s) in which they plan to accept appointments. The provisionally rostered attorney shall meet with Resource Counsel for the geographic location and practice area(s) for which they plan to accept assignments. These meetings can be done virtually.

The purpose of Resource Counsel regarding provisionally rostered attorneys is to expand the capacity of the Commission's small central office staff to 1) provide guidance to provisionally rostered attorneys, 2) to supervise and evaluate provisionally rostered attorneys' performance in indigent legal services cases, and 3) to identify and intervene with provisionally rostered attorneys in need of assistance to provide the highest quality of indigent legal services.

Mentoring will be the primary focus of Resource Counsel for provisionally rostered attorneys. The provisionally rostered attorneys will be required to contact Resource Counsel dedicated to serve their geographic location for the practice area(s) in which they plan to accept assignments. Resource Counsel will meet with newly rostered attorneys as soon as possible, and again within 90 days and six months. At a minimum all Resource Counsel must:

1. Review the appropriate practice standard adopted by MCILS with the provisionally rostered attorney;
2. Review an email of appointment with the provisionally rostered attorney and explain the content of the appointment.
3. Review DefenderData with the provisionally rostered attorney. Resource Counsel should review what information is required when entering a new assignment, how to find the

sequence number to put in the charges, billing practices, and how to close a case and submit a voucher. Specific attention should be given on the timeliness of putting information in DefenderData, how to put the docket number in DefenderData to assist MCILS staff to approve the appointment, billing on multiple open docket numbers for a single client, billing under the attorney's name who did the work, and providing appropriate descriptions of billing events;

4. Review the COVID PMO orders relevant to the practice area of Resource Counsel;
5. Review the Maine Judicial Branch website including how to find court opinions and that Law Court opinions are issued on Tuesdays and Thursdays;
6. Make sure the provisionally rostered attorney understands the court process: IA/Arrestment → filing of Motions with DA → Dispositional Conference and filing of motion with the court → Motion hearings → Jury Selection & Trial;
7. Review Zoom notices and how to connect with the court via Zoom; and
8. If possible and consistent with COVID protocols bring the provisionally rostered attorney to the local courthouse and introduced them to the clerks, marshals, judges, and prosecutors and staff.

Adult and Juvenile Criminal Resource Counsel must:

9. Review the Maine Bail Code and advise the provisionally rostered attorney of the information typically sought by the local judges/justices. Resource Counsel should review any bail agencies, such as Maine Pretrial Services, that work in that geographical location and provide their contact information;
10. Review how to file discovery request and motions with the prosecuting office;
11. Review how to obtain discovery from the prosecuting office including how to sign up for any discovery portals;
12. Make sure the provisionally rostered attorney understands the court process: IA/Arrestment → filing of Motions with DA → Dispositional Conference and filing of motion with the court → Motion hearings → Jury Selection & Trial; and
13. Explain the visiting hours of the local jail and the process of scheduling visitations (in person and virtually, if appropriate);

Child Protective Resource Counsel must review:

14. Ensure the provisionally rostered attorney understands the court process: Preliminary Protection Order, Jeopardy Order, Judicial Review, Cease Reunification Hearings, Termination of Parental Rights, and the filing of Motions for Expedited Judicial Review to obtain relief for your client;

15. Review how to obtain discovery from the Department of Health and Human Services and how to file formal discovery requests, if necessary; and
16. Ensure that the provisionally rostered attorney knows how to access resources for their client including but not limited to experts, visitation and reunification services for their client

Resource Counsel, if at court (physically or via Zoom), should observe the provisionally rostered attorney if they are present. If Resource Counsel observes anything that requires feedback or maybe beneficial to the provisionally rostered attorney, they should contact them and review it. Resource Counsel is encouraged to give positive feedback as well. In addition, Resource Counsel will be attuned to practice and performance issues that they may observe in the course of their regular practice or come to light through conversations with fellow practitioners, attorneys for the State, service providers, or judicial officers. When issues of concern come to the attention of Resource Counsel, they will consult with Commission staff, and a course of action will be mutually agreed upon. Such action may include raising the issues with the attorney involved, in-court observation, and/or file reviews. The goal of these activities is to assist lawyers to address problem areas and improve those attorneys' overall performance.

If in the course of providing the services described above, Resource Counsel discovers an actual or potential conflict of interest as defined by the Code of Professional Conduct, Resource Counsel will cease activity with respect to the provisionally rostered attorney involved. Any conflict identified will be brought to the attention of Commission staff, who will attempt to enlist the services of another attorney designated as Resource Counsel to provide the needed services. To identify and avoid conflicts of interest, Resource Counsel will identify clients of other attorneys who come to light in the performance of Resource Counsel activities and run "conflict checks" with respect such clients.

All information about individual clients, cases, and attorneys, shall be held as confidential by Resource Counsel, subject only to being shared with Commission staff. Such information in the possession of Resource Counsel is deemed to be information in the possession of the Commission and is designated confidential pursuant to the terms of 4 M.R.S.A. § 1806.

These Provisionally Rostered Attorney and Resource Counsel during the Pandemic rules are in addition to all previous Resource Counsel rules and requirements.

Resource Counsel shall be compensated at the hourly rate paid to attorneys providing indigent legal services generally. Resource Counsel shall submit vouchers to the Commission through its electronic billing system on a monthly basis. Individual vouchers will identify the practice area, Adult Criminal, Juvenile, or Child Protective, covered by the activities listed on the voucher, and Resource Counsel covering more than one practice area will submit one voucher per month for each. The vouchers will contain sufficient detail to allow Commission staff to review and evaluate the nature and extent of the activities performed. Vouchers shall be submitted by the 15th day of the following month.

(7.)

Parents Attorney Shortage

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: PARENTS ATTORNEY SHORTAGE

DATE: December 17, 2020

At the last meeting, Commissioner LeBrasseur asked that this issue be added to the next meeting agenda for Commission discussion of the issue.

(8.)

**Complaint Process
Discussion**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: COMPLAINT PROCESS DISCUSSION

DATE: December 17, 2020

Commissioner Cummins requested this item be added to the agenda for Commission discussion.

(9.)

Annual Report

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS

FROM: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR

SUBJECT: ANNUAL REPORT

DATE: December 17, 2020

The Commission annual report is due to the Joint Standing Committee on Judiciary, Chief Justice, and Governor on January 15, 2021. Staff will have a draft ready for Commission consideration at the January meeting but would like confirmation on topics to include.