

MCILS

July 10, 2018

**Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

JULY 10, 2018

COMMISSION MEETING

**CRIMINAL JUSTICE COMMITTEE ROOM, ROOM 436, STATEHOUSE,
AUGUSTA
AGENDA**

- 1) Approval of June 12, 2018, Commission Meeting Minutes
- 2) Operations Reports
- 3) Budget Update
- 4) Legislative Update
- 5) Resource Counsel Program
- 6) Miscellaneous Report Back
- 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 12, 2018
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
June 12, 2018**

Minutes

Commissioners Present: Steven Carey, William Logan, Carlann Welch

MCILS Staff Present: Ellie Maciag

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the May 22, 2018 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Logan moved for approval, Commissioner Welch seconded. All voted in favor. Approved.
Operations Reports Review	<u>May 2018 Operations Report:</u> 2,203 new cases were opened in the DefenderData system in May. This was a 101 case decrease from April. The number of submitted vouchers in May was 2,692, a decrease of 70 vouchers from April, totaling \$1,513,879, an increase of \$25,000 over April. The average price per voucher was \$567.10, up \$28.28 per voucher over April. Appeal and Post-Conviction Review cases had the highest average vouchers. There were 10 vouchers exceeding \$5,000 paid in May. 96 authorizations to expend funds were issued in May, and we paid \$67,950 for experts and investigators, etc. The monthly transfer from the Judicial Branch for counsel fees for May, which reflects April's collections, totaled \$119,995, down approximately \$14,000 from April. Three attorney complaints were received in May. A short discussion ensued about complaint follow up by staff and whether feedback forms are public record. Deputy Director Maciag gave a short update on upcoming minimum standards training. The Commissioners briefly discussed limiting the frequency of future minimum standards replays.	
Proposed Policy for Resource Counsel Program	The Commissioners discussed the draft policy and procedures document for the Resource Counsel program and proposed changes to include a prohibition on Resource Counsel acting as a mentor for someone in the same firm, as well	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>as a voucher due date of the 15th day of the following month. Chair Carey requested that staff remind Resource Counsel of the Commission's practice standards, ask them to review the standards and let Commission staff know of any issues, and to use the standards as a resource in their mentoring. Commissioner Logan expressed some concerns about attorneys potentially abusing the program with unreasonable requests of the Resource Counsel. Chair Carey instructed staff to make it clear to Resource Counsel that they should alert staff if they are being overutilized by a particular attorney. Chair Carey requested staff notify the participants at the June minimum standards training that each will be required to comply with the program once it is rolled out and to send notice to all rostered attorneys about the program.</p>	
Action Items Discussion	<p>The Commissioners had a brief discussion about the updated action items list. Chair Carey requested staff and the Commissioners review the practice standards for any changes. Chair Carey is continuing his review of the fee rule.</p>	
Reconsideration of March 26, 2018 Meeting Minutes	<p>Commissioner Logan moved to accept the amended March 26, 2018, meeting minutes. Commissioner Welch seconded. All voted in favor.</p>	
Somerset Contract Update	<p>Deputy Director Maciag updated the Commissioners on the status of the one-year extension for the Somerset County contract.</p>	
Public Comment	<p><u>Robert J. Ruffner, Esq.</u>: Attorney Ruffner gave an example of a court practice that drives up Commission costs. He was in York County waiting for most of the day for his case to be heard and resolved. By the afternoon, no court time remained so the matter was rescheduled for a different day. Attorney Ruffner explained that this happened to many Commission assigned attorneys that day. Attorney Ruffner also relayed that a court held initial appearances for felony and probation violations without counsel and the court did not ask for counsel to step in. Attorney Ruffner</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	lamented that there is no entity or authority to step in when a situation like that occurs to protect a defendant's rights. Attorney Ruffner urged the Commission at the beginning of each new legislature to engage in rulemaking to increase the attorney hourly rate. He stated that the Commission should seek increases until there is parity with the State. Attorney Ruffner suggested that file reviews by Resource Counsel would be helpful to new solo attorneys since many important skills are not taught in law school. Attorney Ruffner urged the Commission to have Resource Counsel oversee established attorneys as well and that resistance to such oversight should be reported to staff.	
Executive Session	None	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on July 10, 2018 at 9:30 a.m.	Commissioner Welch moved to adjourn. Commissioner Logan seconded. All present in favor.

(2.) Operations Reports

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
SUBJECT: JUNE 2018 OPERATIONS REPORTS
DATE: JULY 5, 2018

Attached you will find the June, 2018, Operations Reports for your review and our discussion at the Commission meeting on July 10, 2018. A summary of the operations reports follows:

- 2,369 new cases were opened in the DefenderData system in June. This was a 16 case increase over May.
- The number of vouchers submitted electronically in June was 2,690, a decrease of 2 vouchers from May, totaling \$1,612,543.16, an increase of \$98,000 over May. In June, we paid 3,030 electronic vouchers totaling \$1,766,414.86, representing an increase of 366 vouchers and an increase of \$256,000 compared to May.
- There were two paper vouchers submitted and paid in June totaling \$546.
- The average price per voucher in June was \$582.98, up \$15.88 per voucher over May. For the entire 2018 fiscal year, the average price per voucher was \$545.49, down \$9.31 from the Fiscal Year 2017 average.
- Appeal and Post-Conviction Review cases had the highest average vouchers in June. There were 11 vouchers exceeding \$5,000 paid in June. See attached addendum for details.
- The contract amount paid for representation in Somerset County in June was \$22,687.50.
- In June, we issued 96 authorizations to expend funds: 75 for private investigators, 39 for experts, and 16 for miscellaneous services such as interpreters and transcriptionists. In June, we paid \$152,326.82 for experts and investigators, etc. In June, one request for funds for a private investigator was modified to reduce the amount.
 - In June, we received no complaints about attorneys.

In our All Other Account, the total expenses for the month of June were \$1,777,004.28. Of that amount, just over \$16,000 was devoted to the Commission's operating expenses. Although we paid all expenses incurred during the current fiscal year, we were left with a surplus of \$1,122,350.32, which will lapse to the general fund.

In the Personal Services Account, we had \$55,022.10 in expenses for the month of June.

In the Revenue Account, the June transfer of collected revenue, reflecting May's collections, totaled \$95,855.70, down \$44,000 from the previous month, but still a robust collection total. For the year, we collected \$1,069,205.33 in counsel fee reimbursements, approximately \$300,000.00 more than the previous highest collection total. In June, we expended \$181,321.40 from the revenue account on attorney's fees. For the year, we expended our entire revenue allotment on counsel fees, leaving a cash balance of \$331,309.12. We will seek a financial order during the upcoming fiscal year for authority to expend this cash balance.

In our Conference Account, we collected registration payments paid expenses for the June minimum standards training. We also expended funds to videotape a domestic violence training put on by the York County Bar Association. We will be able to show replays of this training as a means for attorneys to qualify for the domestic violence roster. The account balance stands at \$16,272.04.

VOUCHERS EXCEEDING \$5,000 PAID JUNE 2018

	Voucher Total	Case total
Interim voucher on a post-conviction review in a Murder case. The defendant, who was a juvenile at the time of the offense, received a sentence of 70 years. Work reflected in this voucher spanned 16 months and resulted in the client being release from prison on bail. Ultimately, the client had his sentence essentially reduced to time served. This voucher was heavily scrutinized by both the Executive Director and the Deputy Director, which involved several contacts with the attorney's office staff and a direct conversation with the attorney.	\$130,432	\$161,531 (\$31,104 paid to co-counsel from separate firm who was appointed to assist with the three week hearing phase on this case)
Voucher after a 6-day trial in a Kidnapping/Aggravated Assault trial. Counsel from a different county was specially appointed by the court after the client dismissed several prior counsel. The client was found guilty.	\$17,451	\$17,451
Voucher after a mistrial in Gross Sexual Assault/Aggravated Sex trafficking case. Bringing the case to trial was delayed due to a pending federal charge and also the need for mental health evaluations.	\$12,388	\$12,388
Voucher after a 4-day trial in a Gross Sexual Assault case. Trial preparation was complicated by the need to communicate with the client by translator. Client found not guilty on all charges.	\$10,893	\$17,967 (\$7,074 paid to co-counsel from a different firm)
Interim voucher in a Gross Sexual Assault case. Counsel prepared twice for trial only to have the case continued at the last minute at the State's request each time.	\$8,068	\$8,068
Voucher after a 4-day trial in a Gross Sexual Assault case. Trial preparation was complicated by the need to communicate with the client by translator. Client found not guilty on all charges.	\$7,074	\$17,967(\$10,893 paid to co-counsel from a different firm)
Voucher for the appeal from conviction of two counts of Murder and two counts of Arson. Appellate counsel was not trial counsel.	\$6,778	\$6,778
Voucher after an Aggravated Trafficking case that took four years to bring to conclusion. Suppression litigated including written argument. Client pled to a reduced charge and avoided a mandatory minimum sentence.	\$5,638	\$5,638
Voucher after a four day Aggravated Assault trial. Jury acquitted on Aggravated Assault and hung on a domestic violence charge.	\$5,508	\$5,508
Appeal from a conviction for Criminal Threatening with a dangerous weapon. Novel issues required extensive briefing and oral argument preparation.	\$5,457	\$5,457

Voucher in Aggravated Trafficking case. Charge dismissed after client prevailed on extensively litigated suppression motion.	\$5,447	\$5,447
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FUNDS REQUESTS DENIED/MODIFIED JUNE 2018

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

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

6/30/2018

DefenderData Case Type	Jun-18						Fiscal Year 2018			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	8	22	\$ 31,328.54	21	\$ 35,181.08	\$ 1,675.29	185	293	\$ 441,094.96	\$ 1,505.44
Child Protection Petition	204	343	\$ 204,310.56	368	\$ 217,486.66	\$ 591.00	1,786	4,209	\$ 2,733,731.95	\$ 649.50
Drug Court	0	10	\$ 7,734.00	12	\$ 10,086.00	\$ 840.50	21	88	\$ 69,826.60	\$ 793.48
Emancipation	9	6	\$ 1,666.20	6	\$ 1,666.20	\$ 277.70	77	95	\$ 38,489.98	\$ 405.16
Felony	577	621	\$ 560,554.63	719	\$ 631,338.49	\$ 878.08	6,243	7,751	\$ 6,773,556.76	\$ 873.89
Involuntary Civil Commitment	84	73	\$ 13,719.60	99	\$ 18,108.41	\$ 182.91	1,043	1,084	\$ 242,075.91	\$ 223.32
Juvenile	71	92	\$ 66,306.76	103	\$ 68,346.74	\$ 663.56	953	1,153	\$ 516,947.78	\$ 448.35
Lawyer of the Day - Custody	211	219	\$ 54,440.16	256	\$ 61,848.28	\$ 241.59	2,730	2,984	\$ 716,582.36	\$ 240.14
Lawyer of the Day - Juvenile	42	35	\$ 6,898.45	40	\$ 7,978.93	\$ 199.47	495	526	\$ 101,591.69	\$ 193.14
Lawyer of the Day - Walk-in	110	115	\$ 26,643.20	130	\$ 29,478.76	\$ 226.76	1,392	1,531	\$ 361,562.62	\$ 236.16
Misdemeanor	802	792	\$ 322,731.36	859	\$ 343,812.24	\$ 400.25	8,775	9,881	\$ 4,061,133.28	\$ 411.00
Petition, Modified Release Treatment	0	3	\$ 1,313.28	3	\$ 1,313.28	\$ 437.76	8	60	\$ 27,085.81	\$ 451.43
Petition, Release or Discharge	0	2	\$ 660.00	2	\$ 660.00	\$ 330.00	1	15	\$ 12,646.80	\$ 843.12
Petition, Termination of Parental Rights	22	31	\$ 31,149.10	41	\$ 36,269.94	\$ 884.63	251	795	\$ 606,800.23	\$ 763.27
Post Conviction Review	10	8	\$ 135,235.98	7	\$ 133,285.98	\$ 19,040.85	95	104	\$ 336,944.40	\$ 3,239.85
Probate	1	1	\$ 1,428.00	1	\$ 1,200.00	\$ 1,200.00	27	22	\$ 13,772.48	\$ 626.02
Probation Violation	180	174	\$ 68,171.30	204	\$ 78,317.18	\$ 383.91	2,117	2,350	\$ 921,377.33	\$ 392.08
Represent Witness on 5th Amendment	7	4	\$ 828.00	3	\$ 678.00	\$ 226.00	29	32	\$ 11,215.36	\$ 350.48
Review of Child Protection Order	29	137	\$ 76,908.00	154	\$ 88,842.65	\$ 576.90	524	2,031	\$ 1,112,772.67	\$ 547.89
Revocation of Administrative Release	2	2	\$ 516.04	2	\$ 516.04	\$ 258.02	12	17	\$ 4,962.04	\$ 291.88
DefenderData Sub-Total	2,369	2,690	\$ 1,612,543.16	3,030	\$ 1,766,414.86	\$ 582.98	26,764	35,021	\$ 19,104,171.01	\$ 545.51
Paper Voucher Sub-Total	2	2	\$ 546.00	2	\$ 546.00	\$ 273.00	10	10	\$ 4,858.34	\$ 485.83
TOTAL	2,371	2,692	\$1,613,089.16	3,032	\$1,766,960.86	\$ 582.77	26,774	35,031	\$ 19,109,029.35	\$ 545.49

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY18 FUND ACCOUNTING
AS OF 06/30/2018

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY18 Total
FY18 Professional Services Allotment		\$ 6,995,602.00		\$ 4,350,001.00		\$ 4,704,575.00		\$ 4,898,227.00	
FY18 General Operations Allotment		\$ 42,000.00		\$ 42,000.00		\$ 42,000.00		\$ 42,000.00	
Budget Order Adjustment		\$ (500,000.00)		\$ -		\$ -		\$ 500,000.00	
Encumbered Balance Forward FY17		\$ 28,759.02		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 6,566,361.02		\$ 4,392,001.00		\$ 4,746,575.00		\$ 5,440,227.00	\$ 21,145,164.02
Total Expenses	1	\$ (2,928,724.58)	4	\$ (1,426,660.74)	7	\$ (1,403,853.93)	10	\$ (1,609,011.56)	
	2	\$ (1,668,718.69)	5	\$ (1,586,795.93)	8	\$ (1,275,874.99)	11	\$ (1,616,203.27)	
	3	\$ (1,105,704.44)	6	\$ (1,419,256.42)	9	\$ (2,169,145.68)	12	\$ (1,777,004.28)	
Encumbrances (Somerset PDP & Justice Works)		\$ (264,063.50)		\$ 84,712.50		\$ 89,299.50		\$ 95,051.54	
Encumbrances (B Taylor, JW amend contract, envelopes,business cards)		\$ (13,000.03)		\$ (44,000.01)		\$ 13,000.11		\$ 38,999.89	
TOTAL REMAINING		\$ 586,149.78		\$ 0.40		\$ 0.01		\$ 572,059.32	\$ 1,158,209.51

Q4 Month 12

INDIGENT LEGAL SERVICES

Counsel Payments	\$ (1,585,639.46)
Somerset County	\$ (22,687.50)
Somerset County Discovery	\$ (130.00)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (38,553.87)
Mental Health Expert	\$ (31,547.23)
Transcripts	\$ (39,993.31)
Other Expert	\$ (38,510.82)
Lodging for Trial	\$ -
Process Servers	\$ (1,328.02)
Interpreters	\$ (2,114.74)
Misc Prof Fees & Serv	\$ (278.83)
SUB-TOTAL ILS	\$ (1,760,783.78)

OPERATING EXPENSES

Parking Fees	\$ (600.00)
DefenderData	\$ (5,455.00)
Annual Meeting - meals	\$ (102.32)
Mileage/Tolls/Parking	\$ (1,623.77)
Mailing/Postage/Freight	\$ (468.59)
West Publishing Corp	\$ (168.30)
OIT/TELCO charges	\$ (2,354.29)
Office Supplies/Equip.	\$ (765.98)
Cellular Phones	\$ (113.86)
Subscriptions	\$ (110.00)
Office Equipment Rental	\$ (107.06)
Printing & Binding	\$ (18.00)
Barbara Taylor monthly fees	\$ (4,333.33)
SUB-TOTAL OE	\$ (16,220.50)
TOTAL	\$ (1,777,004.28)

INDIGENT LEGAL SERVICES

Q4 Allotment	\$ 5,440,227.00
Q4 Encumbrances for Somerset PDP & Justice Works contracts	\$ 85,212.50
Barbara Taylor Contract, envelopes,business cards	\$ 12,999.99
Q4 Expenses to date	\$ (5,002,219.11)
Year End Remaining Encumbrances	\$ 35,838.94
Remaining Q4 Allotment	\$ 572,059.32

Non-Counsel Indigent Legal Services

Monthly Total	\$ (152,326.82)
Total Q1	\$ (308,598.67)
Total Q2	\$ (236,789.37)
Total Q3	\$ (298,750.58)
Total Q4	\$ (300,438.28)
Fiscal Year Total	\$ (1,144,576.90)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY18 FUND ACCOUNTING
As of 06/30/18

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY18 Total
Total Budget Allotments		\$ 160,986.00		\$ 184,124.00		\$ 184,124.00		\$ 184,124.00	\$ 713,358.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11		
Budget Order Adjustment	3	\$ -	6	\$ 23,139.00	9	\$ -	12	\$ -	
Budget Order Adjustment		\$ -		\$ -		\$ -	12	\$ -	\$ -
Total Budget Allotments		\$ 160,986.00		\$ 207,263.00		\$ 184,124.00		\$ 184,124.00	\$ 736,497.00
Cash Carryover from Prior Quarter		\$ 2,962.21		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ 43,709.11	4	\$ 62,588.04	7	\$ 73,076.20	10	\$ 134,046.53	
Promissory Note Payments		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ 48,375.11	5	\$ 94,654.93	8	\$ 84,081.68	11	\$ 119,995.15	
Court Ordered Counsel Fee		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB (late transfer)		\$ -		\$ -	9	\$ -		\$ -	
Collected Revenue from JB	3	\$ 66,433.82	6	\$ 65,784.65	9	\$ 180,604.31	12	\$ 95,855.70	
Returned Checks-stopped payments		\$ -		\$ 75.00		\$ -		\$ -	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 161,480.25		\$ 223,102.62		\$ 337,762.19		\$ 349,897.38	\$ 1,072,242.44
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -				\$ -	
Counsel Payments	3	\$ (158,738.00)	6	\$ (204,362.90)	9	\$ (181,549.29)	12	\$ (181,321.40)	
Other Expenses	*	\$ (2,247.73)	**	\$ (2,893.78)	***	\$ (2,570.74)		\$ -	
REMAINING ALLOTMENT		\$ 0.27		\$ 6.32		\$ 3.97		\$ 2,802.60	\$ 2,813.16
Overpayment Reimbursements	1	\$ -	4	\$ (1,069.14)	7	\$ -	10	\$ (188.00)	
	2	\$ (183.00)	5	\$ (25.00)	8	\$ (450.00)	11	\$ (2,598.84)	
	3	\$ (303.50)	6	\$ -	9	\$ (1,268.00)	12	\$ (1,164.00)	
REMAINING CASH Year to Date		\$ 8.02		\$ 14,751.80		\$ 151,924.16		\$ 164,625.14	\$ 331,309.12

Q4 Month 12	
DEFENDER DATA COUNSEL PAYMENTS	
	\$ (181,321.40)
SUB-TOTAL ILS	\$ (181,321.40)
OVERPAYMENT REIMBURSEMENTS	
Paper Voucher	\$ -
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
StaCap Expense	\$ -
SUB-TOTAL OE	\$ (1,164.00)
TOTAL	\$ (182,485.40)

* Q1 State Cap posted in Q2
** Q2 State Cap posted in Q3
*** Q3 State Cap posted in Q4

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY18 FUND ACCOUNTING
AS OF 06/30/2018

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY18 Total
FY18 Allotment	\$	191,878.00	\$	216,894.00	\$	191,873.00	\$	184,672.00	\$ -
Financial Order Adjustments	\$	-	\$	-	\$	-	\$	-	
Financial Order Adjustments	\$	-	\$	-	\$	-	\$	-	
Budget Order Adjustments	\$	(25,000.00)	\$	-	\$	-	\$	25,000.00	
Total Budget Allotments	\$	166,878.00	\$	216,894.00	\$	191,873.00	\$	209,672.00	\$ 785,317.00
Total Expenses	1 \$	(49,204.29)	4 \$	(79,098.20)	7 \$	(52,212.55)	10 \$	(54,959.38)	
	2 \$	(52,363.61)	5 \$	(47,858.62)	8 \$	(54,405.54)	11 \$	(77,646.64)	
	3 \$	(53,129.90)	6 \$	(52,437.93)	9 \$	(55,692.56)	12 \$	(55,022.10)	
TOTAL REMAINING	\$	12,180.20	\$	37,499.25	\$	29,562.35	\$	22,043.88	\$ 101,285.68

Q4 Month 12	
Per Diem Payments	\$ (165.00)
Salary	\$ (23,353.70)
Vacation Pay	\$ (1,159.24)
Holiday Pay	\$ (1,636.28)
Sick Pay	\$ (3,405.29)
Employee Hlth Svs/Workers Comp	\$ -
Health Insurance	\$ (9,024.08)
Dental Insurance	\$ (223.22)
Employer Retiree Health	\$ (3,527.81)
Employer Retirement	\$ (2,035.78)
Employer Group Life	\$ (266.00)
Employer Medicare	\$ (438.25)
Retiree Unfunded Liability	\$ (6,463.81)
Retro Pymt	\$ -
Perm Part Time Full Ben	\$ (3,323.64)
TOTAL	\$ (55,022.10)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY18 FUND ACCOUNTING
As of 06/30/18

Account 014 95F Z112 02 (Conference)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY18 Total
Total Budget Allotments		\$ 20,500.00		\$ 15,000.00		\$ 15,000.00		\$ 12,000.00	\$ 62,500.00
Financial Order Adjustment				\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustment		\$ -		\$ -		\$ -		\$ -	\$ -
Total Budget Allotments		\$ 20,500.00		\$ 15,000.00		\$ 15,000.00		\$ 12,000.00	\$ 62,500.00
Cash Carryover from Prior Quarter		\$ 14,942.80		\$ 12,967.13		\$ 14,722.49		\$ 16,267.99	
Collected Revenue	1	\$ -	4	\$ 4,330.00	7	\$ 1,025.00	10	\$ -	
Non-attendance Reimbursements			4	\$ (575.00)		\$ -		\$ -	
Collected Revenue	2	\$ 4,250.00	5	\$ 1,615.00	8	\$ 700.00	11	\$ 800.00	
Collected Revenue	3	\$ 1,890.00	6	\$ -	9	\$ -	12	\$ 2,125.00	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 21,082.80		\$ 18,337.13		\$ 16,447.49		\$ 19,192.99	\$ 16,160.00
Total Expenses	1	\$ (1,559.99)	4	\$ (2,924.95)	7	\$ (176.99)	10	\$ (140.00)	
	2	\$ (112.28)	5	\$ (639.22)	8	\$ -	11	\$ -	
	3	\$ (6,353.73)	6	\$ -	9	\$ -	12	\$ (2,778.97)	
State Cap	**	\$ (89.67)		\$ (50.47)		\$ (2.51)		\$ (1.98)	\$ (144.63)
Encumbrances		\$ (4,272.55)		\$ -		\$ -		\$ -	\$ (4,272.55)
REMAINING ALLOTMENT		\$ 8,111.78		\$ 11,385.36		\$ 14,820.50		\$ 13,351.60	\$ 47,669.24
REMAINING CASH Year to Date		\$ 12,967.13		\$ 14,722.49		\$ 16,267.99		\$ 16,272.04	

Q4 Month 12	
Training Manuals Printing	\$ (234.81)
Training Refreshments/Meals	\$ (444.16)
Media Northeast	\$ (1,900.00)
Overseers of the Bar CLE fees	\$ -
Training Room Deposit Fee	\$ (200.00)
Non-attendance refunds	\$ -
State Cap Expense	
TOTAL	\$ (2,778.97)

** Q1 State Cap posted in Q2

\$ -

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

6/30/2018

Jun-18							Fiscal Year 2018			
Court	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	4	13	\$ 8,274.49	14	\$ 9,090.49	\$ 649.32	123	270	\$ 187,459.78	\$ 694.30
AUBSC	6	3	\$ 2,457.28	4	\$ 2,715.28	\$ 678.82	80	156	\$ 126,376.40	\$ 810.11
AUGDC	44	56	\$ 26,766.90	70	\$ 33,414.80	\$ 477.35	494	847	\$ 425,091.22	\$ 501.88
AUGSC	5	10	\$ 4,809.00	12	\$ 4,473.00	\$ 372.75	211	347	\$ 195,490.64	\$ 563.37
BANDC	51	75	\$ 25,309.32	72	\$ 28,499.17	\$ 395.82	635	1,091	\$ 404,332.54	\$ 370.61
BANSC	0	0		0			17	22	\$ 31,394.93	\$ 1,427.04
BATSC	0	0		0			7	9	\$ 3,240.88	\$ 360.10
BELDC	5	13	\$ 12,740.11	15	\$ 13,706.11	\$ 913.74	108	253	\$ 150,862.58	\$ 596.29
BELSC	0	1	\$ 168.00	1	\$ 168.00	\$ 168.00	4	18	\$ 12,741.89	\$ 707.88
BIDDC	57	86	\$ 54,916.79	96	\$ 52,787.43	\$ 549.87	673	1,022	\$ 529,719.77	\$ 518.32
BRIDC	8	25	\$ 17,883.84	26	\$ 18,921.84	\$ 727.76	129	250	\$ 146,708.27	\$ 586.83
CALDC	11	11	\$ 7,728.12	11	\$ 7,728.12	\$ 702.56	94	147	\$ 99,651.04	\$ 677.90
CARDC	11	11	\$ 4,955.12	12	\$ 4,985.68	\$ 415.47	67	140	\$ 67,664.32	\$ 483.32
CARSC	6	2	\$ 972.00	3	\$ 1,098.00	\$ 366.00	46	97	\$ 74,186.98	\$ 764.81
DOVDC	3	8	\$ 2,532.00	13	\$ 3,924.00	\$ 301.85	57	157	\$ 48,126.24	\$ 306.54
DOVSC	0	0		0			1	2	\$ 324.00	\$ 162.00
ELLDC	13	22	\$ 14,268.00	28	\$ 18,771.50	\$ 670.41	145	325	\$ 205,222.79	\$ 631.45
ELLSC	0	0		1	\$ 50.00	\$ 50.00	13	25	\$ 7,735.20	\$ 309.41
FARDC	11	14	\$ 7,503.13	14	\$ 7,501.83	\$ 535.85	126	198	\$ 133,152.88	\$ 672.49
FARSC	1	1	\$ 120.00	1	\$ 120.00	\$ 120.00	2	8	\$ 4,055.24	\$ 506.91
FORDC	4	8	\$ 2,467.68	10	\$ 3,801.87	\$ 380.19	44	72	\$ 37,287.60	\$ 517.88
HOUDC	14	17	\$ 6,422.91	19	\$ 7,040.65	\$ 370.56	190	312	\$ 137,948.73	\$ 442.14
HOUSC	1	0		1	\$ 330.00	\$ 330.00	11	14	\$ 29,737.46	\$ 2,124.10
LEWDC	87	107	\$ 50,327.19	135	\$ 63,232.03	\$ 468.39	829	1,417	\$ 641,187.35	\$ 452.50
LINDC	13	11	\$ 5,764.28	11	\$ 5,764.28	\$ 524.03	97	193	\$ 95,049.66	\$ 492.49
MACDC	6	9	\$ 2,550.00	9	\$ 2,550.00	\$ 283.33	103	197	\$ 89,291.52	\$ 453.26
MACSC	3	2	\$ 264.00	2	\$ 264.00	\$ 132.00	21	28	\$ 21,864.28	\$ 780.87
MADDC	1	4	\$ 1,157.36	3	\$ 935.36	\$ 311.79	19	20	\$ 5,940.96	\$ 297.05
MILDC	8	4	\$ 1,278.00	6	\$ 2,154.00	\$ 359.00	35	34	\$ 11,858.68	\$ 348.78
NEWDC	13	11	\$ 3,889.12	15	\$ 6,670.96	\$ 444.73	123	275	\$ 112,194.29	\$ 407.98
PORDC	81	114	\$ 61,815.57	138	\$ 68,042.44	\$ 493.06	970	1,474	\$ 739,633.41	\$ 501.79
PORSC	3	0		0			14	22	\$ 59,999.16	\$ 2,727.23
PREDC	25	24	\$ 14,402.23	27	\$ 15,530.23	\$ 575.19	159	404	\$ 219,410.09	\$ 543.09
ROCD	12	21	\$ 8,122.87	24	\$ 7,876.52	\$ 328.19	205	321	\$ 155,148.04	\$ 483.33
ROCSC	6	1	\$ 1,044.00	2	\$ 1,920.00	\$ 960.00	26	31	\$ 21,229.46	\$ 684.82
RUMDC	5	19	\$ 14,892.94	19	\$ 15,036.94	\$ 791.42	92	173	\$ 112,114.05	\$ 648.06
SKODC	17	40	\$ 19,497.60	44	\$ 20,925.76	\$ 475.59	210	549	\$ 308,893.71	\$ 562.65
SKOSC	0	0		0			3	1	\$ 534.00	\$ 534.00
SOUDC	7	8	\$ 2,827.00	9	\$ 5,174.92	\$ 574.99	70	126	\$ 79,254.22	\$ 629.00
SOUSC	4	4	\$ 460.50	4	\$ 460.50	\$ 115.13	24	61	\$ 39,057.49	\$ 640.29
SPRDC	43	53	\$ 25,056.47	52	\$ 23,813.27	\$ 457.95	474	800	\$ 453,284.81	\$ 566.61
Law Ct	5	20	\$ 29,027.56	18	\$ 30,936.10	\$ 1,718.67	142	212	\$ 340,682.22	\$ 1,606.99
YORCD	228	263	\$ 200,790.51	284	\$ 215,221.43	\$ 757.82	2,503	2,989	\$ 2,095,477.71	\$ 701.06
AROCD	116	120	\$ 70,464.10	131	\$ 68,745.88	\$ 524.78	1,346	1,472	\$ 860,778.00	\$ 584.77
ANDCD	217	141	\$ 89,168.64	179	\$ 106,814.00	\$ 596.73	1,920	1,872	\$ 970,076.50	\$ 518.20
KENCD	189	156	\$ 57,006.93	176	\$ 68,654.21	\$ 390.08	1,771	2,196	\$ 1,035,091.88	\$ 471.35
PENCD	246	283	\$ 114,613.34	312	\$ 123,686.16	\$ 396.43	2,887	3,318	\$ 1,527,313.75	\$ 460.31
SAGCD	36	41	\$ 30,325.28	50	\$ 33,816.20	\$ 676.32	403	430	\$ 270,572.43	\$ 629.24
WALCD	29	62	\$ 26,116.10	71	\$ 34,482.72	\$ 485.67	380	447	\$ 244,123.19	\$ 546.14
PISCD	16	19	\$ 6,107.75	23	\$ 7,744.62	\$ 336.72	173	187	\$ 48,466.16	\$ 259.18
HANCD	59	63	\$ 33,795.10	75	\$ 34,320.10	\$ 457.60	747	848	\$ 386,930.45	\$ 456.29
FRACD	46	46	\$ 26,922.08	48	\$ 28,391.22	\$ 591.48	556	605	\$ 317,428.18	\$ 524.67
WASCD	44	44	\$ 23,792.56	46	\$ 25,634.56	\$ 557.27	534	552	\$ 219,573.17	\$ 397.78
CUMCD	347	377	\$ 350,395.65	417	\$ 372,794.77	\$ 893.99	4,106	4,578	\$ 2,739,508.53	\$ 598.41
KNOCD	42	47	\$ 26,503.92	49	\$ 33,508.10	\$ 683.84	568	684	\$ 399,324.72	\$ 583.81
SOMCD	0	3	\$ 1,197.00	3	\$ 1,197.00	\$ 399.00	15	12	\$ 8,191.56	\$ 682.63
OXFCD	55	65	\$ 39,882.72	75	\$ 42,892.39	\$ 571.90	760	905	\$ 486,976.46	\$ 538.10
LINCD	29	44	\$ 29,008.00	52	\$ 33,300.68	\$ 640.40	444	553	\$ 297,784.60	\$ 538.49
WATDC	35	40	\$ 15,465.02	41	\$ 16,257.94	\$ 396.54	297	584	\$ 289,885.06	\$ 496.38
WESDC	27	25	\$ 11,974.43	33	\$ 13,509.15	\$ 409.37	270	342	\$ 148,324.17	\$ 433.70
WISDC	5	13	\$ 12,423.05	13	\$ 11,199.05	\$ 861.47	88	147	\$ 107,404.08	\$ 730.64
WISSC	1	1	\$ 198.00	1	\$ 198.00	\$ 198.00	7	14	\$ 10,506.22	\$ 750.44
YORDC	8	9	\$ 3,721.60	10	\$ 3,631.60	\$ 363.16	96	166	\$ 75,295.41	\$ 453.59
TOTAL	2,369	2,690	\$ 1,612,543.16	3,030	\$ 1,766,414.86	\$ 582.98	26,764	35,021	\$ 19,104,171.01	\$ 545.51

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

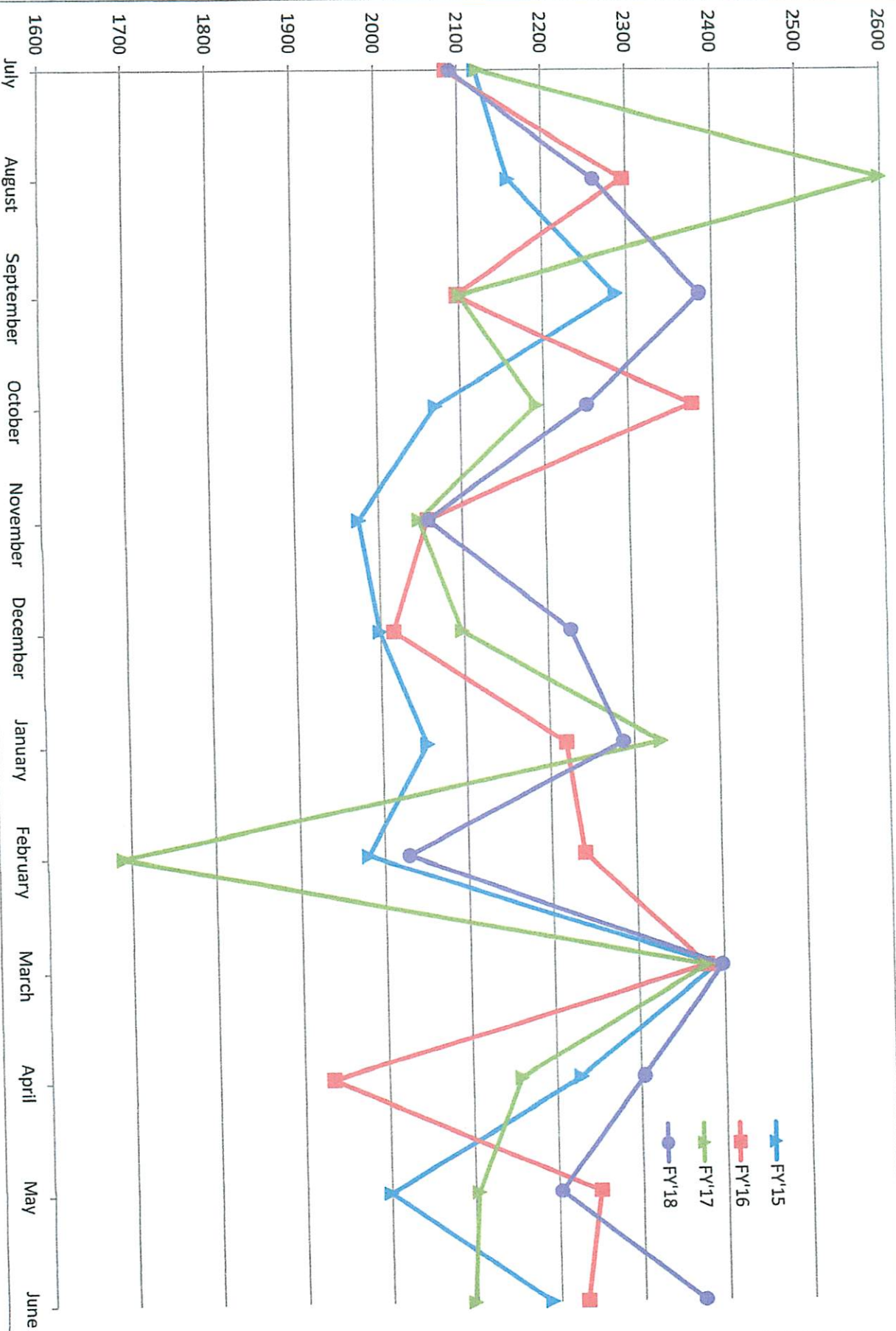
Number of Attorneys Rostered by Court

06/30/2018

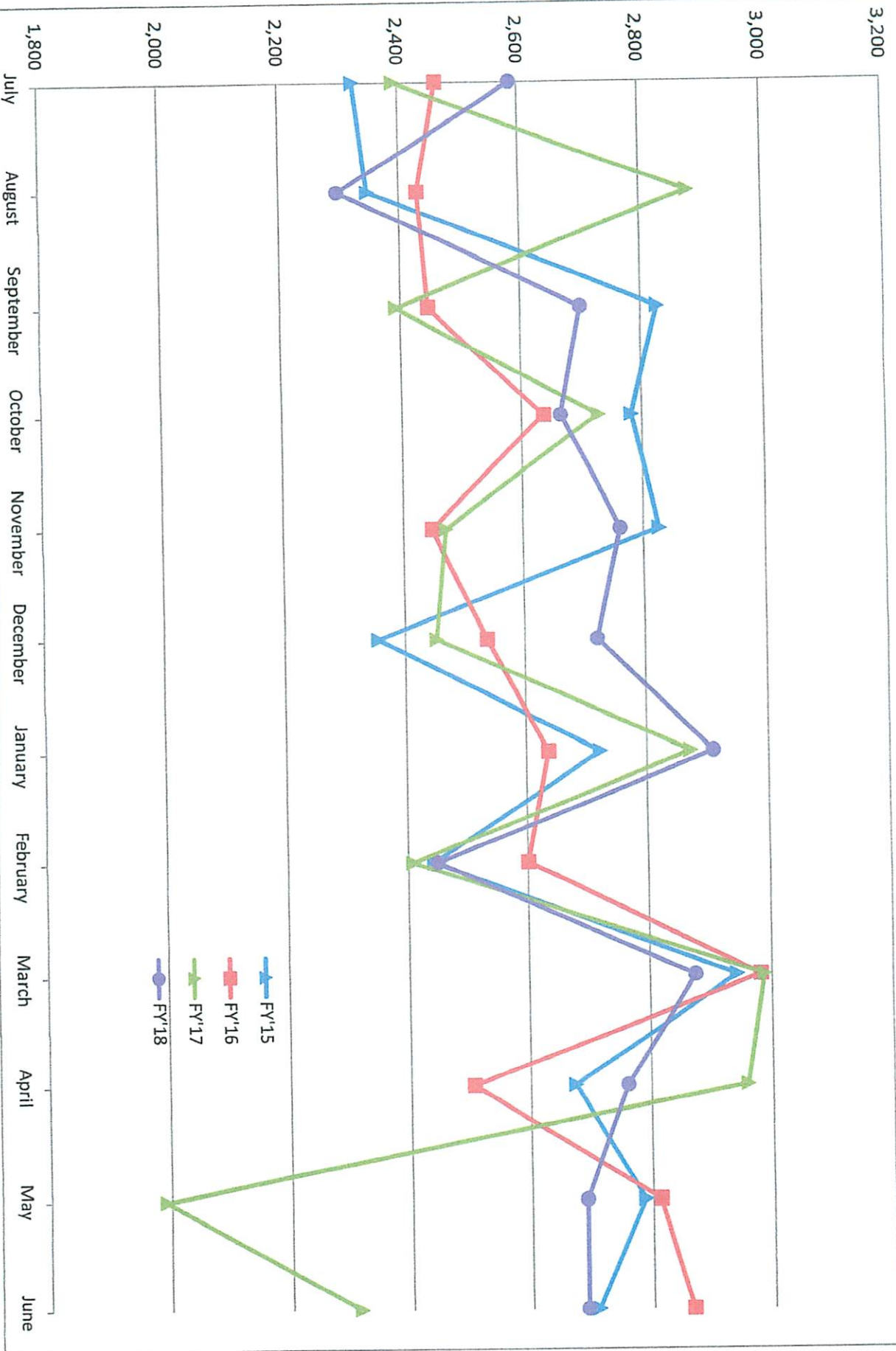
Court	Rostered Attorneys
Augusta District Court	97
Bangor District Court	47
Belfast District Court	47
Biddeford District Court	133
Bridgton District Court	89
Calais District Court	11
Caribou District Court	19
Dover-Foxcroft District Court	25
Ellsworth District Court	36
Farmington District Court	34
Fort Kent District Court	11
Houlton District Court	15
Lewiston District Court	121
Lincoln District Court	25
Machias District Court	17
Madawaska District Court	12
Millinocket District Court	18
Newport District Court	35
Portland District Court	154
Presque Isle District Court	16
Rockland District Court	39
Rumford District Court	24
Skowhegan District Court	30

Court	Rostered Attorneys
South Paris District Court	55
Springvale District Court	118
Unified Criminal Docket Alfred	121
Unified Criminal Docket Aroostook	24
Unified Criminal Docket Auburn	101
Unified Criminal Docket Augusta	90
Unified Criminal Docket Bangor	50
Unified Criminal Docket Bath	93
Unified Criminal Docket Belfast	46
Unified Criminal Docket Dover Foxcroft	21
Unified Criminal Docket Ellsworth	39
Unified Criminal Docket Farmington	35
Unified Criminal Docket Machias	18
Unified Criminal Docket Portland	156
Unified Criminal Docket Rockland	36
Unified Criminal Docket Skowhegan	23
Unified Criminal Docket South Paris	78
Unified Criminal Docket Wiscasset	55
Waterville District Court	51
West Bath District Court	112
Wiscasset District Court	59
York District Court	101

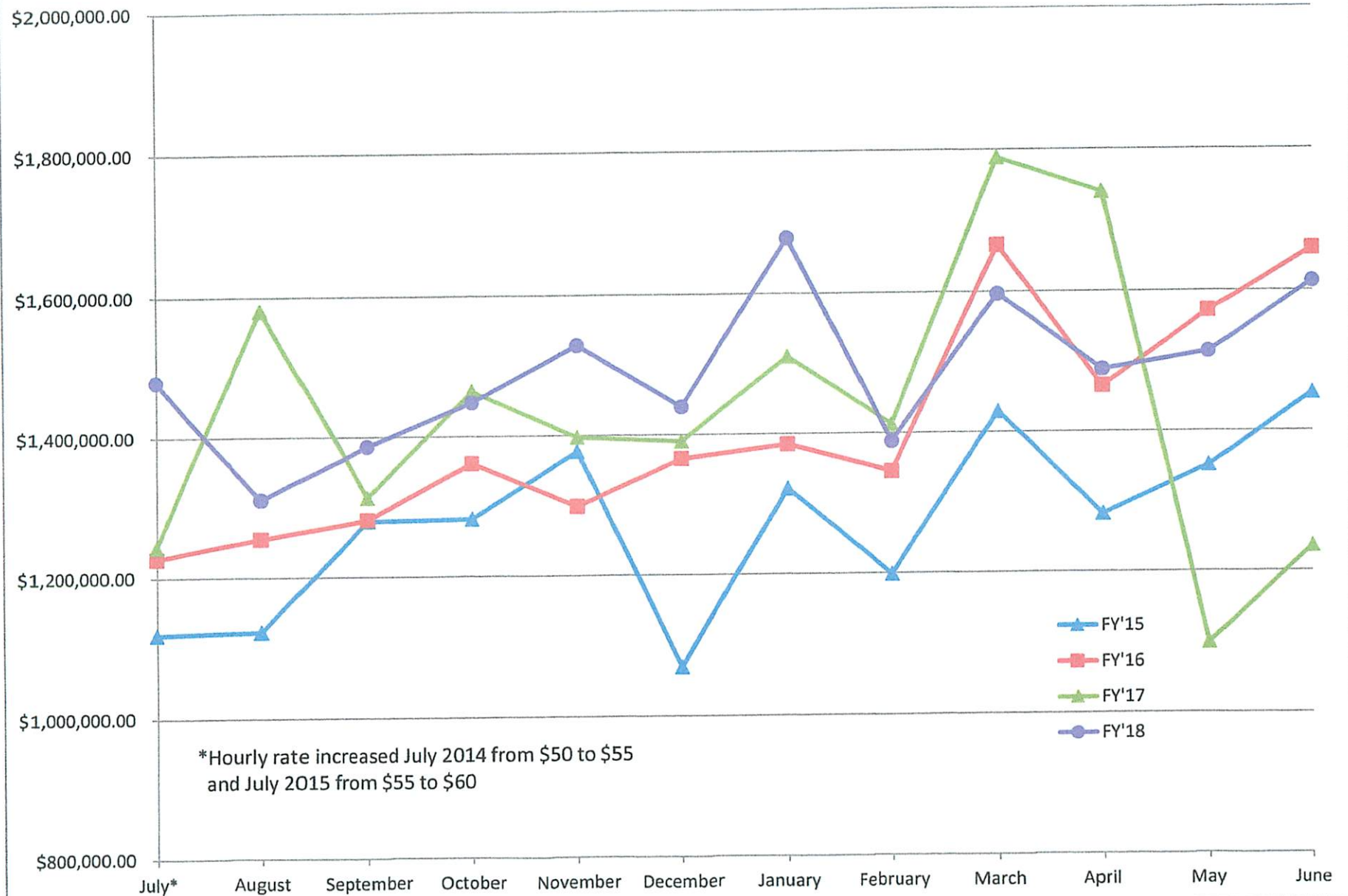
NEW CASES



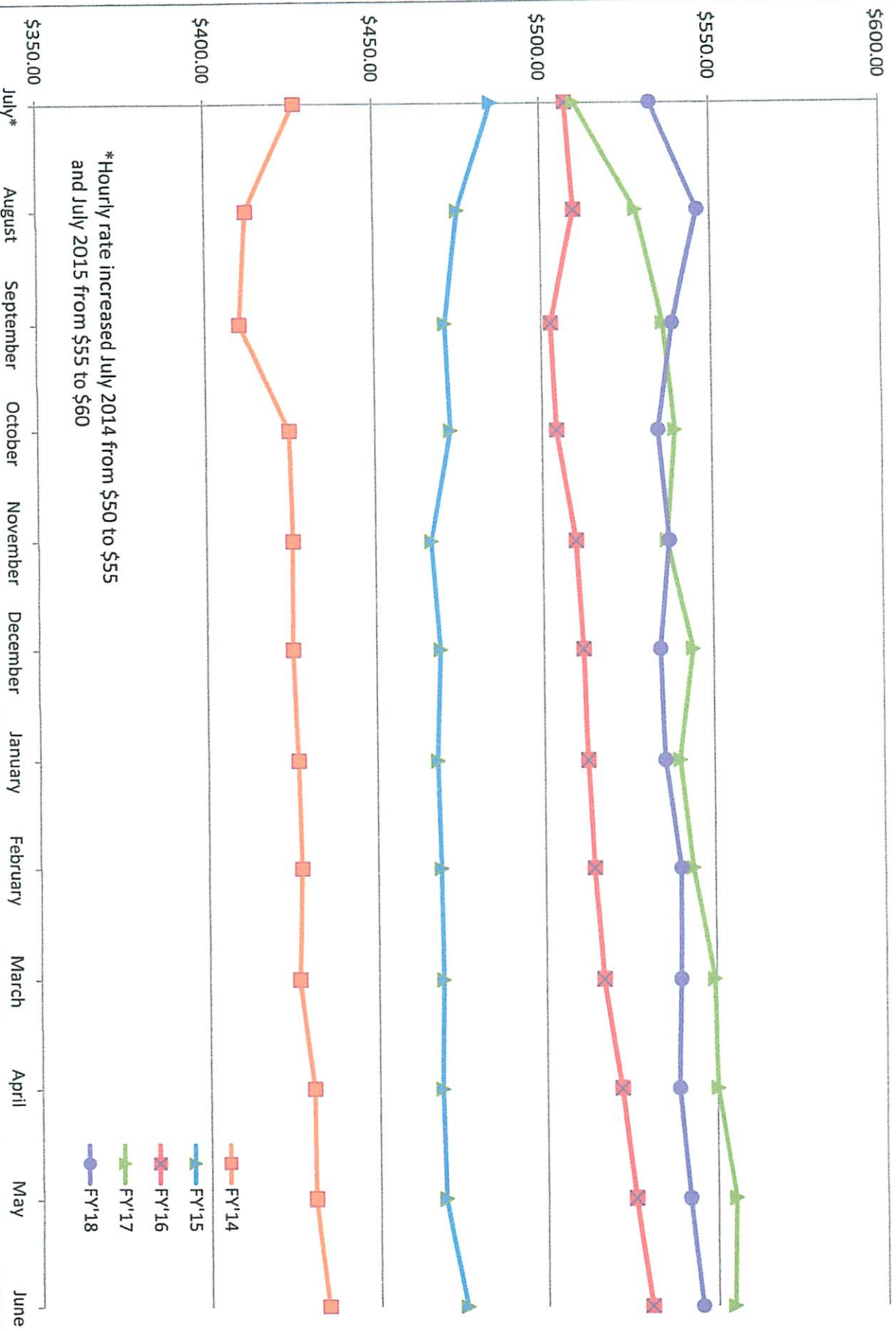
Submitted Vouchers



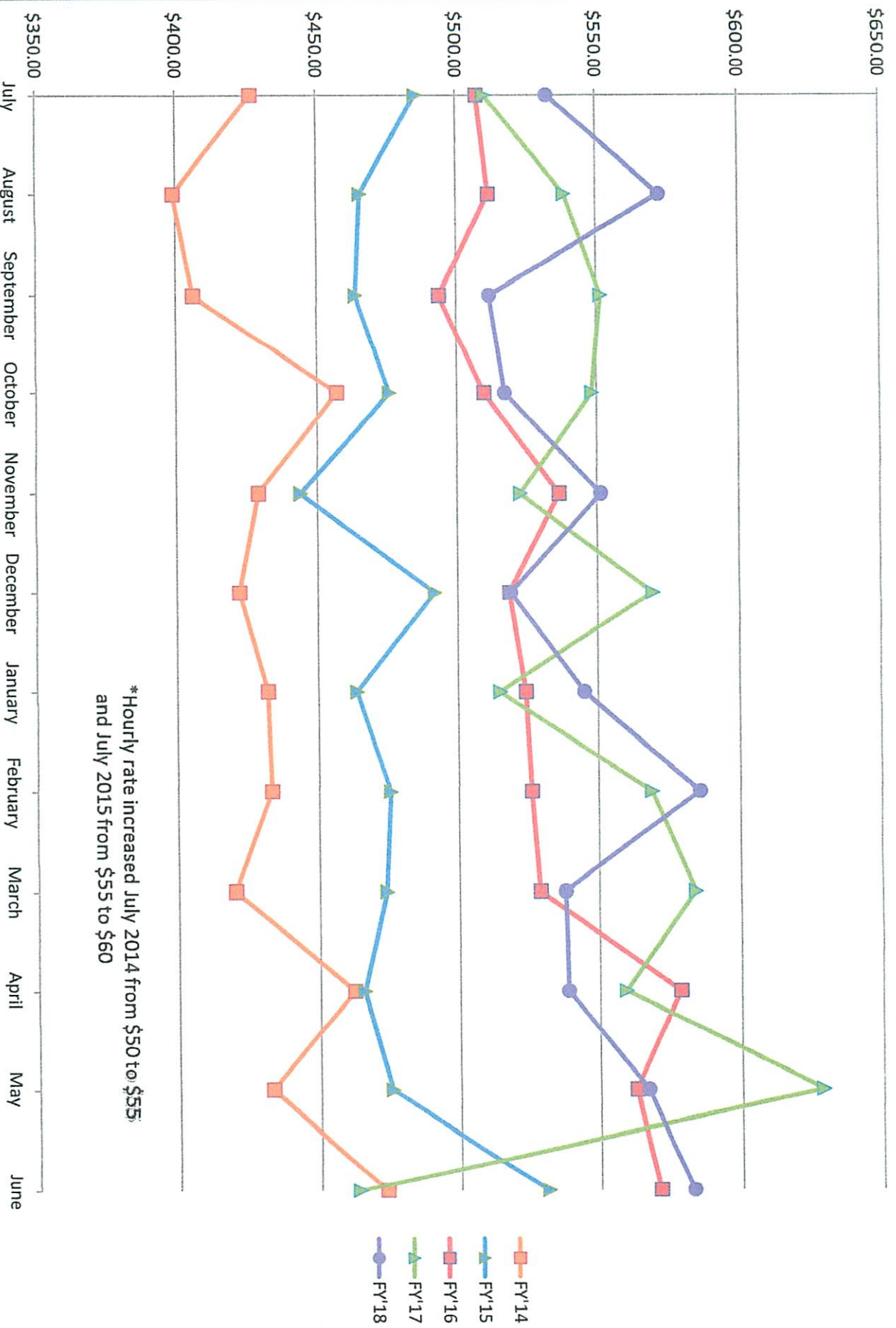
Submitted Voucher Amount



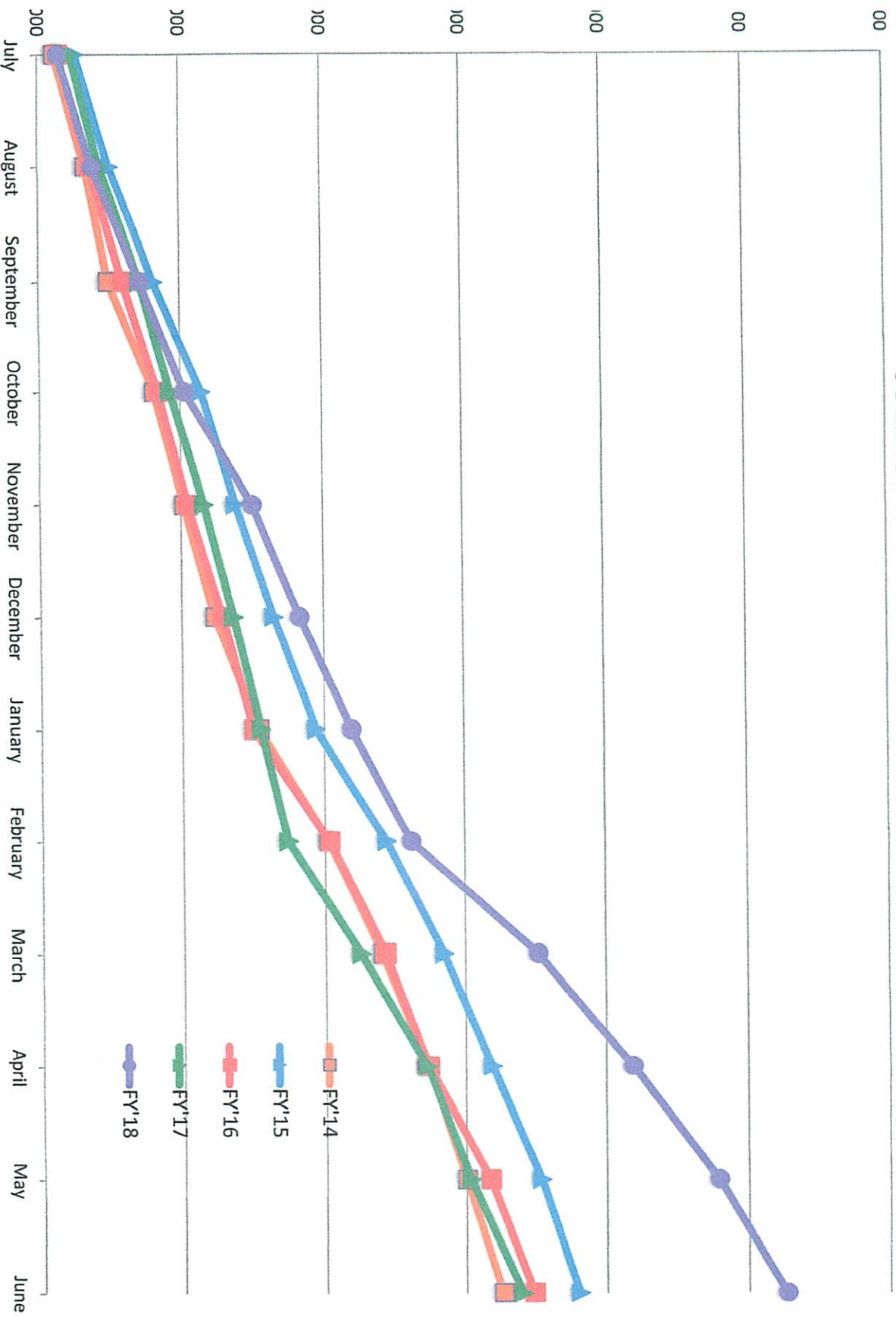
Average Voucher Price Fiscal Year to Date



Monthly Price Per Voucher



COLLECTION TOTALS FY'14 to FY'18



(3.)
Budget Update

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: BUDGET UPDATE
DATE: JULY 5, 2018

FY'18

All Other Account

Anticipating that we would not be able to spend all of our FY'18 allotment, in June, we paid all vouchers submitted and all non-counsel expenses on hand. Hence, we have no FY'18 costs to carry over into FY'19. Even so, our remaining surplus for the year totaled \$1,122,350.32, even accounting for the \$110,000 that was de-appropriated from our budget to fund the 6th Amendment Center study.

The total budget numbers for FY'17 and FY'18 were skewed because the amount appropriated by the Legislature was \$2.8 million less than needed, and that \$2.8 million was added to our projected need in the FY'18 budget. If you smooth out the comparison by assuming the \$2.8 million had been appropriated in FY'17 rather than FY'18, our All Other allotment would have been \$18.3 million in each year. Similarly, if you look at the expenditures over the course of the two years, the average per year was \$17.7 million, hence the surplus.

Note also, that our All Other budget for FY'16 was also \$18.3 million, and that year, our surplus totaled approximately \$1 million. This shows that for the last three years, our All Other account has been flat funded at \$18.3 million, and our All Other costs have been basically flat at a number slightly below the budgeted amount.

Revenue Account

In the Revenue Account, we spent our entire allotment of \$736,000 on voucher costs. We collected, however, approximately \$1.07 million, leaving a cash balance in the account of \$331,309.12. This money remains in our revenue account as an unencumbered balance forward, but we will need a financial order, likely from the next administration, to give us authority to spend these funds. Nevertheless, these funds should be available as a cushion for our FY'19 budget should we begin to again see rising costs.

FY'19

Our All Other budget for FY'19 is \$18.3 million, albeit in the unusual status of sitting in an Other

Special Revenue (OSR) account. This represents basically a fourth year in a row of flat funding and, based on recent history, should be sufficient to cover FY'19 costs.

FY'20 – FY'21 Budget

The Budget Office has called for our budget request for the FY'20-21 biennium to be submitted by August 1st. Accordingly, the Commission will need to approve the total amount of our All Other request at the upcoming meeting. Based on the recent cost data described above, we could request that flat funding be maintained; that is, \$18.3 million All Other funding in each year of the biennium. Of course, prior to the last three years, the Commission had seen rising costs, and perhaps a higher request to hedge against a return of rising costs should be considered. Nevertheless, because the recent data shows costs are basically flat at a number slightly below \$18.3 million, the staff recommends that we pursue continued flat funding for the next biennium.

On the revenue side, the budget proposal will seek to raise the allotment in the Revenue account to at least \$1 million per year so that should robust collects continue, we will have authority to spend collected funds as they come in.

Finally, I noted above that our All Other account is in an OSR account. This account has been created and, a few new wrinkles aside, we don't anticipate problems using this account to fund our operations. As we have discussed before, because the account is not a General Fund account, it will not create a "baseline budget" in the biennial budgeting process. Hence, our biennial budget will have to be funded "from scratch." We will have to work with the Legislature to ensure sufficient General Fund allotment for fiscal years 2020 and 2021.

(4.)

Legislative Update

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: Legislative Update
DATE: July 5, 2018

During the current session, the Legislature passed three bills related to the Commission.

LD 1812, an emergency measure, authorized the Legislative Council to contract with the Sixth Amendment Center to study the provision of indigent legal services in Maine using funds essentially transferred from the MCILS budget to the Legislative Council budget. The bill became law without the Governor's signature on April 21, 2018. The contract with the Legislative Council has been executed, and the study is underway with the staff responding to requests for information from the Sixth Amendment Center. A copy of the public law is attached.

LD 1817 alters the number of MCILS Commissioners and the qualifications for service. The bill became law without the Governor's signature on July 1, 2018, as an emergency measure, and new appointments to the Commission could be made under its provisions. Members currently serving are not subject to the newly amended qualification requirements. A copy of the public law is attached.

LD 1897 reinstates the Commission's other special revenue funds, our Revenue and Conference accounts, that were omitted from the FY'19 budget by oversight. This bill became law on April 18, 2018, when the Governor's veto was overridden. Because the bill was not an emergency measure, it will not take effect until August 1, 2018. A copy of the public law is attached.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND EIGHTEEN

H.P. 1257 - L.D. 1812

**Resolve, Directing an Independent, Nonpartisan, Objective Evaluation of the
Provision of 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 State of Maine has a constitutional obligation to provide indigent legal services; and

Whereas, the diversity in population density and availability of attorneys across the State can present challenges to providing consistent high-quality legal services to fulfill that obligation; and

Whereas, many factors external to the operation of the Maine Commission on Indigent Legal Services are driving up costs to both prosecution and defense; and

Whereas, the need to ensure the most efficient use of limited resources requires a study of the existing system to be conducted by an independent, outside, nonpartisan entity; and

Whereas, the Working Group to Improve the Provision of Indigent Legal Services recommended that such a study be conducted as soon as possible; and

Whereas, authorization and funding for the study need to be provided as soon as possible for the comprehensive study to be conducted in time for recommendations to be considered by the First Regular Session of the 129th Legislature; 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. Legislative Council to contract for independent, nonpartisan, objective evaluation of obligation to provide indigent legal services.
Resolved: That the Legislative Council, through the Executive Director of the

Legislative Council, shall contract with a qualified nonprofit organization that has, within the 12 months prior to the effective date of this resolve, provided consulting and evaluations regarding state indigent legal services systems to evaluate the existing system in the State for providing legal representation as required by both the Constitution of Maine and the United States Constitution and by the laws of the State and to provide recommendations to improve the structure, services and other elements of the State's indigent legal services system. The executive director shall arrange for the evaluation to be completed and a report submitted to the joint standing committee of the 129th Legislature having jurisdiction over judiciary matters no later than January 15, 2019; and be it further

Sec. 2. Joint standing committee authorized to report out legislation.
Resolved: That the joint standing committee of the 129th Legislature having jurisdiction over judiciary matters is authorized to submit legislation based on the report and recommendations contained in the report submitted pursuant to section 1 to the First Regular Session of the 129th Legislature; and be it further

Sec. 3. Appropriations and allocations. **Resolved:** That the following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Deappropriates funds on a one-time basis to offset the cost to provide funding for the purpose of entering into a contract with a nonprofit organization experienced in evaluating indigent legal services systems.

GENERAL FUND	2017-18	2018-19
All Other	(\$110,000)	\$0
GENERAL FUND TOTAL	(\$110,000)	\$0

**INDIGENT LEGAL SERVICES, MAINE
COMMISSION ON
DEPARTMENT TOTALS**

	2017-18	2018-19
GENERAL FUND	(\$110,000)	\$0
DEPARTMENT TOTAL - ALL FUNDS	(\$110,000)	\$0

LEGISLATURE

Legislature 0081

Initiative: Appropriates funds on a one-time basis to the Legislature to provide funding for the purpose of entering into a contract with a nonprofit organization experienced in evaluating indigent legal services systems.

GENERAL FUND	2017-18	2018-19
All Other	\$110,000	\$0
GENERAL FUND TOTAL	<u>\$110,000</u>	<u>\$0</u>

LEGISLATURE		
DEPARTMENT TOTALS	2017-18	2018-19
GENERAL FUND	\$110,000	\$0
DEPARTMENT TOTAL - ALL FUNDS	<u>\$110,000</u>	<u>\$0</u>

SECTION TOTALS	2017-18	2018-19
GENERAL FUND	\$0	\$0
SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$0</u>

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

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

H.P. 1259 - L.D. 1817

**An Act To Implement the Recommendations of the Working Group To
Improve the Provision of Indigent Legal Services Concerning the
Membership 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 Commission on Indigent Legal Services consists of 5 members, although there are currently only 3 sitting commissioners; and

Whereas, the Working Group to Improve the Provision of Indigent Legal Services recommended that the membership be expanded in number and diversity; and

Whereas, new appointments to the commission should be made consistent with the recommendation to adjust the makeup of the commission, and the commission should be operating at full strength as soon as possible; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §1803, sub-§1, as enacted by PL 2009, c. 419, §2, is repealed and the following enacted in its place:

1. **Members; appointment; chair.** The commission consists of 9 members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature. The Governor shall designate one member to serve as chair of the commission. The membership consists of the following:

A. One member from a list of qualified potential appointees, provided by the President of the Senate;

B. One member from a list of qualified potential appointees, provided by the Speaker of the House of Representatives;

C. Three members from a list of qualified potential appointees, provided by the Chief Justice of the Supreme Judicial Court;

D. One member with experience in administration and finance;

E. One member with experience providing representation in child protection proceedings;

F. One member from a list of qualified potential appointees who are attorneys engaged in the active practice of law and provide indigent legal services, provided by the president of the Maine State Bar Association. This member is a nonvoting member of the commission; and

G. One member from a list of qualified potential appointees who are attorneys engaged in the active practice of law and provide indigent legal services, provided by the president of a statewide organization, other than the Maine State Bar Association, that represents criminal defense attorneys. This member is a nonvoting member of the commission.

In determining the appointments and recommendations under this subsection, the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Judicial Court, the president of the Maine State Bar Association and the president of the statewide organization that represents criminal defense attorneys shall consider input from individuals and organizations with an interest in the delivery of indigent legal services. Recommendations provided by the president of the Maine State Bar Association and the president of the statewide organization representing criminal defense attorneys must consist of attorneys providing indigent legal services as a majority of their law practices.

Sec. 2. 4 MRSA §1803, sub-§§2 and 4, as enacted by PL 2009, c. 419, §2, are amended to read:

2. Qualifications. Individuals appointed to the commission must have demonstrated a commitment to quality representation for persons who are indigent and have the skills and knowledge required to ensure that quality of representation is provided in each area of law. No more than 3 7 members may be attorneys engaged in the active practice of law. A person who is a sitting judge, prosecutor or law enforcement official, or an employee of such a person, may not be appointed to the commission. A voting member and the immediate family members living in the same household as the member may not receive compensation from the commission, other than that authorized in Title 5, section 12004-G, subsection 25-A, while the member is serving on the commission.

The limitations on members receiving compensation from the commission do not apply to any member serving on the commission as of April 1, 2018 for the duration of the member's term.

4. Quorum. Three ~~A quorum is a majority of the current voting members of the commission constitutes a quorum.~~ A vacancy in the commission does not impair the power of the remaining members to exercise all the powers of the commission.

Sec. 3. Initial appointments. Notwithstanding the Maine Revised Statutes, Title 4, section 1803, subsection 3, when appointing the members to fill the 4 new seats on the Maine Commission on Indigent Legal Services pursuant to this Act, the Governor shall designate one member to serve an initial term of 3 years, 2 members to serve an initial term of 2 years and one member to serve an initial term of one year. Members serving on the commission on the effective date of this Act continue to serve until the expiration of their terms.

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

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

H.P. 1330 - L.D. 1897

**An Act To Reinstate Certain Other Special Revenue Funds Allocations for
the Maine Commission on Indigent Legal Services**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Reserve for Indigent Legal Services Z258

Initiative: Allocates funds from reimbursement of counsel fees and from conference training fees.

OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
All Other	\$0	\$793,497
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$793,497

(5.)

**Resource Counsel
Program**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: RESOURCE COUNSEL
DATE: JULY 5, 2018

At its last meeting, the Commission requested two changes to the policy that the staff had proposed to govern the initial implementation phase of the Resource Counsel program. The amended policy is attached.

We distributed the policy to the attorneys designated as Resource Counsel prior to a conference call with the group on June 22, 2018. We had near perfect attendance on the call and the policy was well received. The staff is putting thought into the timing and manner of publicizing the program to our rostered attorneys. In addition, Justiceworks is in the process of implementing changes needed to allow DefenderData billing as called for by the policy. Our goal is to launch the policy on August 1, 2018.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Policy and Procedures Governing the Activities of Resource Counsel

PROGRAM ESTABLISHED

The Resource Counsel Program is hereby established to provide for the mentoring, supervision, and evaluation of private assigned counsel providing indigent legal services. The purpose is to expand the capacity of the Commission's small central office staff to 1) provide guidance to lawyers newly admitted to the Bar or new to the provision of indigent legal services, 2) to supervise and evaluate attorney performance in indigent legal services cases, and 3) to identify and intervene with attorneys in need of assistance to provide the highest quality indigent legal services. The goal of the program is to assist the Commission to meet its obligation to provide high quality indigent legal services throughout the State.

These policies and procedures recognize that the Resource Counsel Program is a new undertaking for the Commission and anticipate that the Program is likely to evolve and change as the Commission gains experience with the Program and participants identify additional needs, as well as the aspects of the Program that provide the most benefit.

DESIGNATION OF RESOURCE COUNSEL

Commission staff will identify and recruit experienced counsel capable of performing duties of Resource Counsel and designate those attorneys to serve. Resource Counsel activities will focus on three practice areas: Adult Criminal, Juvenile, and Child Protective. Each county will be served by at least one attorney designated as Resource Counsel for each of these three practice areas. Individual attorneys may be designated as Resource Counsel in more than one practice area and for more than one county. Resource Counsel serve at the pleasure of the Commission and may be removed as Resource Counsel at any time by the Executive Director or the Executive Director's designee.

MENTORING

As the Resource Counsel Program is launched, the provision of mentoring services will be the primary focus of Resource Counsel. All attorneys required to attend minimum standards training to qualify to provide indigent legal services will be required to contact Resource Counsel dedicated to serve their geographic location for the practice area(s) in which they are newly qualified. Similarly, Commission staff will notify individual Resource Counsel of the presence of newly rostered attorneys in their designated geographic and practice areas. Resource Counsel will meet with newly rostered attorneys within 30 days of notification, and again within 90 days and six months. At this time, the nature and extent of the mentoring services will be at the discretion of Resource Counsel, who are encouraged to consult with Commission staff regarding the need for mentoring services based on their interactions with the newly rostered attorneys.

With respect to attorneys already providing indigent legal services, the Commission will publicize the existence of the Resource Counsel Program to its rostered attorneys and on its

website emphasizing the availability of Resource Counsel for guidance with respect to challenging individual cases or practice issues in general. Resource Counsel will respond to requests from attorneys for consultation and guidance. In addition, Commission staff may, based on information from any source, require individual attorneys to meet with Resource Counsel for guidance and mentoring. The nature and extent of the mentoring services will be at the discretion of Resource Counsel, who, again, are encouraged to consult with Commission staff regarding the nature and extent of such mentoring services.

SUPERVISION AND EVALUATION

At this time, Resource Counsel are not required to engage in random in-court observation of attorneys and/or file reviews. Such activities may, however, be undertaken as part of the mentoring services described above.

In addition, Resource Counsel will be attuned to practice and performance issues that they may observe in the course of their regular practice or come to light through conversations with fellow practitioners, attorneys for the State, service providers, or judicial officers. When issues of concern come to the attention of Resource Counsel, they will consult with Commission staff, and a course of action will be mutually agreed upon. Such action may include raising the issues with the attorney involved, in-court observation, and/or file reviews. The goal of these activities is to assist lawyers to address problem areas and improve those attorneys overall performance.

It is expected that as the Commission gains experience with the Resource Counsel Program, a system of routine, periodic supervision and evaluation of attorneys providing indigent legal services will be considered by the Commission, which may include specific guidelines and tools for attorney evaluation. Again, the goal will be to assist lawyers to identify and address problem areas and improve their overall performance.

CONFLICT OF INTEREST

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

While not a strict conflict, Resource Counsel should not mentor or evaluate an attorney in their own firm.

CONFIDENTIALITY

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

COMPENSATION

Resource Counsel shall be compensated for up to 10 hours per month at the hourly rate paid to attorneys providing indigent legal services generally. Resource Counsel shall submit vouchers to the Commission through its electronic billing system on a monthly basis. Individual vouchers will identify the practice area, Adult Criminal, Juvenile, or Child Protective, covered by the activities listed on the voucher, and Resource Counsel covering more than one practice area will submit one voucher per month for each. The vouchers will contain sufficient detail to allow Commission staff to review and evaluate the nature and extent of the activities performed. For attorneys designated as Resource Counsel with respect to more than one practice area, the 10 hour per month limit applies to compensation generally, as opposed to 10 hours per practice area. Vouchers shall be submitted by the 15th day of the following month.

REPORTING AND COMMISSION REVIEW

After six (6) months from the adoption of these policies and procedures, Commission Staff will report to the Commission on the operation of the Resource Counsel system. At that time, the Commission will review these policies and procedures to determine whether any changes or additions are warranted.

(6.)

Miscellaneous Report back

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: MISCELLANEOUS ITEMS REPORT BACK
DATE: JULY 5, 2018

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

CRIMINAL PRACTICE STANDARDS: The Commission asked the staff to undertake a careful review of the criminal practice standards and to add that review as a priority item on the Action Items list. The staff has not had time to undertake this review because the Executive Director was out of the office for one week in June and because of the need to address outstanding vouchers and other invoices prior to the end of the fiscal year. An amended Action items list is attached.

IMMIGRATION CONSULTATION CONTRACT: The Commission asked about the number of cases handled by the contract attorney and what sort of reporting the Commission received regarding consultation activities. We do not require reporting beyond the number of contacts each month that the consulting attorney receives about MCILS cases. During the last twelve months, the number of contacts has varied from 12 to 25. The average number is 20. In addition, vouchers often reflect attorney contacts with the consultant regarding immigration issues and dispositions tailored to avoid negative immigration consequences.

MINIMUM STANDARDS TRAINING: The Commission asked staff to consider whether the number of offerings should be reduced from the current schedule of twice per year. The training schedule follows the results of the twice yearly Bar Exam to provide an opportunity for newly admitted attorneys to qualify for the roster. At this point, the Staff does not have a position. We did note, however, that in this June's offering, new attorneys were qualified who intend to practice in Oxford, Hancock, and Aroostook Counties, as well as two in Newport, all areas in need of lawyers.

FEEDBACK FORM: The Commission inquired whether feedback forms are confidential or are public documents. The issue would be governed by the Commission's confidentiality statute, 4 M.R.S.A. § 1806, a copy of which is attached. If the form addressed a child protective or closed juvenile case, the form would be confidential. Otherwise, information subject to the attorney client-privilege would likely be confidential, but there could be an issue whether the client waived the privilege by submitting the form. Beyond the original form, any additional information requested from the form's author or from the attorney addressed in the form would come under the provision making information gathered in the "evaluation or investigation" of an attorney confidential.

STAFF COMMUNICATION WITH THE COMMISSION: After the last meeting was adjourned, the Commissioners became aware that a MCILS member was present and had sought to give public comment. Because the meeting had been adjourned, this did not happen. At least one Commissioner inquired whether a staff member seeking to provide public comment could do so on work time or would need to use personal time.

The staff member subsequently followed up with Chair Carey regarding the issue sought to be addressed in public comment. On the issue of work v. personal time and the broader issue of staff communication with the Commission, Chair Carey responded to the staff member as follows: Public comment should address public rather than confidential information and would need to be done on private time as set forth in Title 5, chapter 2. A staff member seeking to address a concern about MCILS business should address the issue first with a supervisor. If the staff member were uncomfortable addressing the supervisor or the concern was not addressed by the supervisor, the staff member should contact the Commission Chair, who will determine how to address the concern, which could include putting the matter on the agenda for a Commission meeting in either open or executive session.

POTENTIAL ACTION ITEMS – JULY 2018

PRIORITY

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

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

COMPLETED ITEMS

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

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

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

PENDING ITEMS

Resource Counsel system. – Pending Action: Staff is in the process of developing and implementing the resource counsel system. All counsel invited to be resource counsel have agreed to do so. The staff is in the early stages of composing detailed guidelines and procedures for the system and has gathered materials from Massachusetts regarding their system of supervising attorneys.

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

OTHER ITEMS

Review and Possible amendment of the Criminal Practice Standards

Items requiring court cooperation:

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

Block case assignments.

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

Refusing to pay for discovery.

Closing rosters to new lawyers in areas flush with lawyers.

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

Evaluation surveys.

Maine Revised Statutes

Title 4: JUDICIARY

Chapter 37: MAINE COMMISSION ON INDIGENT LEGAL SERVICES

§1806. INFORMATION NOT PUBLIC RECORD

Disclosure of information and records in the possession of the commission is governed by this section. [2011, c. 260, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Individual client information" means name, date of birth, social security number, gender, ethnicity, home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, personal pager number and any information protected under the attorney-client relationship. [2011, c. 260, §1 (NEW).]

B. "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, personal pager number, date of birth and social security number. [2011, c. 260, §1 (NEW).]

C. "Request for funds for expert or investigative assistance" means a request submitted to the commission by an indigent party or by an attorney on behalf of an indigent client seeking authorization to expend funds for expert or investigative assistance, which includes, but is not limited to, the assistance of a private investigator, interpreter or translator, psychiatrist, psychologist or other mental health expert, medical expert and scientific expert. [2011, c. 260, §1 (NEW).]

D. "Case information" means:

- (1) The court in which a case is brought;
- (2) Any criminal charges or juvenile crime charges and the type, but not the contents, of any petition giving rise to a case;
- (3) The docket number;
- (4) The identity of assigned counsel and the date of assignment;
- (5) The withdrawal of assigned counsel and the date of withdrawal; and
- (6) Any order for reimbursement of assigned counsel fees. [2011, c. 547, §1 (NEW).]

[2011, c. 547, §1 (AMD) .]

2. Confidential information. The following information and records in the possession of the commission are not open to public inspection and do not constitute public records as defined in Title 1, section 402, subsection 3.

A. Individual client information that is submitted by a commission-rostered attorney or a court is confidential, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential. [2011, c. 260, §1 (NEW).]

B. Information subject to the lawyer-client privilege set forth in the Maine Rules of Evidence, Rule 502 or that constitutes a confidence or secret under the Maine Rules of Professional Conduct, Rule 1.6 is confidential. [2011, c. 260, §1 (NEW).]

C. Personal contact information of a commission-rostered attorney is confidential. [2011, c. 260, §1 (NEW).]

D. Personal contact information of a member of the commission or a commission staff member is confidential. [2011, c. 260, §1 (NEW).]

E. A request for funds for expert or investigative assistance that is submitted by an indigent party or by an attorney on behalf of an indigent client is confidential. The decision of the executive director of the commission hired pursuant to section 1804, subsection 1, or the executive director's designee, to grant or deny such a request is not confidential after a case has been completed. A case is completed when the judgment is affirmed on appeal or the period for appeal has expired. [2011, c. 260, §1 (NEW).]

F. Any information obtained or gathered by the commission when performing an evaluation or investigation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated or investigated. [2015, c. 290, §1 (AMD).]

[2015, c. 290, §1 (AMD) .]

3. Confidential information disclosed by the Judicial Department. The Judicial Department may disclose to the commission confidential information necessary for the commission to carry out its functions, including the collection of amounts owed to reimburse the State for the cost of assigned counsel, as follows:

A. Case information and individual client information with respect to court proceedings that are confidential by statute or court rule in which one or more parties are represented by assigned counsel; and [2011, c. 547, §2 (NEW).]

B. The name, address, date of birth and social security number of any person ordered by the court to reimburse the State for some or all of the cost of assigned counsel. [2011, c. 547, §2 (NEW).]

This information remains confidential in the possession of the commission and is not open to public inspection, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

[2011, c. 547, §2 (NEW) .]

SECTION HISTORY

2011, c. 260, §1 (NEW). 2011, c. 547, §§1, 2 (AMD). 2015, c. 290, §1 (AMD) .

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