

MCILS

July 14, 2015

**Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

JULY 14, 2015

COMMISSION MEETING

JUDICIARY COMMITTEE ROOM, STATEHOUSE, AUGUSTA

AGENDA

- 1) Approval of June 9, 2015 Commission Meeting Minutes
- 2) Approval of July 1, 2015 Special Commission Meeting Minutes
- 3) Operations Reports Review
- 4) Consideration of Initiating Rule-Making to Adopt a Permanent Fee Schedule Amendment
- 5) Consideration of Final Adoption of Approved Major Substantive Rule
- 6) Governor's Proposed Legislation
- 7) Public Comment
- 8) Set Date, Time and Location of Next Regular Meeting of the Commission
- 9) Executive Session, if needed (Closed to Public)

(1.)
June 9, 2015
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
June 9th, 2015**

Minutes

Commissioners Present: Steven Carey, Marvin Glazier, William Logan, Kenneth Spirer

MCILS Staff Present: John Pelletier, Lynne Nash, Katherine MacRae

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the May 12, 2015 Commission Meeting Minutes	Copy of minutes received by Commissioners. Commissioner Susan Roy not present. Introduction of Legal Intern, Katherine MacRae, and her research on court-appointed counsel evaluations. Lynne Nash was also in attendance.	Commissioner Spirer moved for the approval of the minutes. Commissioner Glazier seconded. All Commissioners in attendance voted in favor. Approved.
Operations Reports Review	Director Pelletier presented the <u>May 2015 Operations Reports</u> . 1,999 new cases were opened in the DefenderData system in May. This was a 229 case decrease from April. The number of vouchers submitted electronically in May was 2,788, an increase of 114 vouchers over April, totaling \$1,351,344.83, an increase of \$70,000 over April. In May, we paid 3,300 electronic vouchers totaling \$1,569,284.71. The number of vouchers paid in May equaled the number paid in April, but the amount paid rose \$32,000. There were no paper vouchers submitted or paid in May. The average price per voucher in May was \$475.53, up \$9.80 per voucher over April. Appeal and Post-Conviction Review cases had the highest average vouchers in May. There were 3 vouchers exceeding \$5,000 paid in May. These cases involved: 1) a Murder case with a plea to a reduced charge several days into the trial; 2) an aggravated trafficking case that involved a testimonial suppression hearing that resulted in entry of a conditional guilty plea and appeal of the suppression ruling; 3) a child protective case that involved a 3-day hearing. Director Pelletier highlighted the Revenue Account. The highest amount collected by the Judicial	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	Branch for counsel fees in any fiscal year was \$506,000, but the Commission has already collected \$706,000 in this fiscal year, with one month's collections still to come in. The Commission has already exceeded the highest yearly reimbursement total collected since its inception. Commissioner Spirer wants to highlight this fact to the Legislature. Director Pelletier agrees, especially with the focus of new legislation. Commissioner Carey stated that MCILS is collecting more than it costs to run MCILS on an annual basis and thanked the financial screeners for their work. Director Pelletier pointed out that because the financial order seeking additional allotment for the revenue account was not signed by the Governor, not all funds collected could be spent during this fiscal year. The unspent amount, however, would carry over to next year.	
Budget and Legislative Update	Director Pelletier directed the Commissioners' attention to the budget document. In the 2015/2016, the Appropriations Committee approved \$2.9 million in additional funding to cover anticipated increased costs. The budget also contained the amount necessary to raise attorneys' hourly wage from \$55/hour to \$60/hour for both years of the biennium. Director Pelletier highlighted that the Committee approved funding for everything MCILS asked for in 2015/2016, including the attorney pay raise, but did not address the increment related to year-over-year cost increases for 2016/2017. Commissioner Spirer wanted confirmation that the Committee is waiting for MCILS to tell the Committee what MCILS needs, rather than deciding not to increase funding. Director Pelletier confirmed and stated that the \$60/hour increase is effective July 1, 2015. Director Pelletier directed the Commissioners' attention to the proposed language for the emergency rule. Commissioner Glazier asked, in the event of a government shut-down, would MCILS have funds to pay attorneys. Director Pelletier confirmed that payments would be delayed until any shutdown was resolved. Commissioner Logan suggested that MCILS wait until the end of the month to notify attorneys because MCILS and the Judiciary do not know what will happen in the event of a shutdown. Commissioner Carey thanked Representative Frye for keeping him informed. Director Pelletier presented the Legislative Update noting that the fee schedule and specialized panel rules are	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	being carried over, leaving the rule expanding the authority of the Executive Director before the Judiciary Committee. Consideration of the rule had been tabled until Director Pelletier had further talks with the Governor's Office. Director Pelletier explained to the Judiciary Committee that he spoke with counsel in the Governor's Office but that the threat of a veto was still on the table. Ultimately, the Committee unanimously passed the rule and accompanying statute but changed "promptly" to "five business days."	
Governor's Proposed Legislation	Commissioner Spirer suggested that if this bill is likely to be carried over then the Commissioners should carefully parse through the language and sections before making any decision. He also wanted to know how this bill differs from what is in place today with MCILS, as well as the procedural and substantive authority differences between MCILS and a PD office. Director Pelletier agreed, but indicated that the biggest change is in the Commission's responsibility to supervise the PD Office rather than operate the system, which seems like a diminution in authority. Director Pelletier further noted that the Governor can dismiss the Chief PD and the bill calls for the use of as many contracts as possible. Both Director Pelletier and Commissioner Carey noted that what could be done by the Governor's proposed bill could be done by MCILS today. Commissioner Spirer questioned who was in charge under the Governor's proposed bill. Commissioner Casey stated that the bill nullifies the independence of the PD office because the Governor is in charge of the head of the PD system. Another concern for Commissioner Casey was the language change from "quality" to "competent," indicating a minimum requirement, as well as the lack of input by MCILS to OPM.	All present Commissioners agree to keep proposed legislation on agenda every month.
Discussion of Potential Contract Ideas	Director Pelletier presented two sample contracts: Vermont and New Mexico. Commissioner Casey indicated that the best option so far is to look at a potential contract system for LOD and Appeals and develop a hybrid contract model, especially in smaller counties (Somerset County). Director Pelletier reiterated the statements by attorneys commenting on appellate panels and that Maine's diffuse bar lacks a process for lawyers to work together to coordinate appellate strategy to address specific issues in the criminal justice system. Director Pelletier's	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	suggestion is to look at national RFPs for Appellate contracts, giving more focus to rural counties.	
Public Comment	Commissioner Carey read an email from Robert Ruffner, Esq. stating that the Unified Criminal Docket (UCD) is coming to York County and there is a need for two LOD for in-custody cases.	
Executive Session	None	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on July 14, 2015 at 9:30 am.	Commissioner Spirer moved and Commissioner Glazier seconded. All present voted in favor.

(2.)

July 1, 2015

**Special Commission
Meeting Minutes**

**Maine Commission on Indigent Legal Services – Special Commission Meeting
July 1st, 2015**

Minutes

Commissioners Present: Steven Carey, Marvin Glazier, William Logan, Kenneth Spirer, Susan Roy

MCILS Staff Present: John Pelletier and Katherine MacRae

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Consideration of Adoption of Emergency Fee Rule Amendment	Commissioner Carey opened meeting and noted that all Commissioners were present. Commissioner Carey stated that the purpose of the Special Meeting was to consider adopting the Emergency Fee Rule. He also noted that MCILS's authority to increase attorneys' rate from \$55.00 to \$60.00 per hour derives from the recently passed budget. Executive Director Pelletier reviewed the materials, noting that Section A-41 of the budget bill provides for the attorneys' rate of pay increase and section Y-1 of the budget gives MCILS one-time emergency rule-making authority to implement the rate increase. Executive Director Pelletier noted that the other documents in the packet are necessary for filing with the Office of the Secretary of State. Commissioner Spirer asked if the rostered attorneys have been notified of the rate increase. Director Pelletier stated that he informed the rostered attorneys before the Governor's veto of the budget that the rate increase will go into effect July 1st, 2015 if the budget became law by then. Vote was taken to adopt the Amendment; all Commissioners voted in favor.	Commissioner Glazier moved for the Emergency Fee Rule to be passed. Seconded by Commissioner Logan. All Commissioners voted in favor.

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	Commissioner Spirer wanted to know why the Commission would need to hold a public comment session on the amended fee rule. Director Pelletier stated that the rule just adopted is an emergency rule and that a full rulemaking is required to put a permanent rule in place. Accordingly, MCILS will need to hold a public comment session. Commissioner Carey suggested holding a public hearing session in August. Director Pelletier provided comments on the Commission's budget. The original target for vouchers to be carried over at the end of year was around \$550,000, but the Commission had only approximately \$350,000 in vouchers on hand at the end of the fiscal year. Commissioner Carey noted that the Commission received substantial additional funding for the new fiscal year and that MCILS needs to stay within that budget. He also highlighted LD 1433 proposed by the Governor, which was carried over until next Legislative session, and stated that the Commission needs to monitor this bill. Director Pelletier also noted that MCILS approves between 28,000-30,000 vouchers each year and that this year the number of vouchers has increased but the cost per voucher has remained flat. Commissioner Spirer thanked Director Pelletier and MCILS for doing a great job. Commissioner Carey wanted to thank members of the Judiciary and Appropriations Committees for the rate increase and MCILS budget approval, especially Aaron Frye for keeping the Commission up to date.	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on July 14, 2015 at 9:30 am.	Commissioner Glazier moved for adjournment of the meeting. Seconded by Commissioner Logan.

(3.)
Operations Reports
Review

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
SUBJECT: JUNE 2015 OPERATIONS REPORTS
DATE: JULY 9, 2015

Attached you will find the June, 2015 Operations Reports for your review and our discussion at the upcoming Commission meeting on July 14, 2015. A summary of the operations reports follows:

- 2,188 new cases were opened in the DefenderData system in June. This was a 189 case increase from May.
- The number of vouchers submitted electronically in June was 2,709, a decrease of 79 vouchers from May, totaling \$1,450,103.70, an increase of \$99,000 over May. In June, we paid 3,170 electronic vouchers totaling \$1,680,952.85, representing a decrease of 130 vouchers, but an increase in payments of \$111,000 as compared to May.
- There was one paper vouchers submitted and paid in June totaling \$4,146.48. This voucher was submitted by retained counsel for representation on a State appeal in a criminal case. A recent statutory change made these payments a Commission responsibility.
- The average price per voucher in June was \$530.27, up \$54.74 per voucher over May. The year-end average was \$475.78, a 9.46% increase over the previous year that is almost entirely attributable to the 10% increase in the hourly rate.
- Appeal and Post-Conviction Review cases had the highest average vouchers in June. There were 13 vouchers exceeding \$5,000 paid in June. Six vouchers arose from murder cases, two of which generated separate vouchers from co-counsel. The other cases involved: 1) a four day termination of parental rights hearing with travel from Augusta to Skowhegan; 2) an interim voucher in a kidnapping case that has dragged out as counsel seeks to have the client admitted to veterans court; 3) an arson of an occupied dwelling where counsel's efforts resulted in a disposition that shaved 6 year's incarceration off the original offer; 4) a voucher covering numerous juvenile sex offense charges; 5) a two-day domestic violence assault trial (involved travel) that resulted in a not guilty verdict; and 6) an appeal in a high-profile vehicular manslaughter case; and 7) a drug case involving 8 docket numbers with attempts at cooperation derailed by new charges.

In our All Other Account, the total expenses for the month of June were \$1,626,279.66. Of the amount, just over \$11,000 was devoted to the Commission's operating expenses.

We ended the year with a carry-over balance of defender data vouchers totaling \$343,901, as compared to our carry-over target at the beginning of the fiscal year of \$536,528.

In the Personal Services Account, we had \$51,406.31 in expenses for the month of June.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of June, which reflects May's collections, totaled \$69,561.74, up \$1,200 over the previous month. For the fiscal year, we collected \$776,536 in total reimbursements, up from the previous year total of \$654,406, which had been the most collected by the Commission in its history. Because our financial order request to expand the allotment in the revenue account was not approved, we carried a cash balance of \$60,295.05 into the new fiscal year.

In our Conference Account, we collected registration fees for the June minimum standards trainings, and paid expenses related to those trainings. At the end of the fiscal year, the account balance stood at \$12,585.23.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

6/30/2015

	Jun-15						Fiscal Year 2015			
DefenderData Case Type	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	11	15	\$ 24,754.35	17	\$ 25,569.16	\$ 1,504.07	138	174	\$ 245,755.55	\$ 1,412.39
Child Protection Petition	175	416	\$ 249,692.67	458	\$ 268,054.07	\$ 585.27	1,895	4,080	\$ 2,245,809.20	\$ 550.44
Drug Court	0	8	\$ 1,892.00	3	\$ 1,852.50	\$ 617.50	1	68	\$ 36,758.55	\$ 540.57
Emancipation	15	11	\$ 4,387.60	13	\$ 5,004.74	\$ 384.98	128	111	\$ 34,124.93	\$ 307.43
Felony	561	632	\$ 595,444.83	781	\$ 685,335.15	\$ 877.51	6,469	7,434	\$ 5,457,069.55	\$ 734.07
Involuntary Civil Commitment	82	84	\$ 20,666.48	73	\$ 17,276.84	\$ 236.67	823	783	\$ 172,087.99	\$ 219.78
Juvenile	86	65	\$ 31,765.12	103	\$ 44,616.67	\$ 433.17	1,138	1,264	\$ 461,240.28	\$ 364.91
Lawyer of the Day - Custody	198	208	\$ 43,035.52	256	\$ 56,824.35	\$ 221.97	2,532	2,536	\$ 528,695.60	\$ 208.48
Lawyer of the Day - Juvenile	39	43	\$ 7,660.51	48	\$ 8,517.96	\$ 177.46	479	473	\$ 86,629.03	\$ 183.15
Lawyer of the Day - Walk-in	106	114	\$ 22,850.39	152	\$ 32,717.07	\$ 215.24	1,362	1,335	\$ 280,469.64	\$ 210.09
Misdemeanor	691	701	\$ 269,618.07	797	\$ 320,666.00	\$ 402.34	7,647	8,265	\$ 3,080,578.12	\$ 372.73
Petition, Modified Release Treatment	0	9	\$ 3,733.70	8	\$ 1,906.15	\$ 238.27	11	61	\$ 19,283.71	\$ 316.13
Petition, Release or Discharge	1	0		0			1	4	\$ 4,032.88	\$ 1,008.22
Petition, Termination of Parental Rights	10	48	\$ 25,778.02	58	\$ 41,363.93	\$ 713.17	215	742	\$ 477,684.41	\$ 643.78
Post Conviction Review	8	8	\$ 12,901.90	10	\$ 14,789.62	\$ 1,478.96	62	96	\$ 106,321.92	\$ 1,107.52
Probation Violation	176	176	\$ 59,250.32	208	\$ 74,159.25	\$ 356.53	1,971	2,020	\$ 729,282.52	\$ 361.03
Represent Witness on 5th Amendment	1	2	\$ 528.66	0			15	16	\$ 3,146.75	\$ 196.67
Review of Child Protection Order	26	166	\$ 74,921.36	181	\$ 80,912.19	\$ 447.03	461	2,096	\$ 1,046,514.32	\$ 499.29
Revocation of Administrative Release	2	3	\$ 1,222.20	4	\$ 1,387.20	\$ 346.80	18	30	\$ 11,205.43	\$ 373.51
DefenderData Sub-Total	2,188	2,709	\$ 1,450,103.70	3,170	\$ 1,680,952.85	\$ 530.27	25,366	31,588	\$15,026,690.38	\$ 475.71
Paper Voucher Sub-Total	1	1	\$ 4,146.48	1	\$ 4,146.48	\$ 4,146.48	7	7	\$ 5,658.72	\$ 808.39
TOTAL	2,189	2,710	\$1,454,250.18	3,171	\$1,685,099.33	\$ 531.41	25,373	31,595	\$ 15,032,349.10	\$ 475.78

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
AS OF 06/30/2015

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Professional Services Allotment		\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	
FY15 General Operations Allotment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ 1,700,000.00	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 4,928,737.00	\$ 15,649,052.00
Total Expenses	1	\$ (1,141,359.56)	4	\$ (1,567,153.86)	7	\$ (1,850,113.66)	10	\$ (1,684,022.01)	\$ (6,242,649.09)
	2	\$ (1,199,265.91)	5	\$ (1,261,558.07)	8	\$ (1,216,773.83)	11	\$ (1,689,497.83)	\$ (5,367,095.64)
	3	\$ (1,114,175.03)	6	\$ (557,133.57)	9	\$ (741,719.01)	12	\$ (1,626,279.66)	\$ (4,039,307.27)
Encumbrances		\$ (213,312.50)		\$ 71,187.50		\$ 71,062.50		\$ 71,062.50	\$ -
TOTAL REMAINING		\$ -		\$ (0.00)		\$ -		\$ 0.00	\$ 0.00

Q4 Month 12 (as of 06/30/15)

INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (1,502,169.29)
Somerset County	\$ (23,823.50)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (27,355.47)
Mental Health Expert	\$ (13,828.72)
Transcripts	\$ (13,674.74)
Other Expert	\$ (31,548.07)
Expert Witness Lodging	\$ -
Process Servers	\$ (1,303.49)
Interpreters	\$ (941.68)
Misc Prof Fees & Serv	\$ (237.50)
SUB-TOTAL ILS	\$ (1,614,882.46)
OPERATING EXPENSES	
Service Center	\$ -
DefenderData	\$ (4,479.00)
Risk Management	\$ -
Mileage/Tolls/Parking	\$ (1,308.59)
Mailing/Postage/Freight	\$ (372.68)
Printing/Binding-Postage cards	\$ (42.50)
Notary Fees	\$ -
Office Supplies/Equip.	\$ (248.58)
Cellular Phones	\$ (120.55)
Parking Fees	\$ (600.00)
Office Equipment Rental	\$ (128.51)
OIT/TELCO	\$ (4,096.79)
SUB-TOTAL OE	\$ (11,397.20)
TOTAL	\$ (1,626,279.66)

INDIGENT LEGAL SERVICES

Q4 Allotment	\$ 4,928,737.00
Q4 Encumbrance Expenditures	\$ 71,062.50
Q4 Expenses as of 06/30/15	\$ (4,999,799.50)
Remaining Q4 Allotment as of 06/30/15	\$ -

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 06/30/15

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
Total Budget Allotments		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	\$ 717,467.00
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Financial Order Adjustment		\$ 970.00		\$ 50,000.00		\$ 35,000.00		\$ 35,000.00	
Total Budget Allotments		\$ 150,094.00		\$ 199,124.00		\$ 184,124.00		\$ 184,125.00	
Collected Revenue from JB	1	\$ 51,555.85	4	\$ 61,901.40	7	\$ 53,070.41	10	\$ 80,969.44	
Promissory Note Payments		\$ 200.00		\$ -		\$ 50.00		\$ -	
Collected Revenue from JB	2	\$ 68,324.36	5	\$ 66,316.39	8	\$ 58,966.06	11	\$ 68,346.99	
Promissory Note Payments		\$ 200.00		\$ -		\$ 50.00		\$ 50.00	
Donation		\$ 1,500.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	3	\$ 47,842.05	6	\$ 47,640.77	9	\$ 99,692.53	12	\$ 69,561.74	
Promissory Note Payments				\$ 50.00		\$ 50.00		\$ 50.00	
Returned Check		\$ 45.00		\$ 60.00		\$ 43.00		\$ -	
TOTAL REVENUE COLLECTED		\$ 169,667.26		\$ 175,968.56		\$ 211,922.00		\$ 218,978.17	\$ 776,535.99
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ (149,124.00)	6	\$ (190,337.31)	9	\$ (182,929.00)	12	\$ (182,930.04)	
REMAINING ALLOTMENT		\$ 970.00		\$ 8,786.69		\$ 1,195.00		\$ 1,194.96	\$ 12,146.65
Total Expenses	1	\$ -	4	\$ (2,119.11)	7	\$ (1,237.19)	10	\$ (1,478.04)	
	2	\$ (1,344.65)	5	\$ (415.75)	8	\$ (1.50)	11	\$ (203.50)	
	3	\$ (495.00)	6	\$ (558.00)	9	\$ (1,049.00)	12	\$ (2,018.85)	
REMAINING CASH		\$ 18,703.61		\$ (17,461.61)		\$ 26,705.31		\$ 32,347.74	\$ 60,295.05

Q4 Month 12 (as of 06/30/15)

DEFENDER DATA COUNSEL PAYMENTS	
	\$ (182,930.04)
SUB-TOTAL ILS	
OVERPAYMENT REIMBURSEMENTS	\$ 2,018.85
State Cap Expense Q4	\$ -
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
Process Servers	\$ -
SUB-TOTAL OE	\$ -
TOTAL	\$ -

INDIGENT LEGAL SERVICES

FY15 Allotment	\$ 717,467.00
YTD Collected Revenue	\$ 776,535.99
YTD Expenses	\$ (10,920.59)
YTD Counsel Payments	\$ (705,320.35)
Q4 Remaining Unexpended Cash	\$ 60,295.05

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 06/30/15

Account 014 95F Z112 02 (Conference Account)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY14 Carry Over		\$ 20,144.41							\$ -
Total Budget Allotments		\$ 4,000.00	\$ 20,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 32,000.00
Budget Order Adjustment					\$ 8,000.00		\$ 12,144.00		
Total Budget Allotments		\$ 4,000.00	\$ 20,000.00	\$ 12,000.00	\$ 16,144.00	\$ 16,144.00	\$ 16,144.00	\$ 16,144.00	\$ 52,144.00
Total Revenue	1	\$ 1,850.00	4	\$ 8,000.00	7	\$ 20.00	10	\$ 1,260.00	
Billed Earned Revenue	1	\$ (150.00)		\$ -			11	\$ 2,400.00	
	2	\$ 975.00	5	\$ 2,700.00	8	\$ 6,705.00	12	\$ -	
	3	\$ 7,575.00	6	\$ -	9	\$ 3,100.00	12	\$ 2,000.00	
ACTUAL CASH BALANCE		\$ 30,394.41	\$ 41,094.41	\$ 50,919.41	\$ 5,660.00	\$ 5,660.00	\$ 5,660.00	\$ 5,660.00	\$ 56,579.41
Total Expenses	1	\$ (76.04)	4	\$ (3,116.49)	7	\$ (4,856.96)	10	\$ (6,178.46)	
	2	\$ (3,293.26)	5	\$ (1,866.51)	8	\$ (97.71)	11	\$ (7,548.60)	
	3	\$ (402.99)	6	\$ (15,805.12)	9	\$ (75.43)	12	\$ (724.24)	
TOTAL REMAINING		\$ 26,772.12	\$ 16,684.00	\$ 21,376.53	\$ (13,191.30)	\$ 8,185.23			

Q4 Month 12 (as of 06/30/15)	
Collected Revenue	\$ 2,000.00
State Cap Cost Allocation	\$ (48.82)
Training Manuals Printing	\$ -
Trainer Fees	\$ -
Films/Materials	\$ -
Training Rooms/Meals	\$ (675.42)
Refund for non-attendance	\$ -
Board of Overseers Trainer Fees	\$ -
TOTAL EXPENSES	\$ (724.24)

FY15 Allotment	\$ 52,144.00
FY14 Carry Over	\$ 20,144.41
FY15 Collected Revenue	\$ 36,585.00
FY15 Expenses	\$ (44,144.18)
Unexpended Cash	\$ 12,585.23

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
AS OF 06/30/2015

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Allotment	\$	186,226.00	\$	181,742.00	\$	169,447.00	\$	139,222.00	\$ 676,637.00
Financial Order Adjustments	\$	(20,000.00)	\$	-	\$	-	\$	20,000.00	
Financial Order Adjustments	\$	-	\$	-	\$	-	\$	-	
Budget Order Adjustments			\$	-	\$	-	\$	-	
Total Budget Allotments	\$	166,226.00	\$	181,742.00	\$	169,447.00	\$	159,222.00	\$ 676,637.00
Total Expenses	1 \$	(66,591.80)	4 \$	(49,740.31)	7 \$	(52,802.70)	10 \$	(48,108.54)	
	2 \$	(49,475.54)	5 \$	(50,117.29)	8 \$	(42,255.91)	11 \$	(50,942.47)	
	3 \$	(50,108.08)	6 \$	(70,109.34)	9 \$	(43,686.90)	12 \$	(51,406.31)	
TOTAL REMAINING	\$	50.58	\$	11,775.06	\$	30,701.49	\$	8,764.68	\$ 51,291.81

Q4 Month 12 (as of 06/30/15)	
Per Diem Payments	\$ (220.00)
Salary	\$ (24,057.06)
Vacation Pay	\$ (627.33)
Holiday Pay	\$ (1,540.80)
Sick Pay	\$ (1,905.28)
Employee Hlth SVS/Workers Comp	\$ (74.00)
Health Insurance	\$ (9,466.94)
Dental Insurance	\$ (275.75)
Employer Retiree Health	\$ (3,921.99)
Employer Retirement	\$ (1,578.27)
Employer Group Life	\$ (208.22)
Employer Medicare	\$ (405.93)
Retiree Unfunded Liability	\$ (4,614.48)
Retro Pymt	\$ -
Perm Part Time Full Ben	\$ (2,510.26)
TOTAL	\$ (51,406.31)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

6/30/2015

Court	Jun-15						Fiscal Year 2015			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	139	213	\$ 193,705.54	238	\$ 196,426.74	\$ 825.32	1,785	2,359	\$ 1,533,293.21	\$ 649.98
AUBSC	76	151	\$ 99,257.54	160	\$ 103,794.94	\$ 648.72	1,216	1,382	\$ 842,016.52	\$ 609.27
AUGDC	51	98	\$ 43,560.17	118	\$ 55,608.30	\$ 471.26	817	1,109	\$ 470,571.41	\$ 424.32
AUGSC	65	109	\$ 56,632.78	132	\$ 72,170.10	\$ 546.74	1,089	1,404	\$ 871,483.57	\$ 620.71
BANDC	60	95	\$ 27,280.23	105	\$ 36,838.77	\$ 350.85	709	1,285	\$ 454,389.98	\$ 353.61
BANSC	2	2	\$ 316.25	1	\$ 247.50	\$ 247.50	26	28	\$ 13,943.04	\$ 497.97
BATSC	0	2	\$ 677.41	8	\$ 4,467.00	\$ 558.38	40	63	\$ 39,493.80	\$ 626.89
BELDC	16	32	\$ 14,183.50	29	\$ 15,936.92	\$ 549.55	288	422	\$ 181,978.46	\$ 431.23
BELSC	9	27	\$ 13,765.34	34	\$ 13,479.93	\$ 396.47	216	287	\$ 162,089.23	\$ 564.77
BIDDC	109	93	\$ 39,586.61	126	\$ 54,139.80	\$ 429.68	1,022	1,321	\$ 569,649.37	\$ 431.23
BRIDC	18	26	\$ 13,119.33	31	\$ 16,063.56	\$ 518.18	167	274	\$ 142,646.52	\$ 520.61
CALDC	10	15	\$ 8,167.61	27	\$ 14,870.13	\$ 550.75	159	232	\$ 109,926.11	\$ 473.82
CARDC	19	28	\$ 13,890.92	21	\$ 10,077.21	\$ 479.87	165	318	\$ 147,308.64	\$ 463.23
CARSC	17	29	\$ 13,565.74	27	\$ 12,591.17	\$ 466.34	379	442	\$ 216,239.89	\$ 489.23
DOVDC	2	15	\$ 6,584.25	25	\$ 9,974.67	\$ 398.99	81	233	\$ 69,721.43	\$ 299.23
DOVSC	0	0		0			5	7	\$ 1,103.00	\$ 157.57
ELLDC	10	35	\$ 15,858.62	30	\$ 16,253.76	\$ 541.79	189	412	\$ 215,808.51	\$ 523.81
ELLSC	4	9	\$ 2,878.50	4	\$ 29,994.33	\$ 7,498.58	36	75	\$ 64,318.75	\$ 857.58
FARDC	9	10	\$ 8,932.27	13	\$ 9,122.09	\$ 701.70	88	179	\$ 97,867.23	\$ 546.74
FARSC	2	3	\$ 1,650.15	2	\$ 1,579.75	\$ 789.88	17	40	\$ 20,520.18	\$ 513.00
FORDC	4	13	\$ 9,269.25	12	\$ 9,060.15	\$ 755.01	93	122	\$ 65,833.94	\$ 539.62
HOUDC	40	44	\$ 15,020.72	55	\$ 18,976.08	\$ 345.02	464	546	\$ 184,049.53	\$ 337.09
HOUSC	5	17	\$ 12,070.69	17	\$ 13,483.71	\$ 793.16	162	207	\$ 135,918.58	\$ 656.61
LEWDC	138	182	\$ 78,414.91	189	\$ 76,533.01	\$ 404.94	1,569	1,908	\$ 758,453.84	\$ 397.51
LINDC	10	22	\$ 11,309.94	24	\$ 12,176.76	\$ 507.37	174	210	\$ 84,754.46	\$ 403.59
MACDC	23	28	\$ 7,130.81	24	\$ 5,654.61	\$ 235.61	295	375	\$ 121,788.31	\$ 324.77
MACSC	15	9	\$ 3,565.50	10	\$ 6,311.85	\$ 631.19	158	171	\$ 81,418.73	\$ 476.13
MADDC	3	3	\$ 453.86	3	\$ 453.86	\$ 151.29	20	17	\$ 5,859.46	\$ 344.67
MILDC	1	0		0			9	16	\$ 4,082.82	\$ 255.18
NEWDC	26	22	\$ 6,178.61	22	\$ 5,837.72	\$ 265.35	268	342	\$ 110,040.27	\$ 321.76
PORDC	99	143	\$ 80,582.97	160	\$ 89,242.54	\$ 557.77	1,084	1,586	\$ 729,153.69	\$ 459.74
PORSC	4	6	\$ 6,226.50	7	\$ 6,747.00	\$ 963.86	42	54	\$ 40,776.62	\$ 755.12
PREDC	23	66	\$ 17,669.80	63	\$ 20,058.46	\$ 318.39	337	506	\$ 183,179.33	\$ 362.01
ROCD	28	41	\$ 14,091.55	40	\$ 15,341.38	\$ 383.53	485	614	\$ 222,624.42	\$ 362.58
ROCSC	9	21	\$ 9,691.54	27	\$ 16,416.10	\$ 608.00	285	357	\$ 193,074.11	\$ 540.82
RUMDC	15	18	\$ 8,456.23	14	\$ 5,117.95	\$ 365.57	155	201	\$ 97,525.88	\$ 485.20
SKODC	15	39	\$ 18,902.17	47	\$ 29,894.12	\$ 636.05	176	498	\$ 232,466.25	\$ 466.80
SKOSC	1	1	\$ 440.00	1	\$ 440.00	\$ 440.00	6	9	\$ 3,449.00	\$ 383.22
SOUDC	27	21	\$ 8,750.17	31	\$ 9,393.67	\$ 303.02	341	418	\$ 127,802.02	\$ 305.75
SOUSC	13	28	\$ 24,338.27	45	\$ 32,720.18	\$ 727.12	420	555	\$ 286,071.34	\$ 515.44
SPRDC	49	71	\$ 36,116.22	87	\$ 37,906.76	\$ 435.71	695	839	\$ 376,504.42	\$ 448.75
Law Ct	6	8	\$ 13,059.88	10	\$ 14,252.41	\$ 1,425.24	108	117	\$ 163,730.86	\$ 1,399.41
YORCD	3	0		0			3	0		
AROCD	0	0		0			0	0		
ANDCD	1	0		0			1	0		
KENCD	106	43	\$ 13,009.43	48	\$ 14,615.59	\$ 304.49	224	77	\$ 21,541.74	\$ 279.76
PENCD	285	192	\$ 114,346.62	277	\$ 139,563.06	\$ 503.84	2,240	2,383	\$ 1,136,423.87	\$ 476.89
SAGCD	28	28	\$ 17,300.10	29	\$ 17,424.40	\$ 600.84	289	289	\$ 172,047.00	\$ 595.32
WALCD	28	21	\$ 3,425.95	18	\$ 3,297.80	\$ 183.21	72	25	\$ 4,765.20	\$ 190.61
PISCD	12	15	\$ 6,390.08	16	\$ 6,766.98	\$ 422.94	187	178	\$ 47,229.10	\$ 265.33
HANCD	71	57	\$ 59,533.56	71	\$ 69,686.76	\$ 981.50	541	512	\$ 240,852.65	\$ 470.42
FRACD	52	58	\$ 23,280.53	58	\$ 20,922.63	\$ 360.74	617	632	\$ 223,173.62	\$ 353.12
WASCD	0	0		0			0	0		
CUMCD	273	324	\$ 176,643.32	410	\$ 211,204.18	\$ 515.13	3,633	3,863	\$ 1,991,094.17	\$ 515.43
KNOCD	30	15	\$ 4,015.77	15	\$ 6,214.67	\$ 414.31	74	27	\$ 9,384.65	\$ 347.58
SOMCD	2	1	\$ 468.60	2	\$ 567.60	\$ 283.80	9	12	\$ 11,316.40	\$ 943.03
OXFCD	0	0		0			0	0		
LINCD	27	12	\$ 3,245.66	11	\$ 2,293.72	\$ 208.52	67	18	\$ 3,523.08	\$ 195.73
WATDC	33	49	\$ 24,836.11	60	\$ 26,809.14	\$ 446.82	478	699	\$ 244,561.95	\$ 349.87
WESDC	25	34	\$ 13,341.42	47	\$ 12,889.20	\$ 274.24	338	433	\$ 138,274.06	\$ 319.34
WISDC	15	16	\$ 6,720.42	28	\$ 11,054.35	\$ 394.80	308	354	\$ 105,007.65	\$ 296.63
WISSC	8	26	\$ 20,045.61	36	\$ 28,377.65	\$ 788.27	245	318	\$ 157,726.55	\$ 496.00
YORDC	17	23	\$ 8,148.17	25	\$ 9,610.13	\$ 384.41	200	228	\$ 86,841.96	\$ 380.89
TOTAL	2,188	2709	\$ 1,450,103.70	3,170	\$ 1,680,952.85	\$530.27	25,366	31,588	\$15,026,690.38	\$475.71

(4.)
Permanent Fee Schedule
Amendment

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: PERMANENT FEE SCHEDULE AMENDMENT
DATE: July 9, 2015

On July 1, 2015, the Commission adopted an emergency amendment to Chapter 301, the fee schedule, to raise the hourly rate to \$60/hr. This emergency rule needs to be made permanent through the regular rule-making process.

Attached are copy of the amended rule and a copy of the amended rule with track changes. To initiate the permanent rule-making process, the Commission must vote to send the amendment out for public comment and schedule a hearing to receive public comment. The hearing could take place on Tuesday, August 11, 2015, the same date as the regularly scheduled August meeting of the Commission.

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

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

SECTION 1. DEFINITIONS

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

SECTION 2. HOURLY RATE OF PAYMENT

Effective July 1, 2015:

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

SECTION 3. EXPENSES

1. **Routine Office Expenses.** Routine Office expenses are considered to be included in the hourly rate. Routine office expenses, including but not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, routine copying (under 100 pages), local phone calls, parking (except as stated below), and office supplies, etc., will not be reimbursed.
2. **Itemized Non-Routine Expenses.** Itemized non-routine expenses, such as discovery from the State or other agency, long distance calls (only if billed for long distance calls by your phone carrier), collect phone calls, extensive copying (over 100 pages), printing/copying/ binding of legal appeal brief(s), relevant in-state mileage (as outlined below), tolls (as outlined below), and fees paid to third parties. Necessary parking fees associated with multi-day trials and hearings will be reimbursed, but must be approved in advance by the Executive Director.
3. **Travel Reimbursement.** Mileage reimbursement shall not exceed the applicable State rate. Mileage reimbursement will be paid for travel to and from courts other than an attorney's home district and superior court. Mileage reimbursement will not be paid for

travel to and from an attorney's home district and superior courts. Tolls will be reimbursed, except that tolls will not be reimbursed for travel to and from attorney's home district and superior court. All out-of-state travel or any overnight travel must be approved by the MCILS in writing prior to incurring the expense. Use of the telephone, video equipment, and email in lieu of travel is encouraged as appropriate.

4. **Itemization of Claims.** Claims for all expenses must be itemized.
5. **Discovery Materials.** The MCILS will reimburse only for one set of discovery materials. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel forthwith.
6. **Expert and Investigator Expenses.** Other non-routine expenses for payment to third parties, which historically required preapproval by the Court before July 1, 2010 (e.g., investigators, interpreters, medical and psychological experts, testing, depositions, etc.) are required to be approved in advance by MCILS. Funds for third-party services will be provided by the MCILS only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with the MCILS rules and procedures governing requests for funds for experts and investigators. See Chapter 302 Procedures Regarding Funds for Experts and Investigators.
7. **Witness, Subpoena, and Service Fees.** In criminal and juvenile cases, witness, subpoena, and service fees will be reimbursed only pursuant to M.R. Crim. P. 17(b). It is unnecessary for counsel to advance these costs, and they shall not be included as a voucher expense. Fees for service of process by persons other than the sheriff shall not exceed those allowed by 30-A M.R.S. § 421. The same procedure shall be followed in civil cases.

SECTION 4. MAXIMUM FEES

Vouchers submitted for amounts greater than the applicable maximum fees outlined in this section will not be approved for payment, except as approved by the Executive Director:

1. **Trial Court Criminal Fees**
 - A. Maximum fees, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.

Effective July 1, 2015:

- 1) **Murder.** Fee to be set by the Executive Director on a case by case basis.
- 2) **Class A.** \$3,000
- 3) **Class B and C (against person).** \$2,250
- 4) **Class B and C (against property).** \$1,500

- 5) **Class D and E (Superior or Unified Criminal Court). \$749.99**
 - 6) **Class D and E (District Court). \$540**
 - 7) **Post-Conviction Review. \$1,200**
 - 8) **Probation Revocation. \$540**
 - 9) **Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.) \$540**
 - 10) **Juvenile. \$540**
- B. In cases involving multiple counts against a single defendant, the maximum fee shall be that which applies to the most serious count. In cases where a defendant is charged with a number of unrelated offenses, Counsel is expected to coordinate and consolidate services as much as possible.
- C. Criminal and juvenile cases will include all proceedings through disposition as defined in Section 5.1.A below. Any subsequent proceedings, such as probation revocation, will require new application and appointment.
- D. When doing so will not adversely affect the attorney-client relationship, Commission-assigned counsel are urged to limit travel and waiting time by cooperating with each other to stand in at routine, non-dispositive matters by having one attorney appear at such things as arraignments and routine non-testimonial motions, instead of having all Commission-assigned counsel in an area appear.
- E. Upon written request to MCILS, assistant counsel may be appointed in a murder case or other complicated cases:
- 1) the duties of each attorney must be clearly and specifically defined and counsel must avoid unnecessary duplication of effort;
 - 2) each attorney must submit a voucher to MCILS. Counsel should coordinate the submission of voucher so that they can be reviewed together. Co-counsel who practice in the same firm may submit a single voucher that reflects the work done by each attorney.

2. **District Court Child Protection**

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

Effective July 1, 2015:

- 1) **Child protective cases (each stage). \$929.45**

2) **Termination of Parental Rights** (with a hearing). \$ 1,260

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

3. **Other District Court Civil**

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

Effective July 1, 2015:

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

4. **Law Court**

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

Effective July 1, 2015:

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

SECTION 5: MINIMUM FEES

Effective July 1, 2015:

1. Attorneys may charge a minimum fee of \$150.00 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer

of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged regardless of the number of clients consulted at the request of the court.

SECTION 6: ADMINISTRATION

1. Vouchers for payment of counsel fees and expenses shall be submitted within ninety days after the date of disposition of a criminal, juvenile or appeals case, or completion of a stage of a child protection case resulting in an order. Vouchers submitted more than ninety days after final disposition, or completion of a stage of a child protection case, shall not be paid.

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

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

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

- 1) Order after Summary Preliminary hearing or Agreement
- 2) Order after Jeopardy Hearing
- 3) Order after each Judicial Review
- 4) Order after a Cease Reunification Hearing
- 5) Order after Permanency Hearing
- 6) Order after Termination of Parental Rights Hearing
- 7) Law Court Appeal

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

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

EFFECTIVE DATE:

August 21, 2011 – filing 2011-283

AMENDED:

March 19, 2013 – filing 2013-062

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

October 5, 2013 – filing 2013-228

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

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

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3. Executive Director. "Executive Director" means the Executive Director of MCILS or the Executive Director's decision making designee.

SECTION 2. HOURLY RATE OF PAYMENT

Effective July 1, 2013:

~~A rate of Fifty Dollars (\$50.00) per hour is authorized for time spent on an assigned case.~~

Effective July 1, 2014:

~~A rate of Fifty Five Dollars (\$55.00) per hour is authorized for time spent on an assigned case.~~

Effective July 1, 2015:

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

SECTION 3. EXPENSES

1. **Routine Office Expenses.** Routine Office expenses are considered to be included in the hourly rate. Routine office expenses, including but not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, routine copying (under 100 pages), local phone calls, parking (except as stated below), and office supplies, etc., will not be reimbursed.
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by your phone carrier), collect phone calls, extensive copying (over 100 pages), printing/copying/ binding of legal appeal brief(s), relevant in-state mileage (as outlined below), tolls (as outlined below), and fees paid to third parties. Necessary parking fees associated with multi-day trials and hearings will be reimbursed, but must be approved in advance by the Executive Director.

3. **Travel Reimbursement.** Mileage reimbursement shall not exceed the applicable State rate. Mileage reimbursement will be paid for travel to and from courts other than an attorney's home district and superior court. Mileage reimbursement will not be paid for travel to and from an attorney's home district and superior courts. Tolls will be reimbursed, except that tolls will not be reimbursed for travel to and from attorney's home district and superior court. All out-of-state travel or any overnight travel must be approved by the MCILS in writing prior to incurring the expense. Use of the telephone, video equipment, and email in lieu of travel is encouraged as appropriate.
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5. **Discovery Materials.** The MCILS will reimburse only for one set of discovery materials. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel forthwith.
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SECTION 4. MAXIMUM FEES

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1. **Trial Court Criminal Fees**
 - A. Maximum fees, excluding any itemized expenses, are set in accordance with this subsection. Counsel must provide MCILS with written justification for any voucher that exceeds the maximum fee limit.

~~Effective July 1, 2013:~~

- 1) ~~Murder. Fee to be set by the Executive Director on a case by case basis.~~
- 2) ~~Class A. \$2,500~~
- 3) ~~Class B and C (against person). \$1,875~~
- 4) ~~Class B and C (against property). \$1,250~~
- 5) ~~Class D and E (Superior or Unified Criminal Court). \$625~~
- 6) ~~Class D and E (District Court). \$450~~
- 7) ~~Post-Conviction Review. \$1,000~~
- 8) ~~Probation Revocation. \$450~~
- 9) ~~Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.) \$450~~
- 10) ~~Juvenile. \$450~~

Effective July 1, 2014:

- 1) ~~Murder. Fee to be set by the Executive Director on a case by case basis.~~
- 2) ~~Class A. \$2,750~~
- 3) ~~Class B and C (against person). \$2,062.50~~
- 4) ~~Class B and C (against property). \$1,375~~
- 5) ~~Class D and E (Superior or Unified Criminal Court). \$687.50~~
- 6) ~~Class D and E (District Court). \$495~~
- 7) ~~Post-Conviction Review. \$1,100~~
- 8) ~~Probation Revocation. \$495~~
- 9) ~~Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.) \$495~~
- 10) ~~Juvenile. \$495~~

Effective July 1, 2015:

- 1) Murder. Fee to be set by the Executive Director on a case by case basis.

- 2) Class A. \$3,000
- 3) Class B and C (against person). \$2,250
- 4) Class B and C (against property). \$1,500
- 5) Class D and E (Superior or Unified Criminal Court). \$749.99
- 6) Class D and E (District Court). \$540
- 7) Post-Conviction Review. \$1,200
- 8) Probation Revocation. \$540
- 9) Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.) \$540
- 10) Juvenile. \$540

- B. In cases involving multiple counts against a single defendant, the maximum fee shall be that which applies to the most serious count. In cases where a defendant is charged with a number of unrelated offenses, Counsel is expected to coordinate and consolidate services as much as possible.
- C. Criminal and juvenile cases will include all proceedings through disposition as defined in Section 5.1.A below. Any subsequent proceedings, such as probation revocation, will require new application and appointment.
- D. When doing so will not adversely affect the attorney-client relationship, Commission-assigned counsel are urged to limit travel and waiting time by cooperating with each other to stand in at routine, non-dispositive matters by having one attorney appear at such things as arraignments and routine non-testimonial motions, instead of having all Commission-assigned counsel in an area appear.
- E. Upon written request to MCILS, assistant counsel may be appointed in a murder case or other complicated cases:
 - 1) the duties of each attorney must be clearly and specifically defined and counsel must avoid unnecessary duplication of effort;
 - 2) each attorney must submit a voucher to MCILS. Counsel should coordinate the submission of voucher so that they can be reviewed together. Co-counsel who practice in the same firm may submit a single voucher that reflects the work done by each attorney.

2. **District Court Child Protection**

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

Effective July 1, 2013:

- ~~1) Child protective cases (each stage). \$750~~
- ~~2) Termination of Parental Rights (with a hearing). \$1,050~~

Effective July 1, 2014:

- ~~1) Child protective cases (each stage). \$825~~
- ~~2) Termination of Parental Rights (with a hearing). \$1,155~~

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

Effective July 1, 2015:

- 1) Child protective cases (each stage). \$929.45
- 2) Termination of Parental Rights (with a hearing). \$ 1,260

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

3. Other District Court Civil

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

Effective July 1, 2013:

- ~~1) Application for Involuntary Commitment. \$350~~
- ~~2) Petition for Emancipation. \$350~~

~~3) Petition for Modified Release Treatment. \$350~~

~~4) Petition for Release or Discharge. \$350~~

Effective July 1, 2014:

~~1) Application for Involuntary Commitment. \$385~~

~~2) Petition for Emancipation. \$385~~

~~3) Petition for Modified Release Treatment. \$385~~

~~4) Petition for Release or Discharge. \$385~~

Effective July 1, 2015:

1) Application for Involuntary Commitment. \$420

2) Petition for Emancipation. \$420

3) Petition for Modified Release Treatment. \$420

4) Petition for Release or Discharge. \$420

4. Law Court

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

Effective July 1, 2013:

~~1) Appellate work following the grant of petition for certificate of probable cause. \$1,000~~

Effective July 1, 2014:

~~1) Appellate work following the grant of petition for certificate of probable cause. \$1,100~~

- ~~B. Expenses shall be reimbursed for printing costs and mileage to oral argument at the applicable state rate. Vouchers for payment of counsel fees and expenses must be submitted, including an itemization of time spent.~~

Effective July 1, 2015:

1) Appellate work following the grant of petition for certificate of probable cause. \$1,200

- B. Expenses shall be reimbursed for printing costs and mileage to oral argument at the applicable state rate. Vouchers for payment of counsel fees and expenses must be submitted, including an itemization of time spent.

SECTION 5: MINIMUM FEES

Effective July 1, 2013:

1. ~~Attorneys may charge a minimum fee of \$125 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged regardless of the number of clients consulted at the request of the court.~~

Effective July 1, 2014:

1. ~~Attorneys may charge a minimum fee of \$137.50 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged regardless of the number of clients consulted at the request of the court.~~

Effective July 1, 2015:

1. Attorneys may charge a minimum fee of \$150.00 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged regardless of the number of clients consulted at the request of the court.

SECTION 6: ADMINISTRATION

1. Vouchers for payment of counsel fees and expenses shall be submitted within ninety days after the date of disposition of a criminal, juvenile or appeals case, or completion of a stage of a child protection case resulting in an order. Vouchers submitted more than ninety days after final disposition, or completion of a stage of a child protection case, shall not be paid.
 - A. For purposes of this rule, "disposition" of a criminal or juvenile case shall be at the following times:
 - 1) entry of judgment (sentencing, acquittal, dismissal, or filing);
 - 2) upon entry of a deferred disposition;
 - 3) upon issuance of a warrant of arrest for failure to appear;
 - 4) upon granting of leave to withdraw;
 - 5) upon decision of any post-trial motions;
 - 6) upon completion of the services the attorney was assigned to provide (e.g., mental health hearings, "lawyer of the day," bail hearings, etc.); or
 - 7) specific authorization of the Executive Director to submit an interim voucher.
 - B. For purposes of this rule, "each stage" of a child protection case shall be:
 - 1) Order after Summary Preliminary hearing or Agreement
 - 2) Order after Jeopardy Hearing
 - 3) Order after each Judicial Review
 - 4) Order after a Cease Reunification Hearing
 - 5) Order after Permanency Hearing
 - 6) Order after Termination of Parental Rights Hearing
 - 7) Law Court Appeal
2. Unless otherwise authorized in advance, all vouchers must be submitted using the MCILS electronic case management program and comply with all instructions for use of the system.
3. All time on vouchers shall be detailed and accounted for in .10 of an hour increments. The purpose for each time entry must be self-evident or specifically stated. Use of the comment section is recommended.

4. All expenses claimed for reimbursement must be fully itemized on the voucher. Copies of receipts for payments to third parties shall be retained and supplied upon request.
 5. Legal services provided in the district court for cases subsequently transferred to the superior court shall be included in the voucher submitted to the MCILS at disposition of the case.
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STATUTORY AUTHORITY: 4 M.R.S. §§ 1804(2)(F), (3)(B), (3)(F) and (4)(D)

EFFECTIVE DATE:

August 21, 2011 – filing 2011-283

AMENDED:

March 19, 2013 – filing 2013-062

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

October 5, 2013 – filing 2013-228

EFFECTIVE DATE:

(5.)
Final Adoption Chapter 2

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: FINAL ADOPTION OF CHAPTER 2 AMENDMENT
DATE: July 9, 2015

On June 30, 2015, the Legislature overrode the Governor's veto of Resolve, LD 851, which approved our provisional major substantive rule amendment of Chapter 2, Standards for Qualifications of Assigned Counsel. (see attached) In the resolve, the Legislature required the Commission to amend the provisionally adopted rule to require that attorneys provide written notice of any criminal charge "within 5 days," rather than "promptly."

The resolve was passed as emergency legislation, so it is now in effect. Maine law requires that the agency promulgating a major substantive rule vote final adoption of the rule with 60 days of the effective date of legislation approving adoption of the rule. Attached is a copy of the provisionally adopted rule with the mandated change shown in track changes.

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STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

H.P. 582 - L.D. 851

Resolve, Regarding Legislative Review of Portions of Chapter 2: Standards for Qualifications of Assigned Counsel, a Late-filed Major Substantive Rule of the Maine Commission on Indigent Legal Services

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature outside the legislative rule acceptance period; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 2: Standards for Qualifications of Assigned Counsel, a provisionally adopted major substantive rule of the Maine Commission on Indigent Legal Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if the following change is made:

1. The rule must be amended in section 2, subsection 1, paragraph c) to provide that an attorney must inform the commission in writing within 5 days of the filing of any criminal charge against the attorney.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Chapter 2: STANDARDS FOR QUALIFICATIONS OF ASSIGNED COUNSEL

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

SECTION 1. Application

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

SECTION 2. Minimum Experience, Training And Other Eligibility Requirements

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

1. Licensed To Practice

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

2. Attorney Cooperation with Procedures and Monitoring

The attorney must register with the Commission annually in a manner prescribed by the Commission. The attorney must comply with all applicable Commission rules and procedures. The attorney must comply with Commission monitoring and performance evaluations. The attorney must also comply with any Commission investigation of complaints, billing discrepancies, or other information that, in the view of the Executive Director, concerns the question of whether the attorney is fit to remain on the roster. Except as pertains to indigent cases assigned to the attorney, the Executive Director

cannot require an attorney to disclose information that is privileged or made confidential by statute, by court rule or by court order.

SECTION 3. Office, Telephone, and Electronic Mail

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

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

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

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

SECTION 4. Experience and Proficiency

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

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

SECTION 5. Training

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

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

SECTION 6. Removal or Suspension from the Roster

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

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

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

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

EFFECTIVE DATE:
June 25, 2010

AMENDED:

(6.)
Governor's Proposed
Legislation

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: LD 1433
DATE: July 9, 2015

Attached is a memo prepared by Katherine MacRae, Legal Intern, that provides a side by side comparison of the provisions of current law and the provisions contained in LD 1433. Also attached, is a copy of 10 Principles of Indigent Defense promulgated the American Bar Association.

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COMPARISON:**CURRENT LAW****PROPOSED LAW**

	Current Legislation: 4 M.R.S.A. c. 37, MCILS Established	Proposed Legislation, LD 1433: To Create the Public Defender Office and Amend the Duties of the Commission on Indigent Legal Services
Purposes	§1801 —MCILS is an independent commission with the purpose of providing high-quality representation by qualified and competent counsel, managed in a fiscally responsible manner that is free from undue political interference (e.g. conflict with the Judicial branch for payment of counsel)	• Provide effective assistance of counsel that is free from undue political interference and conflict • Provide quality and competent indigent representation • Establish a system of state employees, contract counsel and others that is responsive to and respectful of regional and community needs • Ensure that the system is managed in a fiscally responsible manner • Ensure a Public Defender system pay reasonable costs for services provided based on a person's financial ability to pay
MCILS Duties	To provide oversight of qualified and competent representation of indigent persons	§1801: Provide oversight of the Office of the Public Defender to ensure efficient, high-quality representation to indigent persons while working with the Chief Public Defender to provide adequate funding §1804-A (2): Oversee the Office of the Public Defender to ensure competent and efficient indigent legal services are provided Establish: • Procedures to ensure data collection from the OPD • Rates of compensation for retained counsel • Contract guidelines and procedures to review

		contracts entered into between the OPD and contract counsel; must be evaluated every 3 years • An application fee of no less than \$5 which may be graduated and administered by the OPD • Process for a vote of no confidence in the CPD • Submit to the Legislature, Chief Justice of the Supreme Judicial Court and Governor an annual operations report • Monitor and testify on legislative proposals that affect the quality and cost of indigent legal services • Prepare a report at the end of the legislative session on the relevant law changes and the effect on cost and quality • Review biennial budget request and any supplemental budget request of the CPD • Ensure minimum amount of malpractice insurance retained and contract counsel must hold to be eligible • Develop program to allow law students opportunities within the system consistent with those available at the District Attorney's Offices • Designate a member of the Commission to serve as a liaison to the CPD cost containment unit • Compile list of grievances against CPD to be provided to Governor if Commission takes vote of no confidence in CPD • Perform all duties necessary and incidental to the performance of any duty set forth
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Office of the Public Defender Duties	N/A	• Responsible for administering indigent legal services §1807: • CPD is the head of the office with 2 Deputy Public Defenders appointed and counsel selected by the Chief
Commission Structure	• 5 members appointed by the Governor and subject to review by joint standing committee; one member to serve as Chair • No more than 3 members may be attorneys • Terms: 3 years except that the Governor shall designate 2 whose terms are only one year, 2 whose terms are 2 years and one whose term is 3 years; A member may not serve more than 2 consecutive 3-year terms plus any initial term of less than 3 years • Quorum: 3 members	• No changes to the Structure • Qualifications: One must have a background in accounting or finance, all other members who are not attorneys must have a demonstrated commitment to competent representation and must have skills and knowledge to ensure competent representation is provided in each area of relevant law; no more than 3 attorneys may be members and must have the expertise, skills, and knowledge to ensure competent representation • Chief Public Defender or designee shall provide staff assistance to the Commission to carry out purposes
Commission Duties	• Hire the Executive Director • Develop standards to ensure quality and efficient representation, determining eligibility for appointment, minimum training standards, and payment of counsel • Develop system for appointed private attorneys and contract counsel necessary to provide quality and efficient representation • Review voucher and payment system • Establish rates of compensation • Track and monitor case loads • Approve and submit a biennial budget	§1804-A(1): • Standards for determining eligibility of defendant's payment of counsel • Determining minimum experience and training standards for public defender services to ensure competent representation • Develop standards for: • Ensuring the delivery of adequate indigent legal services that is considered necessary and appropriate • Caseloads based on Chief PD recommendations to be reviewed every 5 years • Evaluation of contract counsel to be reviewed every

	• Develop an administrative review and appeal process for attorneys • Adopt rules to carry out the purposes and appear in court and before other administrative bodies represented by MCILS attorneys	5 years • Conflict cases to ensure independent, competent, and efficient representation of clients • Reimbursement of expenses incurred by retained counsel • Payments to the Office of the Public Defender • §1804-A(3): Take a vote of no confidence in CPD and provide a list of grievances to Governor; a vote of no confidence is cause for dismissal of the CPD by the Governor • §1804-A (4): Restrictions: Commission may not make decisions regarding handling of a case
Executive Director Duties	• Ensure MCILS complies with all constitutional, statutory, and ethical standards • Ensure delivery of “adequate” indigent legal services and administer delivery in compliance with the Commission adopted standards • Recommend to the Commission the most effective method of delivery of indigent legal services • Conduct regular training sessions for appointed counsel • Hire personnel considered “reasonably necessary” for the efficient delivery of indigent legal services • Prepare and submit to the Commission: biennial budget, annual report of operation	N/A

	costs and needs, any other additional information • Maintain proper financial records • Apply for funds on behalf of the Commission • Attend all Commission meetings	
Chief Public Defender Powers	N/A	§1807(4): • Contract for services of private attorneys including establishment of LOD; any contract must require counsel to record time spent on each case and to clarify or describe the type of work done • Require contract counsel to have at least the minimum level of malpractice insurance • Delegate the legal representation of any person to any member of the Maine State Bar Association • Contract for and supervise personnel necessary to perform a function of the OPD and to implement the provisions • Establish processes and procedures to acquire investigative or expert services necessary • Enter into agreements with the MSBA, local bar associations, law firms, and private counsel • Apply for and accept on behalf of the OPD funds that may become available • Sponsor training activities • The Attorney General at the requires of the Chief PD shall furnish legal assistance, counsel, or advise the OPD requires in the discharge of duties and may represent staff members of the OPD in litigation as appropriate

Chief Public Defender Duties	N/A	§1807(2): • Appointed by the Governor subject to review by the Joint Standing Committee and may be removed for cause by the Governor • Must be an attorney or judge who has spent at least 5 years involved in criminal law cases • Term of 5 years; may have a replacement appointed to fill out the remaining term • Chief PD shall appoint 2 Deputy PDs who at the pleasure of the CPD • One Deputy must be an attorney or judge who has spent a substantial part of the last 5 years in criminal law practice • If there is a vacancy in the Chief PD position, this Deputy shall assume the duties of the Chief until the vacancy can be filled or the Chief returns to work • The 2nd Deputy must be an attorney or judge who has spent a substantial part of the last 5 years in practice of civil law • Shall contract for or hire staff, including counsel, who serve at the pleasure of the Chief • Office may not represent more than one person when there is a conflict of interest under the code of Professional conduct • Must be members in good standing of the Bar and admitted to practice law in this State and has not been and is not currently disbarred or suspended from practice • The Chief PD, Deputy PDs, and staff counsel are full-time
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		officers of the State and may not appear as counsel or engaged in the private practice of law other than in the capacity as a public defender attorney §1807 (3): • Provide legal representation to eligible persons constituent with federal and state constitutional and statutory obligations • Use contracts to the maximum extent possible to provide indigent legal services • Supervise operation, activities, policies, and procedures of the OPD • Is the Chief Legal Officer with the ultimate authority regarding the disposition of cases handled by the OPD • Verifies or reassess the indigency of a defendant the court has found to be indigent and shall petition the court for whole or partial payment of all legal services • Determines when and where it is necessary to establish district offices for the OPD • Coordinate the development and implementation of rules, policies, standards, procedures, and regulations adopted by the Commission • Establish a trial and appellate case management system • Work jointly with other departments, including DHHS, and agencies that hold data pertinent to determine indigency • Prepare and submit to the Commission: a biennial budget,; an annual report containing pertinent data on operations, costs, and needs; a monthly report on case
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		loads and gross monthly approved bill totals; any other information the Commission may require • Develop and conduct regular training sessions • Assist the Commission in developing standards for the delivery of adequate indigent legal services • Maintain proper financial records • Serve as an ex officio, nonvoting member of the Commission and attend all MCILS meetings • Establish a cost containment unit within the OPD to include a member of the Commission designated by the Commission. The unit is responsible for monitoring efforts to recoup costs, identify ways to improve costs, and issue a quarterly summary of expenses recouped over the period and year to date—may be contracted out • Establish policies and procedures for managing case loads • Establish procedures to handle complaints about counsel performance • Establish process to provide services for conflict cases first through existing contract counsel and only at last through the use of retained counsel • Perform duties as the Commission may assign or are necessary and incidental to the performance of any duty §1808: • The Chief PD shall establish a system to verify the information used to determine indigency, reassess indigency during the course of representation, record
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		the amount of time spent on each case, receive from the court collections for the costs of representation to reimburse the OPD • The Chief PD may enter into contracts to secure repayment to fees and expenses paid by the State • Application fee may be waived by the court, full payment must be made to the court prior to the conclusion of the proceedings unless otherwise ordered by the court; when a juvenile is accused of a crime against their parent or legal guardian or when guardianship rests with the State, the fee is waived; otherwise, the juvenile's application fee is the responsibility of the parent or guardian
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TEN

PRINCIPLES

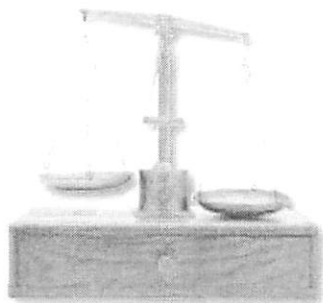
OF A PUBLIC DEFENSE DELIVERY SYSTEM

February 2002

ABA TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

Black Letter

- 1 The public defense function, including the selection, funding, and payment of defense counsel, is independent.
- 2 Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.
- 3 Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.
- 4 Defense counsel is provided sufficient time and a confidential space within which to meet with the client.
- 5 Defense counsel's workload is controlled to permit the rendering of quality representation.
- 6 Defense counsel's ability, training, and experience match the complexity of the case.
- 7 The same attorney continuously represents the client until completion of the case.
- 8 There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.
- 9 Defense counsel is provided with and required to attend continuing legal education.
- 10 Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.



ABA TEN PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

With Commentary

1 The public defense function, including the selection, funding, and payment of defense counsel,¹ is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel.² To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned counsel, or contract systems.³ Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense.⁴ The selection of the chief defender and staff should be made on the basis of merit, and recruitment of attorneys should involve special efforts aimed at achieving diversity in attorney staff.⁵

2 Where the caseload is sufficiently high,⁶ the public defense delivery system consists of both a defender office⁷ and the active participation of the private bar. The private bar participation may include part-time defenders, a controlled assigned counsel plan, or contracts for services.⁸ The appointment process should never be *ad hoc*,⁹ but should be according to a coordinated plan directed by a full-time administrator who is also an attorney familiar with the varied requirements of practice in the jurisdiction.¹⁰ Since the responsibility to provide defense services rests with the state, there should be state funding and a statewide structure responsible for ensuring uniform quality statewide.¹¹

3 Clients are screened for eligibility,¹² and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel. Counsel should be furnished upon arrest, detention, or request,¹³ and usually within 24 hours thereafter.¹⁴

4 Defense counsel is provided sufficient time and a confidential space within which to meet with the client. Counsel should interview the client as soon as practicable before the preliminary examination or the trial date.¹⁵ Counsel should have confidential access to the client for the full exchange of legal, procedural, and factual information between counsel and client.¹⁶ To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses, and other places where defendants must confer with counsel.¹⁷

5 Defense counsel's workload is controlled to permit the rendering of quality representation. Counsel's workload, including appointed and other work, should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations, and counsel is obligated to decline appointments above such levels.¹⁸ National caseload standards should in no event be exceeded,¹⁹ but the concept of workload (i.e., caseload adjusted by factors such as case complexity, support services, and an attorney's nonrepresentational duties) is a more accurate measurement.²⁰

6 Defense counsel's ability, training, and experience match the complexity of the case. Counsel should never be assigned a case that counsel lacks the experience or training to handle competently, and counsel is obligated to refuse appointment if unable to provide ethical, high quality representation.²¹

7 The same attorney continuously represents the client until completion of the case. Often referred to as "vertical representation," the same attorney should continuously represent the client from initial assignment through the trial and sentencing.²² The attorney assigned for the direct appeal should represent the client throughout the direct appeal.

8 There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system. There should be parity of workload, salaries and other resources (such as benefits, technology, facilities; legal research, support staff, paralegals, investigators, and access to forensic services and experts) between prosecution and public defense.²³ Assigned counsel should be paid a reasonable fee in addition to actual overhead and expenses.²⁴ Contracts with private attorneys for public defense services should never be let primarily on the basis of cost; they should specify performance requirements and the anticipated workload, provide an overflow or funding mechanism for excess,

unusual, or complex cases,²⁵ and separately fund expert, investigative, and other litigation support services.²⁶ No part of the justice system should be expanded or the workload increased without consideration of the impact that expansion will have on the balance and on the other components of the justice system. Public defense should participate as an equal partner in improving the justice system.²⁷ This principle assumes that the prosecutor is adequately funded and supported in all respects, so that securing parity will mean that defense counsel is able to provide quality legal representation.

9 Defense counsel is provided with and required to attend continuing legal education. Counsel and staff providing defense services should have systematic and comprehensive training appropriate to their areas of practice and at least equal to that received by prosecutors.²⁸

10 Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards. The defender office (both professional and support staff), assigned counsel, or contract defenders should be supervised and periodically evaluated for competence and efficiency.²⁹