

**MCILS**

**July 12, 2016**

**Commissioner's Meeting  
Packet**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**JULY 12, 2016**

**COMMISSION MEETING**

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

**AGENDA**

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- 1) Approval of June 14, 2016 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Appellate Contract Update
- 4) Probate Cases in District Court - Update
- 5) Attorney Evaluations
- 6) Consultations on Immigration Law
- 7) Maine Considering Adoption of Uniform Bar Exam
- 8) Public Comment
- 9) Set Date, Time and Location of Next Regular Meeting of the Commission
- 10) Executive Session, if needed (Closed to Public)

**(1.)**  
**June 14, 2016**  
**Commission Meeting**  
**Minutes**

**Maine Commission on Indigent Legal Services – Commissioners Meeting  
June 14, 2016**

**Minutes**

**Commissioners Present:** Steven Carey, Marvin Glazier, William Logan, Ken Spirer, Carlann Welch  
**MCILS Staff Present:** John Pelletier, Ellie Maciag

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Approval of the May 10, 2016 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Glazier moved for approval, Commissioner Logan seconded. Commissioners Carey, Logan, and Glazier voted in favor. Commissioner Spirer did not attend the May meeting and abstained. Commissioner Welch was not present for the vote. Approved.
Operations Reports Review	Director Pelletier presented the May 2016 Operations Reports. 2,250 new cases were opened in the DefenderData system in May. This was a 316 case increase over April. The number of submitted vouchers in May was 2,813, an increase of 307 vouchers over April, totaling \$1,572,348, an increase of \$107,000 over April. In May, the Commission paid 2,681 vouchers totaling \$1,509,153, an increase of 589 vouchers and \$298,000 over April. The average price per voucher was \$562.91, down \$15.70 per voucher from April. Appeal and Post-Conviction Review cases had the highest average vouchers. There were 5 vouchers exceeding \$5,000 paid in May. The monthly transfer from the Judicial Branch for counsel fees for May, which reflects April's collections, totaled \$61,151, down approximately \$17,552 from the previous	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>month. Director Pelletier noted that collection totals had rebounded in the past few months and that the Commission will be on track to close out the fiscal year with approximately \$700,000 in collections. Chair Carey pointed out that this projected figure was far better than the Judicial Branch ever collected. Director Pelletier confirmed that it exceeded the largest amount collected by the Judicial Branch by about \$200,000.</p>	
Appellate Contracts	<p>The Commissioners discussed whether to include case numbers in the appellate RFP. Based on his conversation with a member of the Supreme Judicial Court, Director Pelletier was confident that the Commission would have flexibility with the number of cases covered by an appellate contract. He indicated that this would mean that the RFP would not have to be specific in the number of cases and could instead leave it open to the bidder to decide the characteristics of the bid. Director Pelletier suggested that this flexibility would allow the Commission to decide after all the bids have been received about the ideal makeup of an appellate contract. The Commissioners agreed but decided to make two amendments to the draft RFP: (1) adding a reference to the Commission's specialized panel appeal rule and a question about whether the bidder is seeking a waiver; and (2) incorporated the malpractice insurance question into the question about all types of insurance.</p> <p>Commission Logan moved to put an appellate contract RFP out to bid as amended. Commissioner Glazier seconded. All voted in favor.</p>	
Probate Cases in District Court	<p>Director Pelletier informed the Commissioners about a newly enacted law that makes certain guardianship and adoption cases that were formally handled in the Probate Court subject to the exclusive jurisdiction of the District Court. Under the Probate Code, certain indigent parties (parents and minors subject to contested guardianship or adoption proceedings) have a right to assigned counsel, which will now be the responsibility of the Commission to pay for. Director Pelletier indicated that new rosters for guardianship/adoption cases will have to be created, but believed that many of the rostered child protection attorneys already do this type of work. Director</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>Pelletier explained that the Legislature appropriated money for the Judicial Branch, but none for the Commission, and that Commission staff never received an inquiry from the fiscal office regarding the potential impact on the Commission. Director Pelletier noted that staff will have to assess the impact of this change and include an amount to cover a potential increase in costs in the supplemental request for FY'17. Director Pelletier stated that he had discussed the new law with a member of the Supreme Judicial Court who advised that the Judicial Branch was attempting to gather data on the number of cases that this change would impact, as well as lists of current rosters used by the Probate Court, that they would share with the Commission.</p>	
<p>Payment for Requests for Certiorari to the US Supreme Court</p>	<p>The Commissioners again discussed the request for the Commission to pay for cert petitions to the US Supreme Court. No new vote was taken.</p>	
<p>Miscellaneous</p>	<p>Deputy Director Maciag gave a brief update about a grant application for juvenile training through the Gorman Foundation.</p> <p>Chair Carey informed the Commissioners that there is a pending appeal of a decision of the Executive Director and reviewed the appeal process. Chair Carey appointed Commissioner Logan as the presiding officer and Ellie Maciag as the staff advisor.</p> <p>Chair Carey alerted the Commissioners about a recent issue involving juvenile cases that could impact the Commission's budget. He explained that if a child is in DHHS custody, DHHS currently hires counsel for the child. However, if the child is in custody at a detention facility, DHHS is contending that its custody is suspended and will not hire counsel for the child. The Department of Corrections has indicated that it will also not pay for the child's counsel and that the Commission should pay. Director Pelletier recommended that the attorney in any case where DHHS is taking this position should ask the court to order DHHS to pay for the child's counsel.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Public Comment	<p><u>Robert J. Ruffner, Esq.</u>: Attorney Ruffner suggested that a new time event category of audio/video discovery review be added to DefenderData to better track how much time it takes to review electronic discovery. He hopes the Commission does not view the response to the appellate contract RFP as an indication of the interest level for other types of contracts. He believes that contracts that are defined as encompassing all the cases are structurally weak since the number is unknown. He urged the Commission to reach out to the Legislature to get permission/funding to cover the filing of US Supreme Court cert petitions and to follow the lead of several other jurisdictions that do cover those costs. He also urged the Commission to implement an attorney evaluation program.</p>	.
Executive Session	none	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on July 12, 2016 at 9:30 a.m.	Commissioner Spirer moved to adjourn. Commissioner Glazier seconded. All present at the meeting in favor.

## **(2.) Operations Reports**



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## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**SUBJECT:** JUNE 2016 OPERATIONS REPORTS  
**DATE:** JULY 5, 2016

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Attached you will find the June, 2016, Operations Reports for your review and our discussion at the upcoming Commission meeting on July 12, 2016. A summary of the operations reports follows:

- 2,232 new cases were opened in the DefenderData system in June. This was an 18 case decrease from May.
- The number of vouchers submitted electronically in June was 2,866, an increase of 53 vouchers over May, totaling \$1,659,744.42, an increase of \$87,000 over May. In June, we paid 3,217 electronic vouchers totaling \$1,834,242.01 representing an increase of 536 vouchers and \$325,000 compared to May.
- There were 3 paper vouchers submitted and paid in June totaling \$4,663.62. These vouchers involved 2 Law Court appeals, one from a Probate Court matter and one in a criminal appeal by the state where by statute we were required to compensate counsel for the non-indigent defendant. The third voucher was paid for the investigation, at Commission request, of the potential consequences of a DNA error at the Maine State Crime Lab that was resolved without any formal proceedings having commenced.
- The average price per voucher in June was \$571.09, up \$8.18 per voucher from May. The average price per voucher for the entire fiscal year totaled \$530.69. Controlling for the 9.09% pay increase that took effect on July 1, 2015, the average price per voucher was up 2.45% for the fiscal year.
- Appeal and Post-Conviction Review cases had the highest average vouchers in June. There were 18 vouchers exceeding \$5,000 paid in June. Two vouchers involved interim payments in murder cases, one in which the voucher was submitted after an attempt at jury selection failed due to an insufficient number of jurors surviving challenges for cause and another paid to lead counsel when co-counsel withdrew and a new co-counsel was assigned. One voucher involved a multi-count poaching and firearms violation case in which both not guilty and guilty verdicts resulted after a two-day trial. Two vouchers involved post-conviction review cases, one that resulted in a new trial being granted and another that involved an interim voucher in a complicated matter that has dragged on for more than 5 years. Six vouchers involved guilty verdicts after trial on charges of arson (two vouchers from co-counsel), gross sexual assault, aggravated assault (x2), and operating under the influence. Four vouchers involved guilty pleas to

some or all charges after extensive pre-trial litigation in cases involving robbery/kidnapping, gross sexual assault, burglary, theft and domestic violence assault. One voucher involved the denial of a petition to terminate parental rights and progress toward family reunification after a multi-day trial. Finally, two vouchers involved sexual assault cases in which counsel were forced to withdraw based on the conduct of the client after extensive work on the cases.

In our All Other Account, the total expenses for the month of June were \$1,773,131.54. Of the amount, just over \$12,000 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$49,339.38 in expenses for the month of June.

In the Revenue Account, the June transfer of collected revenue, reflecting May collections, totaled \$88,019.09, bringing the collection total for the entire fiscal year to \$704,673.81. We paid \$222,058.21 in counsel vouchers from the revenue account through the DefenderData system in June.

In our Conference Account, we paid expenses related to our June minimum standards trainings in Augusta and collected revenue for those trainings, leaving an account balance at the end of the fiscal year of \$14,072.25.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

6/30/2016

DefenderData Case Type	Jun-16						Fiscal Year 2016			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	18	29	\$34,323.78	26	31628.29	\$1,216.47	157	264	\$ 356,768.91	\$1,351.40
Child Protection Petition	165	416	\$275,970.78	454	286276.93	\$630.57	1,809	4,015	\$ 2,564,139.89	\$638.64
Drug Court	0	5	\$ 4,756.58	6	\$ 3,835.28	\$ 639.21	3	75	\$ 47,212.98	\$ 629.51
Emancipation	11	7	\$ 3,552.68	7	\$ 3,222.68	\$ 460.38	81	90	\$ 28,440.52	\$ 316.01
Felony	539	727	\$ 658,889.34	800	\$ 739,694.01	\$ 924.62	6,532	7,516	\$ 6,142,389.77	\$ 817.24
Involuntary Civil Commitment	66	61	\$ 13,562.33	82	\$ 19,344.01	\$ 235.90	811	768	\$ 183,878.04	\$ 239.42
Juvenile	91	101	\$ 36,779.06	117	\$ 45,820.62	\$ 391.63	994	1,071	\$ 460,653.60	\$ 430.12
Lawyer of the Day - Custody	228	214	\$ 48,127.12	261	\$ 58,854.56	\$ 225.50	2,663	2,544	\$ 591,463.50	\$ 232.49
Lawyer of the Day - Juvenile	40	33	\$ 6,566.32	38	\$ 7,180.48	\$ 188.96	483	452	\$ 91,623.90	\$ 202.71
Lawyer of the Day - Walk-in	113	102	\$ 24,915.23	114	\$ 27,100.06	\$ 237.72	1,420	1,311	\$ 325,414.06	\$ 248.22
Misdemeanor	714	803	\$ 329,571.63	866	\$ 354,572.55	\$ 409.44	8,246	8,389	\$ 3,326,689.52	\$ 396.55
Petition, Modified Release Treatment	0	3	\$ 890.00	4	\$ 1,034.15	\$ 258.54	9	56	\$ 22,335.58	\$ 398.85
Petition, Release or Discharge	0	0		0			1	5	\$ 11,017.78	\$ 2,203.56
Petition, Termination of Parental Rights	24	37	\$ 38,620.43	48	\$ 44,773.45	\$ 932.78	230	652	\$ 492,303.39	\$ 755.07
Post Conviction Review	5	10	\$ 22,383.21	11	\$ 22,813.21	\$ 2,073.93	85	82	\$ 143,304.91	\$ 1,747.62
Probation Violation	177	184	\$ 72,220.14	211	\$ 87,000.61	\$ 412.33	2,016	2,058	\$ 827,752.29	\$ 402.21
Represent Witness on 5th Amendment	3	1	\$ 246.00	3	\$ 564.00	\$ 188.00	33	28	\$ 5,968.78	\$ 213.17
Review of Child Protection Order	36	131	\$ 87,598.29	167	\$ 99,755.62	\$ 597.34	486	1,903	\$ 976,814.73	\$ 513.30
Revocation of Administrative Release	2	2	\$ 771.50	2	\$ 771.50	\$ 385.75	32	29	\$ 7,965.08	\$ 274.66
<b>DefenderData Sub-Total</b>	<b>2,232</b>	<b>2,866</b>	<b>\$ 1,659,744.42</b>	<b>3,217</b>	<b>\$ 1,834,242.01</b>	<b>\$ 570.17</b>	<b>26,091</b>	<b>31,308</b>	<b>\$ 16,606,137.23</b>	<b>\$ 530.41</b>
<b>Paper Voucher Sub-Total</b>	<b>3</b>	<b>3</b>	<b>\$ 4,663.62</b>	<b>3</b>	<b>\$ 4,663.62</b>	<b>\$ 1,554.54</b>	<b>9</b>	<b>9</b>	<b>\$ 13,431.40</b>	<b>\$ 1,492.38</b>
<b>TOTAL</b>	<b>2,235</b>	<b>2,869</b>	<b>\$1,664,408.04</b>	<b>3,220</b>	<b>\$1,838,905.63</b>	<b>\$ 571.09</b>	<b>26,100</b>	<b>31,317</b>	<b>\$ 16,619,568.63</b>	<b>\$ 530.69</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**FY16 FUND ACCOUNTING**

AS OF 06/30/2016

<b>Account 010 95F Z112 01 (All Other)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY16 Total</b>
FY16 Professional Services Allotment		\$ 4,428,945.00		\$ 4,364,292.00		\$ 4,515,272.00		\$ 4,873,093.00	
FY16 General Operations Allotment		\$ 34,560.00		\$ 34,560.00		\$ 34,560.00		\$ 34,560.00	
Financial Order Adjustment		\$ -		\$ 8,633.00		\$ 8,633.00		\$ 8,634.00	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 4,463,505.00</b>		<b>\$ 4,407,485.00</b>		<b>\$ 4,558,465.00</b>		<b>\$ 4,916,287.00</b>	<b>\$ 18,345,742.00</b>
Total Expenses	1	\$ (1,034,674.33)	4	\$ (1,209,786.02)	7	\$ (896,072.76)	10	\$ (1,290,307.52)	\$ (4,430,840.63)
	2	\$ (1,384,090.42)	5	\$ (1,175,979.15)	8	\$ (1,333,137.69)	11	\$ (1,627,974.86)	\$ (5,521,182.12)
	3	\$ (1,609,871.30)	6	\$ (1,821,435.96)	9	\$ (2,149,816.40)	12	\$ (1,773,131.54)	\$ (7,354,255.20)
Encumbrances (Somerset PDP & Justice Works)		\$ (213,187.50)		\$ 71,062.50		\$ 71,062.50		\$ 71,062.50	\$ -
Encumbrances - business cards								\$ (44.25)	\$ (44.25)
Encumbrances (WestLaw)						\$ (1,692.00)		\$ -	\$ (1,692.00)
<b>TOTAL REMAINING</b>		<b>\$ 221,681.45</b>		<b>\$ 271,346.37</b>		<b>\$ 248,808.65</b>		<b>\$ 295,891.33</b>	<b>\$ 1,037,727.80</b>

**Q4 Month 12 (as of 06/30/16)**

**INDIGENT LEGAL SERVICES**

Counsel Payments	\$ (1,616,847.42)
Somerset County	\$ (23,102.50)
Subpoena Witness Fees	\$ (48.04)
Private Investigators	\$ (37,000.27)
Mental Health Expert	\$ (21,364.03)
Transcripts	\$ (24,998.83)
Other Expert	\$ (36,034.25)
Air fare-out of state witness	\$ -
Process Servers	\$ (813.88)
Interpreters	\$ (507.26)
Misc Prof Fees & Serv	\$ (151.75)

**SUB-TOTAL ILS \$ (1,760,868.23)**

**OPERATING EXPENSES**

Service Center	\$ -
DefenderData	\$ (4,927.00)
Ergonomic Eval/Adjustments	\$ -
Mileage/Tolls/Parking	\$ (1,300.55)
Mailing/Postage/Freight	\$ (1,894.86)
Lewiston Parking Fees	\$ (600.00)
Annual Report Print Cost	\$ -
Office Supplies/Equip.	\$ (1,092.96)
Cellular Phones	\$ (123.89)
Subscriptions	\$ -
Office Equipment Rental	\$ (148.97)
Notary Fees	\$ -
OIT/TELCO	\$ (2,175.08)

**SUB-TOTAL OE \$ (12,263.31)**

**TOTAL \$ (1,773,131.54)**

**INDIGENT LEGAL SERVICES**

Q4 Allotment	\$ 4,916,287.00
Q4 Encumbrances for Somerset PDP & Justice Works contracts	\$ 71,062.50
Q4 WestLaw Contract 12 month encumbrance	\$ -
Q4 business cards encumbrances	\$ (44.25)
Q4 Expenses as of 06/30/16	\$ (4,691,413.92)
Remaining Q4 Allotment as of 06/30/16	<b>\$ 295,891.33</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY16 FUND ACCOUNTING**  
As of 06/30/16

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY16 Total
<b>Total Budget Allotments</b>		\$ 180,124.00		\$ 180,124.00		\$ 180,124.00		\$ 180,125.00	\$ 720,497.00
Financial Order Adjustment	1	\$ (2,872.00)	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ 2,872.00	12	\$ 40,000.00	
Financial Order Adjustment	3	\$ 14,106.00	4	\$ 15,000.00	9	\$ 15,000.00	12	\$ 15,000.00	\$ 59,106.00
<b>Total Budget Allotments</b>		\$ 191,358.00		\$ 195,124.00		\$ 197,996.00		\$ 235,125.00	\$ 819,603.00
Cash Carryover from Prior Quarter		\$ 59,106.00		\$ 16,758.55		\$ 0.44			
Collected Revenue from JB	1	\$ 54,101.64	4	\$ 46,384.74	7	\$ 47,754.68	10	\$ 78,703.87	
Promissory Note Payments		\$ 50.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ 44,316.49	5	\$ 48,960.09	8		11	\$ 61,151.57	
Promissory Note Payments		\$ 50.00		\$ 200.00		\$ -		\$ -	
Collected Revenue from JB (late transfer)		\$ -		\$ -	9	\$ 43,023.74		\$ -	
Collected Revenue from JB	3	\$ 43,704.16	6	\$ 41,462.08	9	\$ 106,691.66	12	\$ 88,019.09	
Promissory Note Payments		\$ 50.00		\$ 50.00		\$ -		\$ -	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		\$ 201,378.29		\$ 153,815.46		\$ 197,470.52		\$ 227,874.53	\$ 704,673.81
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ (90.50)		\$ -		\$ -	***	\$ (671.83)	
Counsel Payments	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Other Expenses		\$ (1.93)							
Counsel Payments	3	\$ (178,086.96)	6	\$ (149,790.00)	9	\$ (193,857.00)	12	\$ (222,058.21)	
Other Expenses	**	\$ (3,802.16)		\$ (3,198.02)		\$ (3,467.02)			
<b>REMAINING ALLOTMENT</b>		\$ 9,376.45		\$ 42,135.98		\$ 671.98		\$ 13,066.79	\$ 65,251.20
Overpayment Reimbursements	1	\$ (2,394.19)	4	\$ (295.00)	7	\$ -	10		
	2	\$ (244.00)	5	\$ (532.00)	8	\$ -	11	\$ (380.50)	
	3	\$ -	6	\$ -	9	\$ (146.50)	12	\$ -	
<b>REMAINING CASH Year to Date</b>		\$ 16,758.55		\$ 0.44		\$ 0.00		\$ 4,763.99	

Q4 Month 12 (as of 06/30/16)	
<b>DEFENDER DATA COUNSEL PAYMENTS</b>	
	\$ (222,058.21)
<b>SUB-TOTAL ILS</b>	<b>\$ (222,058.21)</b>
OVERPAYMENT REIMBURSEMENTS	\$ -
Paper Voucher	\$ -
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
StaCap Expense	\$ -
<b>SUB-TOTAL OE</b>	<b>\$ -</b>
<b>TOTAL</b>	<b>\$ (222,058.21)</b>

\*\* StaCap pulled in October but charged against Q1 expenses

\*\*\* Cash from Q4 pulled to cover Q3 StaCap

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY16 FUND ACCOUNTING**  
AS OF 06/30/2016

<b>Account 010 95F Z112 01 (Personal Services)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY16 Total</b>
FY16 Allotment		\$ 197,643.00		\$ 197,641.00		\$ 174,658.00		\$ 181,575.00	\$ -
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ (20,000.00)		\$ -		\$ -		\$ 20,000.00	
<b>Total Budget Allotments</b>		<b>\$ 177,643.00</b>		<b>\$ 197,641.00</b>		<b>\$ 174,658.00</b>		<b>\$ 201,575.00</b>	<b>\$ 751,517.00</b>
Total Expenses	1	\$ (73,500.45)	4	\$ (51,930.26)	7	\$ (52,614.99)	10	\$ (54,222.20)	
	2	\$ (49,758.60)	5	\$ (52,356.41)	8	\$ (53,480.85)	11	\$ (81,692.58)	
	3	\$ (48,847.23)	6	\$ (74,897.31)	9	\$ (55,530.51)	12	\$ (49,339.38)	
<b>TOTAL REMAINING</b>		<b>\$ 5,536.72</b>		<b>\$ 18,457.02</b>		<b>\$ 13,031.65</b>		<b>\$ 16,320.84</b>	<b>\$ 53,346.23</b>

**Q4 Month 12 (as of 06/30/16)**

Per Diem Payments	\$ (330.00)
Salary	\$ (25,981.45)
Vacation Pay	\$ (606.03)
Holiday Pay	\$ (1,607.88)
Sick Pay	\$ (1,199.09)
Employee Hlth Svcs/Workers Comp	\$ (37.00)
Health Insurance	\$ (4,996.73)
Dental Insurance	\$ (124.74)
Employer Retiree Health	\$ (3,215.18)
Employer Retirement	\$ (2,262.42)
Employer Group Life	\$ (251.72)
Employer Medicare	\$ (447.12)
Retiree Unfunded Liability	\$ (5,490.56)
Retro Pymt	\$ -
Perm Part Time Full Ben	\$ (2,789.46)
<b>TOTAL</b>	<b>\$ (49,339.38)</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**FY16 FUND ACCOUNTING**

As of 06/30/16

<b>Account 014 95F Z112 02 (Conference)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY16 Total</b>
<b>Total Budget Allotments</b>		<b>\$ 10,385.00</b>		<b>\$ 15,000.00</b>		<b>\$ 15,000.00</b>		<b>\$ 20,000.00</b>	<b>\$ 60,385.00</b>
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Financial Order Adjustment	3	\$ 1,196.00	6	\$ 3,000.00	9	\$ 3,000.00	12	\$ 2,000.00	\$ 9,196.00
<b>Total Budget Allotments</b>		<b>\$ 11,581.00</b>		<b>\$ 18,000.00</b>		<b>\$ 18,000.00</b>		<b>\$ 22,000.00</b>	<b>\$ 69,581.00</b>
Cash Carryover from Prior Quarter		\$ 12,580.84		\$ 11,962.77		\$ 11,122.60		\$ 11,572.34	
Collected Revenue	1	\$ -	4	\$ 1,400.00	7	\$ -	10	\$ 200.00	
Collected Revenue	2	\$ 22.50	5	\$ 625.00	8	\$ -	11	\$ 1,200.00	
Collected Revenue	3	\$ -	6	\$ 1,275.00	9	\$ 550.00	12	\$ 2,675.00	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		<b>\$ 12,603.34</b>		<b>\$ 15,262.77</b>		<b>\$ 11,672.60</b>		<b>\$ 4,075.00</b>	<b>\$ 7,947.50</b>
Total Expenses	1	\$ (99.00)	4	\$ -	7	\$ (65.26)	10	\$ (0.75)	
	2	\$ (530.29)	5	\$ (1,060.79)	8	\$ -	11	\$ (737.87)	
	3	\$ (11.28)	6	\$ (3,079.38)	9	\$ (35.00)	12	\$ (836.47)	
Encumbrances		\$ (3,385.00)		\$ 2,325.00					\$ (1,060.00)
<b>REMAINING ALLOTMENT</b>		<b>\$ 7,555.43</b>		<b>\$ 16,184.83</b>		<b>\$ 17,965.00</b>		<b>\$ 22,000.00</b>	<b>\$ 63,705.26</b>
<b>REMAINING CASH Year to Date</b>		<b>\$ 11,962.77</b>		<b>\$ 11,122.60</b>		<b>\$ 11,572.34</b>		<b>\$ 14,072.25</b>	

<b>Q4 Month 12 (as of 06/30/16)</b>	
Training Manuals Printing	\$ (130.35)
Training Refreshments/Meals	\$ (620.37)
Media Northeast (encumbered Q1)	\$ -
Refund(s) for non-attendance	\$ -
Office Supplies	\$ -
CLE App to the Bar	\$ (70.00)
State Cap Expense	\$ (15.75)
<b>TOTAL</b>	<b>\$ (836.47)</b>



**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Court**

6/30/2016

Jun-16							Fiscal Year 2016			
Court	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	51	130	\$ 175,491.30	139	\$ 190,013.13	\$ 1,367.00	732	1,683	\$ 1,413,585.02	\$ 839.92
AUBSC	20	53	\$ 24,946.06	51	\$ 25,313.63	\$ 496.35	302	858	\$ 604,360.12	\$ 704.38
AUGDC	41	85	\$ 40,944.44	107	\$ 53,152.74	\$ 496.75	534	802	\$ 404,690.87	\$ 504.60
AUGSC	35	53	\$ 28,649.63	57	\$ 35,555.75	\$ 623.79	476	778	\$ 561,380.93	\$ 721.57
BANDC	46	69	\$ 30,386.50	80	\$ 33,641.93	\$ 420.52	633	1,083	\$ 392,459.82	\$ 362.38
BANSC	2	1	\$ 10,470.68	1	\$ 9,970.68	\$ 9,970.68	14	24	\$ 28,882.28	\$ 1,203.43
BATSC	3	2	\$ 648.00	2	\$ 648.00	\$ 324.00	21	27	\$ 14,668.25	\$ 543.27
BELDC	5	21	\$ 15,724.65	25	\$ 16,729.65	\$ 669.19	89	289	\$ 153,738.21	\$ 531.97
BELSC	0	4	\$ 7,696.44	4	\$ 7,696.44	\$ 1,924.11	26	120	\$ 87,939.56	\$ 732.83
BIDDC	55	100	\$ 62,062.89	106	\$ 63,746.01	\$ 601.38	727	1,037	\$ 529,385.45	\$ 510.50
BRIDC	14	20	\$ 10,756.90	24	\$ 14,968.66	\$ 623.69	130	218	\$ 127,332.84	\$ 584.10
CALDC	8	15	\$ 8,488.64	19	\$ 9,518.38	\$ 500.97	66	132	\$ 77,633.72	\$ 588.13
CARDC	16	19	\$ 8,095.69	22	\$ 11,323.19	\$ 514.69	146	254	\$ 132,894.83	\$ 523.21
CARSC	13	28	\$ 25,673.75	32	\$ 27,038.64	\$ 844.96	149	304	\$ 201,433.92	\$ 662.61
DOVDC	4	11	\$ 2,194.92	17	\$ 3,040.92	\$ 178.88	35	177	\$ 53,059.04	\$ 299.77
DOVSC	0	0		0			3	5	\$ 10,007.10	\$ 2,001.42
ELLDC	7	17	\$ 6,893.00	23	\$ 12,249.00	\$ 532.57	127	391	\$ 222,595.85	\$ 569.30
ELLSC	1	5	\$ 1,794.00	6	\$ 1,992.00	\$ 332.00	12	55	\$ 16,615.43	\$ 302.10
FARDC	17	33	\$ 21,935.51	27	\$ 16,107.10	\$ 596.56	112	166	\$ 131,485.43	\$ 792.08
FARSC	2	3	\$ 24,106.09	2	\$ 23,924.01	\$ 11,962.01	14	14	\$ 32,347.53	\$ 2,310.54
FORDC	7	4	\$ 2,738.08	5	\$ 5,532.57	\$ 1,106.51	68	104	\$ 60,876.46	\$ 585.35
HOUDC	17	23	\$ 9,544.49	27	\$ 10,426.79	\$ 386.18	403	537	\$ 212,719.01	\$ 396.12
HOUSC	5	4	\$ 2,076.00	5	\$ 3,918.20	\$ 783.64	64	128	\$ 107,689.65	\$ 841.33
LEWDC	86	104	\$ 44,776.28	127	\$ 56,019.78	\$ 441.10	985	1,490	\$ 682,655.23	\$ 458.16
LINDC	21	5	\$ 3,418.92	6	\$ 4,304.12	\$ 717.35	150	184	\$ 112,058.09	\$ 609.01
MACDC	10	14	\$ 13,780.75	25	\$ 18,664.75	\$ 746.59	133	204	\$ 99,848.90	\$ 489.46
MACSC	0	3	\$ 1,416.00	7	\$ 2,978.00	\$ 425.43	47	97	\$ 51,720.06	\$ 533.20
MADDC	1	1	\$ 311.36	1	\$ 311.36	\$ 311.36	44	44	\$ 13,512.50	\$ 307.10
MILDC	5	1	\$ 305.96	1	\$ 305.96	\$ 305.96	32	31	\$ 9,681.12	\$ 312.29
NEWDC	21	24	\$ 10,140.52	27	\$ 12,139.41	\$ 449.61	217	267	\$ 111,617.79	\$ 418.04
PORDC	64	125	\$ 88,672.97	143	\$ 85,556.21	\$ 598.30	897	1,396	\$ 760,283.02	\$ 544.62
PORSC	2	1	\$ 1,080.00	1	\$ 1,080.00	\$ 1,080.00	36	37	\$ 31,731.93	\$ 857.62
PREDC	21	42	\$ 18,469.03	37	\$ 17,017.24	\$ 459.93	233	478	\$ 193,828.63	\$ 405.50
ROCD	18	25	\$ 9,330.59	26	\$ 11,007.92	\$ 423.38	253	345	\$ 140,667.51	\$ 407.73
ROCSC	5	11	\$ 2,143.50	11	\$ 2,295.04	\$ 208.64	98	155	\$ 126,774.29	\$ 817.90
RUMDC	10	18	\$ 9,956.80	18	\$ 7,239.40	\$ 402.19	125	186	\$ 87,791.90	\$ 472.00
SKODC	21	48	\$ 24,856.63	60	\$ 28,927.36	\$ 482.12	183	498	\$ 259,574.50	\$ 521.23
SKOSC	0	0		0			3	5	\$ 9,383.20	\$ 1,876.64
SOUDC	2	12	\$ 5,122.80	16	\$ 5,080.80	\$ 317.55	144	219	\$ 88,627.63	\$ 404.69
SOUSC	13	13	\$ 6,535.92	19	\$ 7,044.64	\$ 370.77	149	308	\$ 194,822.35	\$ 632.54
SPRDC	47	59	\$ 38,565.66	71	\$ 44,079.80	\$ 620.84	658	833	\$ 435,530.66	\$ 522.85
Law Ct	15	22	\$ 27,791.29	20	\$ 29,158.92	\$ 1,457.95	120	175	\$ 240,140.39	\$ 1,372.23
YORCD	162	186	\$ 128,657.32	196	\$ 135,632.34	\$ 692.00	1,634	1,108	\$ 639,112.72	\$ 576.82
AROD	101	96	\$ 45,588.81	96	\$ 45,195.98	\$ 470.79	573	358	\$ 177,161.97	\$ 494.87
ANDCD	132	150	\$ 81,665.79	159	\$ 91,094.53	\$ 572.92	1,245	756	\$ 355,111.88	\$ 469.72
KEND	183	151	\$ 67,043.69	179	\$ 82,537.23	\$ 461.10	1,663	1,305	\$ 491,543.64	\$ 376.66
PEND	213	217	\$ 76,083.24	236	\$ 83,903.57	\$ 355.52	2,570	2,730	\$ 1,214,473.97	\$ 444.86
SAGCD	43	45	\$ 26,175.55	59	\$ 35,865.71	\$ 607.89	428	416	\$ 267,075.34	\$ 642.01
WALCD	27	36	\$ 10,971.25	49	\$ 14,788.78	\$ 301.81	348	301	\$ 120,166.64	\$ 399.22
PISCD	14	19	\$ 5,046.00	25	\$ 6,186.00	\$ 247.44	167	178	\$ 53,793.38	\$ 302.21
HANCD	47	63	\$ 28,467.75	72	\$ 31,216.25	\$ 433.56	669	691	\$ 320,696.28	\$ 464.10
FRACD	41	57	\$ 24,710.78	41	\$ 16,140.46	\$ 393.67	613	638	\$ 242,859.93	\$ 380.66
WASCD	28	17	\$ 5,405.40	31	\$ 9,951.00	\$ 321.00	437	320	\$ 85,114.06	\$ 265.98
CUMCD	261	333	\$ 198,531.31	367	\$ 215,431.47	\$ 587.01	3,750	3,747	\$ 2,152,494.99	\$ 574.46
KNOCD	52	52	\$ 31,856.66	63	\$ 38,539.34	\$ 611.74	630	490	\$ 241,568.27	\$ 493.00
SOMCD	1	1	\$ 1,351.00	1	\$ 1,351.00	\$ 1,351.00	8	13	\$ 32,361.26	\$ 2,489.33
OXFCD	62	54	\$ 19,397.08	61	\$ 27,108.28	\$ 444.40	648	371	\$ 136,655.78	\$ 368.34
LINCD	49	44	\$ 31,467.15	54	\$ 36,141.83	\$ 669.29	457	393	\$ 200,396.88	\$ 509.92
WATDC	37	51	\$ 21,278.94	54	\$ 22,713.49	\$ 420.62	282	498	\$ 235,463.20	\$ 472.82
WESDC	31	39	\$ 15,873.94	44	\$ 17,349.58	\$ 394.31	279	397	\$ 156,643.84	\$ 394.57
WISDC	6	12	\$ 4,391.40	16	\$ 5,901.64	\$ 368.85	94	174	\$ 88,100.72	\$ 506.33
WISSC	0	4	\$ 2,262.00	5	\$ 1,723.40	\$ 344.68	41	109	\$ 84,142.26	\$ 771.95
YORDC	11	11	\$ 5,526.72	12	\$ 5,752.00	\$ 479.33	165	177	\$ 83,169.20	\$ 469.88
<b>TOTAL</b>	<b>2,232</b>	<b>2,866</b>	<b>\$ 1,659,744.42</b>	<b>3,217</b>	<b>\$ 1,834,242.01</b>	<b>\$ 570.17</b>	<b>26,091</b>	<b>31,308</b>	<b>\$ 16,606,137.23</b>	<b>\$ 530.41</b>



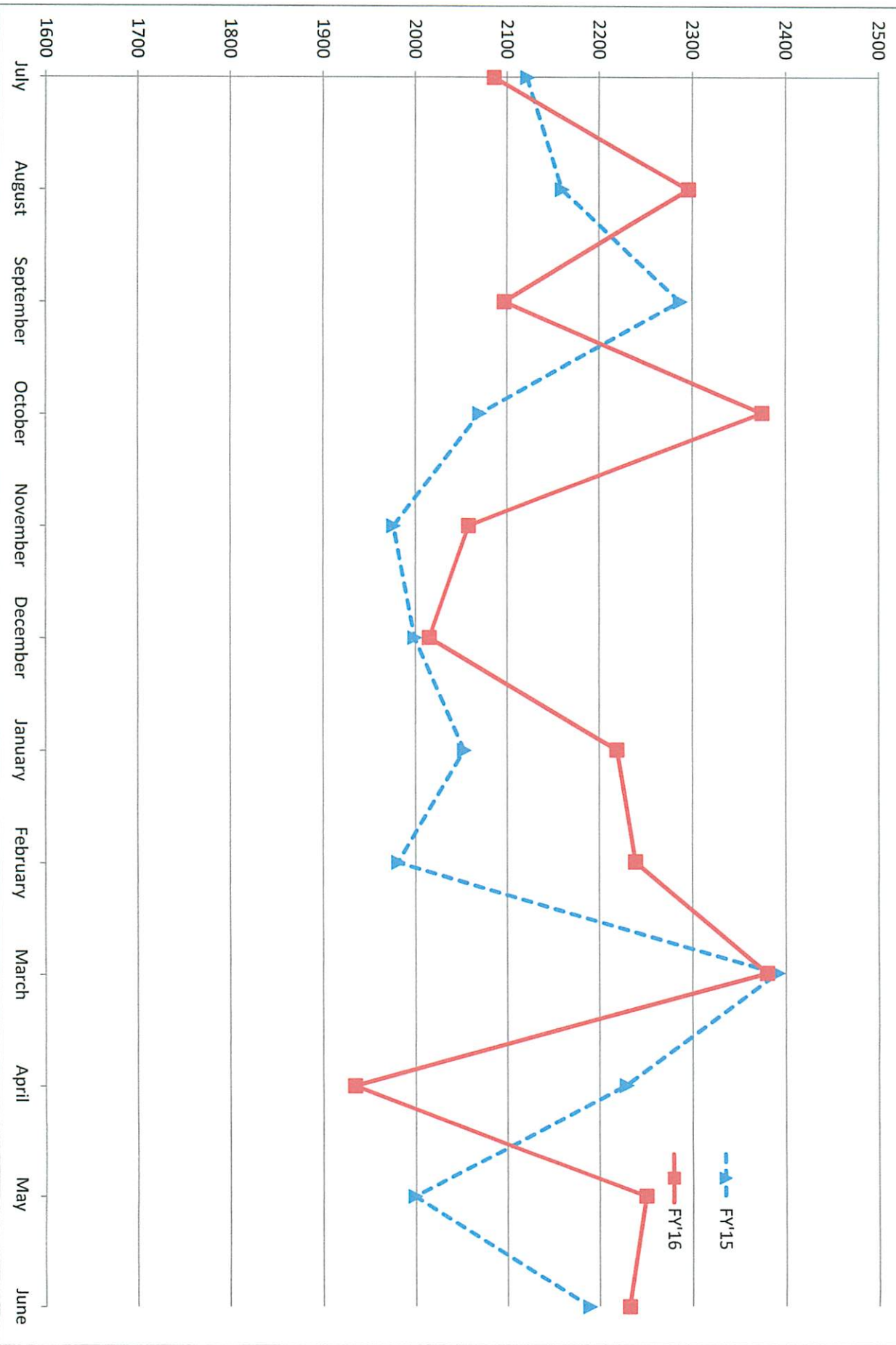
# MAINE COMMISSION ON INDIGENT LEGAL SERVICES

## Number of Attorneys Rostered by Court

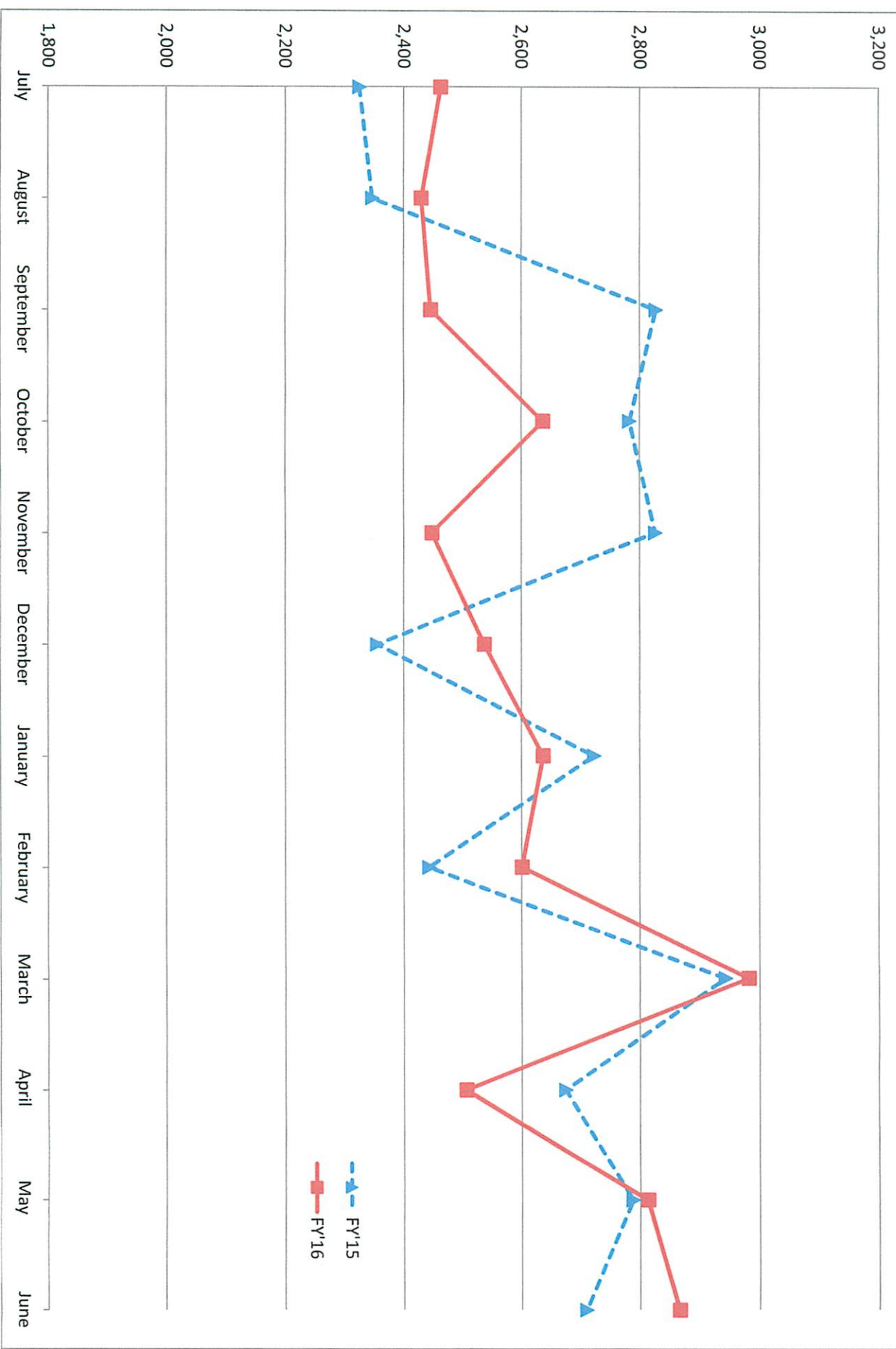
06/30/2016

Court		Rostered Attorneys	Court		Rostered Attorneys
Augusta District Court		100	South Paris District Court		59
Bangor District Court		55	Springvale District Court		123
Belfast District Court		54	Unified Criminal Docket Alfred		112
Biddeford District Court		137	Unified Criminal Docket Aroostook		22
Bridgton District Court		97	Unified Criminal Docket Auburn		102
Calais District Court		10	Unified Criminal Docket Augusta		94
Caribou District Court		18	Unified Criminal Docket Bangor		55
Dover-Foxcroft District Court		30	Unified Criminal Docket Bath		93
Ellsworth District Court		45	Unified Criminal Docket Belfast		47
Farmington District Court		26	Unified Criminal Docket Dover Foxcroft		25
Fort Kent District Court		11	Unified Criminal Docket Ellsworth		41
Houlton District Court		16	Unified Criminal Docket Farmington		27
Lewiston District Court		129	Unified Criminal Docket Machias		16
Lincoln District Court		31	Unified Criminal Docket Portland		149
Machias District Court		16	Unified Criminal Docket Rockland		42
Madawaska District Court		12	Unified Criminal Docket Skowhegan		20
Millinocket District Court		21	Unified Criminal docket Soputh Paris		97
Newport District Court		40	Unified Criminal Docket Wiscasset		72
Portland District Court		164	Waterville District Court		55
Presque Isle District Court		14	West Bath District Court		113
Rockland District Court		50	Wiscasset District Court		79
Rumford District Court		22	York District Court		110
Skowhegan District Court		28			

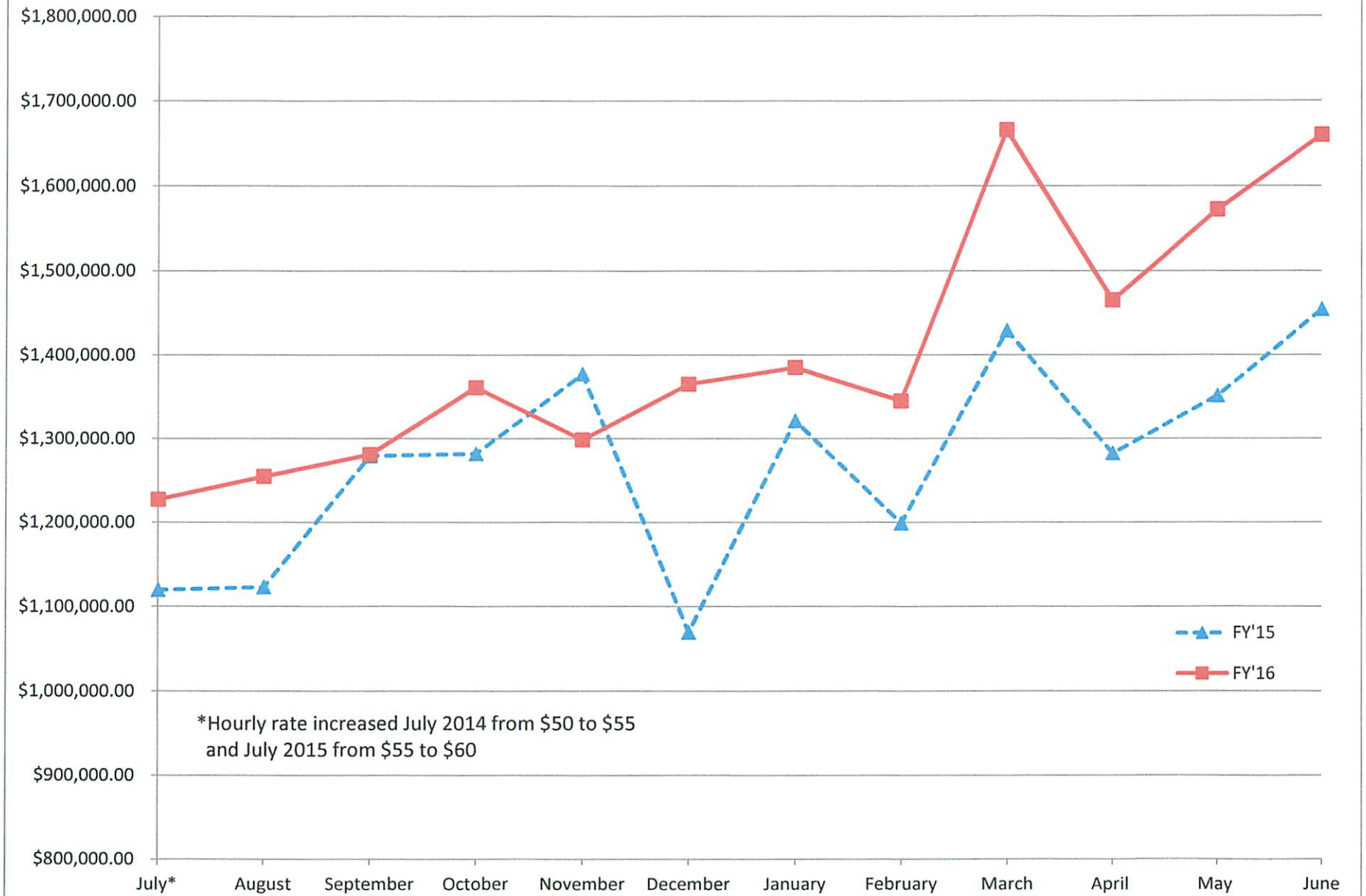
## NEW CASES



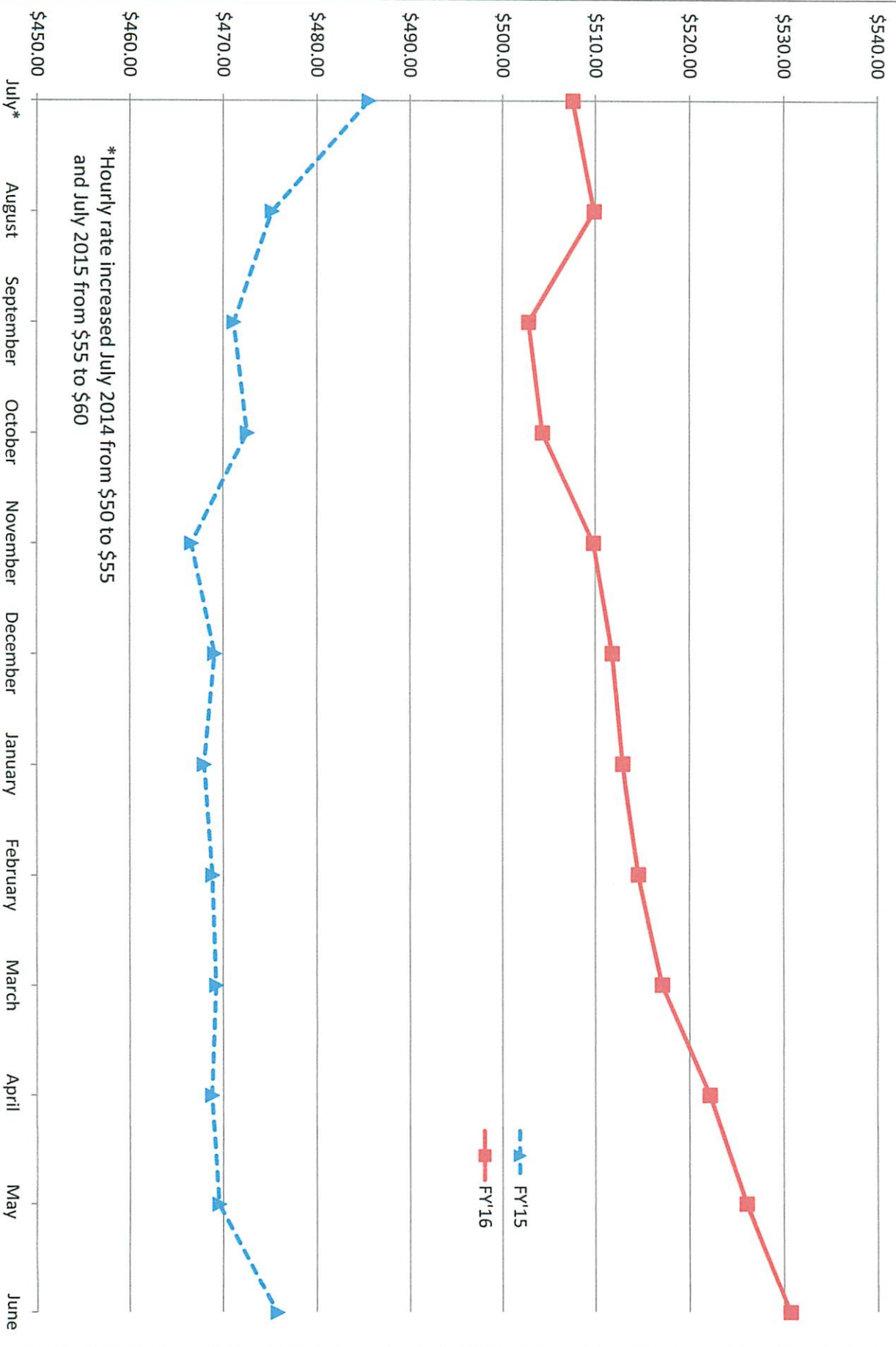
## Submitted Vouchers



## Submitted Voucher Amount

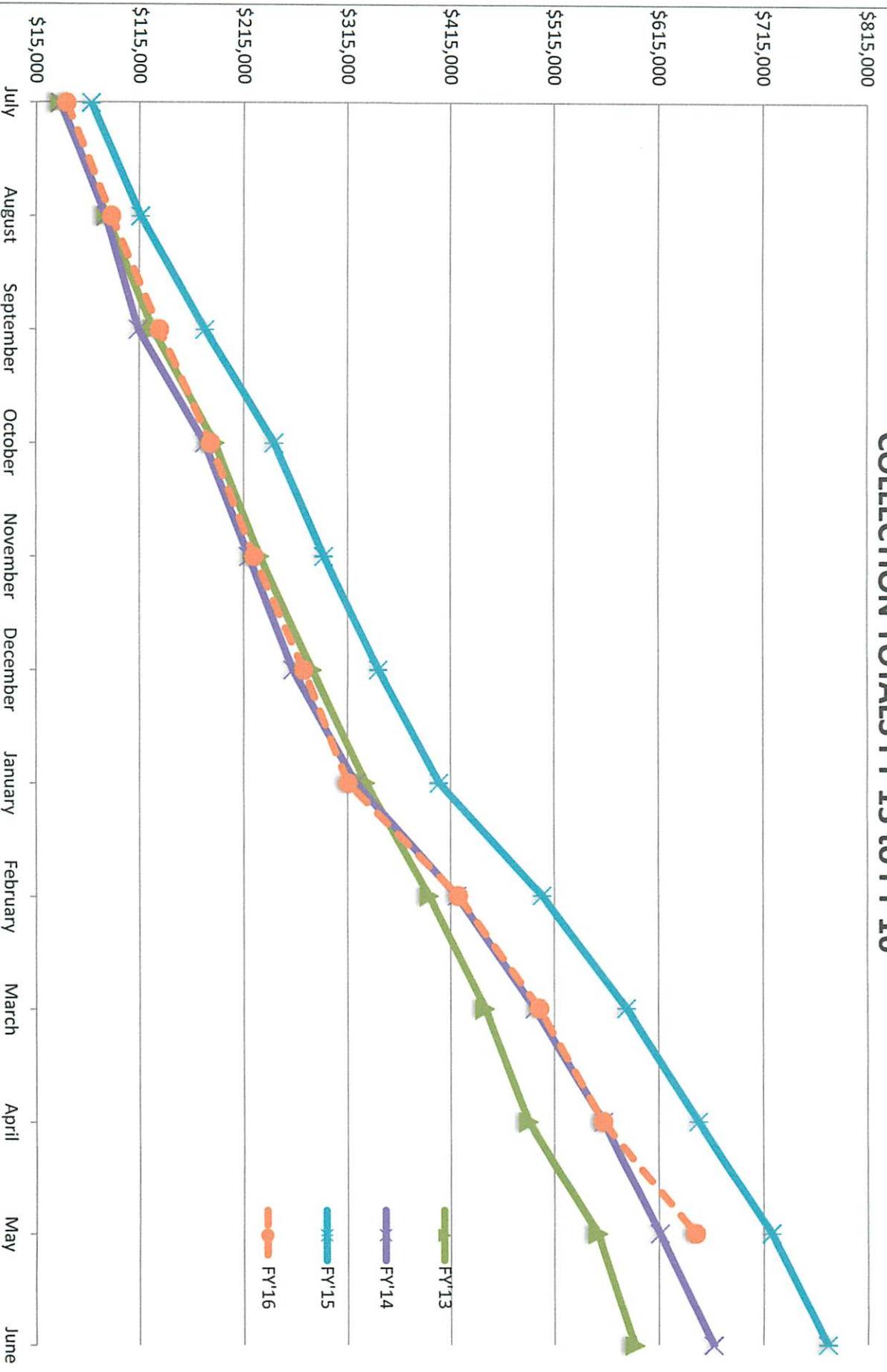


## Average Voucher Price Fiscal Year to Date





# COLLECTION TOTALS FY'13 to FY'16



**(3.)**  
**Appellate Contracts**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** APPELLATE CONTRACTS  
**DATE:** July 7, 2016

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As of today's date, the staff continues to work on a final draft of the RFP that incorporates the changes the Commission approved at the last meeting, as well as all of the requirements of the Purchases Division. Once finalized, the RFP will be submitted to the Purchases Division for their review and posting. Staff is hoping that a copy of the submitted RFP will be available for distribution at the upcoming meeting.



**(4.)**  
**Probate Cases in**  
**District Court**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** ASSIGNED COUNSEL FOR PROBATE MATTERS IN DISTRICT COURT  
**DATE:** July 7, 2016

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As discussed at the Commission's last meeting, a newly enacted law that becomes effective on July 19, 2016 makes certain guardianship and adoption cases that were formerly handled in the Probate Court subject to the exclusive jurisdiction of the District Court. Because payment of attorneys assigned to represent indigent parties in Probate cases that are transferred or initiated in the District Court will be a Commission responsibility, the Staff has begun the process of creating a roster of attorneys eligible for such assignments.

Attached is a copy of an email that was sent to all rostered attorneys on July 6, 2016. To date, we have received responses from approximately 60 attorneys willing to accept such assignments. The Commission will use these responses to create rosters to be sent to the District Courts prior to July 29<sup>th</sup>. Thereafter, the Commission will need to work on creating a more formal process for rostering attorneys to work on these Probate cases and to provide training for such work.

## **Pelletier, John**

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**From:** mcils@maine.gov  
**Sent:** Wednesday, July 06, 2016 11:23 AM  
**To:** Pelletier, John  
**Subject:** Roster for Probate Cases in District Court

Attorneys:

Public Law 2015, c. 460 (formerly L.D. 890) becomes effective on July 29, 2016, and calls for Probate matters to be handled in the District Court (either transferred to the District Court or initiated in the District Court) if the Probate matter affects a child who is the subject of a pending District Court case. This situation is most likely to arise with respect to guardianship and adoption cases.

The Probate Code calls for the appointment of counsel for indigent parents and children in both guardianship and adoption cases. Payment of attorneys assigned to Probate cases handled in the District Court will be a Commission responsibility, and the Commission is working on creating a roster of attorneys eligible for assignment to these cases.

If you have experience in Probate guardianship and/or adoption cases and are willing to accept assignments to Probate cases in the District Court, please contact the Commission. In addition, if you know attorneys who take Probate appointments in guardianship and adoption cases who are not currently rostered with the Commission, please urge these attorneys to contact the Commission for information about how they can become rostered for assignment to these cases when they are in the District Court.

At this point, we are simply trying to identify interested attorneys so we can have a roster in place by July 29th. Thereafter, the Commission will work on creating formal processes for rostering and training counsel eligible for these assignments.

Thank you for your cooperation.

John

**(5.)**  
**Attorney Evaluations**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** ATTORNEY EVALUATIONS  
**DATE:** July 7, 2016

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The Commission has decided to begin discussions about implementing an attorney evaluation system based on the various options for doing so set forth in the August, 2015, report by legal intern Katherine M. MacRae. The full report has previously been distributed to the Commission. For reference, a copy of the executive summary is attached.

# Executive Summary

## Overview

The State of Maine currently uses a system of private assigned counsel to provide high quality indigent legal services, with oversight and guidance from the Maine Commission on Indigent Legal Services. The Sixth Amendment of the United States Constitution provides for the right to counsel for criminal defendants, regardless of a defendant's ability to pay. In 2002, the American Bar Association established ten black letter principles, *Ten Principles of a Public Defense Delivery System*, that every jurisdiction should follow to ensure quality and efficient representation for indigent clients. However, nationwide research conducted by the NLADA and the Sixth Amendment Center identified three ABA Principles most often overlooked by indigent legal services systems, *Principle One* (maintaining an independent system of representation), *Principle Eight* (ensuring parity of resources between defense counsel and the prosecution), and *Principle Ten* (providing continuous attorney supervision to monitor quality and efficient representation). Due to limited staff and resources, Maine's system is not compliant with respect to providing continuous, systematic supervision and monitoring of attorneys' performance. See 37 M.R.S. § 1804 (2)(D) (2009) (stating the Maine Commission on Indigent Legal Services' responsibilities and standards) and ABA *Principle Ten*.

The purpose of this Report is to recommend a method for evaluating attorney performance to bring Maine into compliance with the statutory requirements and the ABA's *Principles*. Establishing statewide consistent supervision of attorneys' performance ensures high quality, independent indigent legal services and provides parity of resources between the indigent criminal defense bar and the prosecution.

## Summary of Research

In addition to input provided by the NLADA and the Sixth Amendment Center, I conducted nationwide research on systems for evaluating attorney performance that I reduced to thirteen state models. I organized the systems based on the state's respective attorney performance evaluation methods ranging from surveys, enacted Standards of Performance, data collection, and hybrid models. I analyzed these performance evaluation systems according to the depth and quality of the method used, resulting in three distilled assessments: comprehensive performance evaluation models (Colorado, Massachusetts, North Carolina, Oregon, and Travis County (TX)), adequate performance evaluation models (San Mateo (CA) and Virginia), and minimum performance evaluation models (D.C., Vermont, New Hampshire, and New Mexico).

## Recommendations

Based on my research, the best model for the State of Maine is a hybrid system of attorney performance evaluations (Colorado, Massachusetts, North Carolina, Oregon, San Mateo (CA), Travis County (TX), Vermont, and Virginia) comprised of annual surveys sent to organizations and criminal justice actors that frequently interact with assigned counsel; robust Standards of Practice for juvenile, criminal, child protective, civil commitment, and appeals; a formal mentoring protocol that pairs a newly rostered attorney with an experienced attorney located in the same county; a brief and motion bank to provide the most frequently used legal documents to all rostered attorneys; a review and submission process for client complaints that would consist of forms, made available online and provided in all courthouses, as well as a monitored collect-call phone number; a contracted Supervising Attorney position located in each county that would ensure highly qualified and well-respected local attorneys provide in-person

monitoring of appointed counsel, such as court observations and conducting initial investigations of client complaints; and finally, a data collection system used to track case types, pretrial services and other criminal justice data by coordinating with the courts to receive monthly data retrieval. While this proposed hybrid system requires personnel and financial resources to implement, this recommended system provides a robust and comprehensive process for ensuring high quality representation and accountability to taxpayers and the local community.

The second recommended model that would provide a practical, low-cost method of attorney performance evaluation is a combined survey and standards of practice model based on Vermont's survey system and Virginia's robust Standards of Practice. This model would not require a significant increase in personnel or financial resources to implement. However, I would caution that this system is likely to result in minimal assurance of attorney compliance as compared to conducting in-depth reviews of attorneys' performance.



**(6.)**  
**Consultations on**  
**Immigration Law**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** CONSULTATIONS ON IMMIGRATION LAW ISSUES  
**DATE:** July 7, 2016

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Currently, the Immigrant Legal Advocacy Project (ILAP) provides prompt consultation services to assigned counsel representing non-citizens in criminal and juvenile cases. This service is provided free of charge. I have recently had communication with ILAP, including a meeting at their office, where I was informed that due to personnel changes and financial constraints, ILAP is no longer going to provide this service as it has been doing after November, 2016.

In my view, the availability of prompt immigration law consultation services to assigned counsel handling criminal and juvenile cases is essential and merits investment of Commission resources to ensure the continuation of services our attorneys currently receive for free. I suggest that the Commission discuss ways to replicate the services that ILAP currently provides, including an RFP to contract for such services.

**(7.)**  
**Adoption of Uniform**  
**Bar Exam**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** UNIFORM BAR EXAM PUBLIC COMMENT  
**DATE:** JULY 6, 2016

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I am the MCILS representative on the Advisory Commission on the Uniform Bar Exam. The UBE Commission has invited public comment on whether Maine should adopt the Uniform Bar Exam, and if adopted, how the UBE should be integrated into Maine's bar admission process. The Notice of Opportunity for Public Comment, which outlines what the UBE and the current Maine bar exam entails, is included in your materials.

If the Commission decides it wants to submit a written comment, the deadline is Friday, July 29, 2016.

# **ADVISORY COMMISSION ON THE UNIFORM BAR EXAMINATION**

## **NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT ON ADOPTION OF THE UNIFORM BAR EXAMINATION**

**Comments due on or before July 29, 2016**

The Advisory Commission on the Uniform Bar Examination invites public comments to inform its findings and recommendations as to whether Maine should adopt the Uniform Bar Exam (“UBE”) and, if adopted, how the UBE should be integrated into Maine’s bar admission process.

### **I. The Advisory Commission**

The Maine Supreme Judicial Court created the Advisory Commission on the Uniform Bar Examination to consider the merits of adopting the UBE as the format for the Maine bar examination. Because Maine already uses some of the components of the UBE as part of its bar examination, the Advisory Commission is focusing its study upon the integration of the entire UBE into the bar admission process in Maine.

The issues that the Advisory Commission will address include, but are not limited to: whether the UBE should be adopted in Maine; whether, if adopted, the bar examination should include a Maine-specific component and, if so, what form it would take; the date Maine should first administer the UBE, taking into account any lead time needed for law schools, students and others affected by the adoption of the UBE; scoring standards that Maine would use in the grading process; whether and how data such as bar passage rates and admissions should be monitored; how long UBE scores may be used as a basis for admission to the Maine bar; any changes in fees that would result from use of the UBE; and what ongoing role Maine should seek with the National Conference of Bar Examiners (“NCBE”), which prepares the UBE.

The Advisory Commission will issue a report to the Supreme Judicial Court setting forth its findings and recommendations in late 2016.

## **II. The Uniform Bar Examination**

The UBE is a standardized test consisting of three examination components authored by the NCBE: the Multistate Bar Examination (“MBE”), the Multistate Essay Examination (“MEE”), and the Multistate Performance Test (“MPT”). The MBE is a multiple choice test consisting of 200 questions covering a broad range of topics, and is currently administered in 49 states and the District of Columbia. The MEE is comprised of six essay questions testing law of general application, and is currently administered in 30 states and the District of Columbia. The MPT includes two tasks designed to test practical lawyering skills, and is currently administered in 38 states and the District of Columbia. Jurisdictions that administer the UBE weight the MBE component 50%, the MEE component 30%, and the MPT component 20%. Individual jurisdictions control the passing score, which is out of a possible 400 points.

At this time, 24 jurisdictions have adopted the UBE. Seven of those jurisdictions also require a state-specific component as part of the bar admission process. Applicants who sit for the UBE receive a portable score that may be transferred to other UBE jurisdictions for a fixed period of time that is determined by the receiving jurisdiction. If the applicant’s score meets the minimum passing score set by the receiving UBE jurisdiction, the score may be accepted for the purpose of applying for admission in that jurisdiction. Although UBE scores are portable, applicants must still meet all of the admission requirements imposed by the jurisdiction where the person applies for admission, including, for example, minimum passing score, educational requirements, and character and fitness certification.

## **III. The Current Maine Bar Examination**

The Maine bar examination consists of the MBE, one MPT task, and six essays drafted by the Board of Bar Examiners. By rule, the essays must test on the Maine Rules of Civil Procedure, the Maine Rules of Unified Criminal Procedure, the Maine Rules of Appellate Procedure, the Maine Rules of Professional Conduct, and the Maine Rules of Evidence. Additionally, there are a number of other potential essay topics that are identified in the Maine Bar Admission Rules. The essays and MPT are collectively weighted 7/11, and the MBE is weighted 4/11, with a passing score presently 138 out of a possible 200.

Applicants who have been in the active practice of law for three of the last five years, or who have taken the MBE in the previous 61 months may elect to sit only for the day of the

Maine bar examination when the six essays and the MPT are administered. Further, those applicants who have been in the active practice of law for three of the last five years who previously achieved an MBE score of at least 155 may choose to take only Questions 1 and 2 of the examination, which tests the Maine Rules of Civil, Criminal, and Appellate Procedure, Professional Conduct, and Evidence.

#### **IV. Request for Written Comment**

Against this backdrop, the Advisory Commission invites written comments on adoption of the UBE in Maine and its integration into the current Maine bar admission process. Any comments must be submitted by **Friday, July 29, 2016, at 5:00 p.m.** The comments should be emailed to Jennifer Archer, Esq., Chair of the Advisory Commission, at [jarcher@krz.com](mailto:jarcher@krz.com). Comments may be in the text of the email or in an attachment to the email. If the comments are in an attachment, the attachment must be a document in portable document format (.pdf). The Advisory Commission will acknowledge receipt of the email via reply email.

All comments must contain (1) the name, mailing address, telephone number and email address of the individual submitting the comments, and (2) the name, mailing address, and primary telephone number of the organization (if any) on whose behalf the comments are submitted. An individual need not be an attorney to submit comments either individually or on behalf of an organization.

Comments are public documents, and may be posted on the Court's website and included in the Commission's final report to the Court.

Dated: June 15, 2016

Jennifer A. Archer, Esq., Chair  
Advisory Commission on the Uniform Bar Examination