

MCILS

June 9, 2017

**Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

JUNE 9, 2017

COMMISSION MEETING

ROOM 111B, 19 UNION STREET, AUGUSTA, MAINE

AGENDA

- 1) Approval of May 15, 2017 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Budget Update
- 4) Public Comment
- 5) Set Date, Time and Location of Next Regular Meeting of the Commission
- 6) Executive Session, if needed (Closed to Public)

(1.)
May 15, 2017
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
May 15, 2017**

Minutes

Commissioners Present: Steven Carey, Marvin Glazier, William Logan, Carlann Welch

MCILS Staff Present: John Pelletier

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the April 14, 2017 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Glazier moved for approval, Commissioner Welch seconded. All present voted in favor. Approved.
Operations Reports Review	Director Pelletier presented the April 2017 Operations Reports. 2,155 new cases were opened in the DefenderData system in April. This was a 233 case decrease from March. The number of submitted vouchers in April was 2,956, a decrease of 32 vouchers from March, totaling \$1,738,481.09, a decrease of \$50,000 from March. In April, the Commission paid 1,831 vouchers totaling \$1,024,220.57, a decrease of 1,600 vouchers and \$979,000 from March. The average price per voucher was \$559.02, down \$25.05 per voucher from March. Post-Conviction Review cases and Probate Cases in District Court had the highest average vouchers. There were 6 vouchers exceeding \$5,000 paid in April. The monthly transfer from the Judicial Branch for counsel fees for April, which reflects March's collections, totaled \$94,260.31, a substantial amount reflecting the impact of the tax offset program. Chair Carey asked about the high average voucher cost for the Drug Court category. Director Pelletier explained that these are vouchers submitted by defense counsel representatives serving on teams that supervise the various specialty courts, such as the drug courts, the veteran's court, and the co-occurring disorders court. Director Pelletier further explained that these representatives typically bill for several weeks or months of work at a time and that the voucher amount does not represent billing	

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	<p>for a single specialty court event. Chair Carey also pointed out that the Judicial Branch had modified its cap on Termination of Parental Rights (TPR) cases to lower the cap if the matter is disposed of by consent rather than through a contested hearing. Director Pelletier pointed out that many TPR cases are resolved by consent, but whether by consent or hearing, he feels that TPR cases are taking longer to get from the filing of the petition to actual disposition. Many cases are going more than six months without a hearing, leading to large vouchers in TPR cases. Director Pelletier also related his observation that Child Protective cases in general appear to be more complex and to take longer between billing events than has been the case in the past.</p> <p>Director Pelletier also pointed out due to recent robust collections, the Commission had now collected an amount equal to the same point in the last fiscal year after having lagged behind FY'16 for most of the current fiscal year.</p>	
Budget Update	<p>Director Pelletier reminded the Commissioners that at the last Commission meeting he had related that members of the Judiciary Committee had circulated draft proposed changes to the Commission's statute and requested a response, which Chair Carey had provided. Director Pelletier stated that the response had been refined at a meeting of a working group, convened at the request of the Committee, on April 14, 2017. The proposal that emerged from the working group meeting formed the basis of a biennial budget work session in the Judiciary Committee on May 3, 2017. This proposal leaves the Commission structure in place, but makes changes to the Commission statute designed to enhance accountability through increased data gathering and reporting and to enhance verification of financial information submitted by applicants and collection enforcement regarding those ordered to make reimbursement of counsel fees. The proposal was given a line by line review by the Committee and members suggested minor revisions, but the proposal seemed to be received favorably overall. The committee analyst was tasked with working with Chair Carey to incorporate the additional changes suggested by committee members into a document to be reviewed at a second work session. This second work session</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>had yet to be scheduled. Budget numbers were not discussed by the Committee, except that the Senate Chair did ask for the Commission's projection of the amount of the shortfall for the balance of the current fiscal year. Director Pelletier has provided that figure, roughly \$2.8 million, to the committee analyst.</p> <p>A general discussion among the Commissioners about the budget situation and potential changes to Commission practices then ensued.</p> <p>Director Pelletier recommended that the staff review current rosters with a view to narrowing the geographic eligibility of attorneys in hopes of reducing mileage and travel time costs. Commissioner Glazier pointed out that in any such process, consideration needs to be given to counties without a sufficient number of local attorneys so that lawyers from other counties are available to meet the need for assigned counsel. Commissioner Welch pointed out that she was aware that when DHHS provides representation to juveniles in their custody, they require that the lawyer be from the county where the case resides. Chair Carey related that he has favored such a narrowing for some time now, but acknowledged the difficulty that Maine's geography presents, pointing to a proposal from some juvenile advocates to have "local counsel" meet with juveniles at Longcreek who see their attorneys infrequently because their cases are in distant courts. Chair Carey suggested that geographic narrowing of Commission rosters be a priority once the budget matters before the Legislature are resolved. Commissioner Welch agreed, but reiterated that any change should not compromise the quality of service provided. Commissioner Logan asked whether we can isolate mileage and travel costs in our billing system. Director Pelletier pointed out that acquiring such data would be a priority with Justiceworks once a new contract is concluded before the end of the fiscal year.</p> <p>Commissioner Logan went on to suggest that, while there are cost drivers that are not within the Commission's control, the Commission should do everything it can to control the cost of things under its control, with the travel costs being an example of such an item. Commissioner Logan also expressed concern about attorneys working</p>	

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	<p>on cases with the prospect of significant payment delays due to the current budget shortfall. He stated that it is unlikely that the State would impose a similar burden on, for example, Assistant District Attorneys, and pointed out that perhaps another delivery model, such as a public defender office with employee counsel or a contract system with costs fixed and budgeted in advance, would avoid a repeat of the current situation.</p> <p>Chair Carey stated that he agreed that the Commission must focus on cost saving measures within its control, and suggested raising the Commission's focus on such potential reforms by listing them as specific agenda items for future meetings. Commissioner Logan suggested that harder caps should be considered, with appeals to the Law Court being an example of an area where costs are rising that needs attention. Chair Carey suggested that a system of pre-approval for exceeding the cap could be implemented, with fees reduced if approval to exceed the cap is not obtained in advance. He noted, however, that such a system would create an additional administrative burden.</p> <p>Commissioner Logan suggested working with Justiceworks to identify individual attorney caseloads, as well as which attorneys are billing the most hours or exceeding the cap most frequently. Commissioner Welch pointed out that while data collection is necessary, the most important thing is to ensure that necessary work is being performed in a quality manner.</p> <p>Chair Carey pointed out that he is working with a representative of the Judicial Branch on a potential pilot project in Lewiston/Auburn to explore assigning cases in blocks to individual attorneys so that the group of cases assigned would recur together on court schedules, thus minimizing the number of times attorneys would appear and encounter long wait times to address a single case. Commissioner Logan raised a concern that courts may be frustrated if attorneys had too many cases and, as a result, were working on one case and not available when the court needed the attorney on another case. Commissioner Glazier also pointed out that block</p>	

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	<p>assignments may be unworkable in rural counties with few attorneys. Chair Carey responded that such issues could be worked out through a pilot project with the optimum method of assignment emerging from the experience in the pilot. He also stated any system would have exceptions to meet the unique needs of Maine's various courts.</p> <p>Director Pelletier then pointed out that the Commission would be unable to pay vouchers submitted after May 2nd until after the beginning of the new fiscal year. He also stated that the attorneys had been informed of this date in advance of May 2nd, but that the target remained unchanged despite a rush of vouchers submitted prior to that date.</p> <p>Commissioners Carey and Glazier stated that they were aware of some lawyers advocating for some sort of "work stoppage" aimed at Lawyer of the Day sessions as a way to protest the payment delay. Chair Carey said he believed that such sentiment was not widespread and that the willingness of our attorneys to serve the clients' interests despite the difficult situation would help the Commission to advocate on their behalf at the Legislature. Commissioner Welch stated her belief that attorneys working without the prospect of timely payment seemed unacceptable to her. Director Pelletier pointed out that attorneys had experienced some shorter payment delays during the Commission's tenure and even longer delays when the Judicial Branch oversaw the system. He suggested that many of the attorneys had seen this situation before and carried on out of a sense of dedication to the clients and the work.</p> <p>Finally, Director Pelletier pointed out that the Commission had still not received a hiring freeze waiver from the Governor's office that is necessary before it can fill the Portland screener position.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Status of RFP's Update	Director Pelletier related that he was seeking permission from the Division of Purchases to use the current contract form to execute the contract recently awarded to Justiceworks. He stated that he would be following up to ensure the contract was executed prior to the end of the fiscal year.	
Public Comment	<p><u>Robert J. Ruffner, Esq.</u>: Attorney Ruffner submitted written comments. He also stated that he had heard that while no supplemental funding would be forthcoming to address the shortfall, he had also heard that there was support for including additional funds in the FY'18 budget to make up the shortfall.</p> <p>Attorney Ruffner pointed out that narrowing the roster on the basis of geography was complicated and needed to avoid driving lawyers from the system or losing the benefit to overall representation that accrues when attorneys are exposed to varying practices in different locales. He suggested that such an effort may require more deliberation than would be possible a regular Commission meetings.</p> <p>Attorney Ruffner again advocated for more Commission staff, especially in light of the additional administrative burdens that may result from changes to the Commission's statute under consideration.</p> <p>He also pointed out that cases often generate vouchers that exceed the cap due to processes that are controlled and managed by the court such as, for example, multi-day jury selections on non-capital cases.</p>	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on June 9, 2017 at 9:30 a.m.	Commissioner Logan moved to adjourn. Commissioner Glazier seconded. All present in favor.

(2.) Operations Reports

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
SUBJECT: MAY 2017 OPERATIONS REPORTS
DATE: JUNE 5, 2017

Attached you will find the May, 2017, Operations Reports for your review and our discussion at the upcoming Commission meeting on June 9, 2017. A summary of the operations reports follows:

- 2,104 new cases were opened in the DefenderData system in May. This was a 51 case decrease from April.
- The number of vouchers submitted electronically in May was 1,992, a decrease of 964 vouchers from April, totaling \$1,093,494.79, a decrease of \$645,000 from April. In May, we paid 1,750 electronic vouchers totaling \$1,099,142.74 representing a decrease of 81 vouchers but an increase of \$75,000 compared to April.
- There were 2 paper vouchers submitted and paid in May totally \$2,148.00.
- The average price per voucher in May was \$628.59, up \$69.06 per voucher over April.
- Appeal and Post-Conviction Review cases had the highest average vouchers in May. There were 11 vouchers exceeding \$5,000 paid in May. Two vouchers involved appeals from lengthy murder trials handled by new counsel on appeal in which the guilty verdicts were affirmed. Four vouchers related to sex offense cases: one involved charges of sexual abuse of a minor where the charges were dismissed just prior to trial largely due to defense counsel's investigation; another involved charges of Gross Sexual Assault where the defendant decided to plead guilty just prior to jury selection, but then asked to withdraw the plea and for new counsel to be appointed; a third involved a three day trial resulting in guilty verdicts on charges of possession of sexually explicit materials, and a fourth involved a consolidated voucher on charges of unlawful sexual contact and probation violation in multiple counties that resulted in guilty pleas. Another voucher involved interim billing in a Murder case submitted after an incompetent defendant was ordered to be medicated against his will and then found competent after a two day hearing. Another voucher involved a lengthy post-conviction review proceeding where agreement was reached to reduce an 18 year sentence to 12 years on the eve of the hearing. Two vouchers involved guilty verdicts after trial, one on charges of theft and the other on charges of domestic violence. The final voucher involved extensive suppression litigation on charges of aggravated trafficking that resulted in a greatly reduced sentence.

In our All Other Account, the total expenses for the month of May were \$1,034,305.69. Of that amount, just over \$14,000 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$69,028.55 in expenses for the month of May.

In the Revenue Account, the May transfer of collected revenue, reflecting April's collections, totaled \$61,532.22. We also deposited in the revenue account a payment of 2,500 made as restitution in return for dismissal of a criminal charge for falsifying a financial affidavit when seeking assigned counsel. In May, we paid \$148,770.82 in vouchers through the DefenderData system.

In our Conference Account, we collected registration fees for the upcoming minimum standards trainings and paid expenses related to the April 28 live juvenile training and replays of that training on May 18th and 25th. The account balance stands at \$15,166.48.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

5/31/2017

DefenderData Case Type	May-17						Fiscal Year 2017			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	15	20	\$ 54,294.96	17	\$ 45,178.65	\$ 2,657.57	165	243	\$ 370,732.95	\$ 1,525.65
Child Protection Petition	170	284	\$ 172,756.99	274	\$ 190,830.01	\$ 696.46	1,800	3,395	\$ 2,314,289.95	\$ 681.68
Drug Court	3	1	\$ 732.00	3	\$ 3,702.00	\$ 1,234.00	8	73	\$ 61,039.34	\$ 836.16
Emancipation	4	6	\$ 2,684.40	4	\$ 1,697.09	\$ 424.27	107	84	\$ 27,519.93	\$ 327.62
Felony	518	451	\$ 375,152.54	395	\$ 376,309.71	\$ 952.68	5,427	5,843	\$ 5,071,251.75	\$ 867.92
Involuntary Civil Commitment	69	60	\$ 11,019.52	29	\$ 5,992.38	\$ 206.63	788	697	\$ 159,902.98	\$ 229.42
Juvenile	63	56	\$ 24,123.65	44	\$ 28,161.32	\$ 640.03	786	863	\$ 428,795.82	\$ 496.87
Lawyer of the Day - Custody	214	177	\$ 40,146.24	125	\$ 30,356.39	\$ 242.85	2,506	2,296	\$ 559,333.87	\$ 243.61
Lawyer of the Day - Juvenile	45	35	\$ 7,069.12	17	\$ 3,004.16	\$ 176.72	450	380	\$ 74,084.58	\$ 194.96
Lawyer of the Day - Walk-in	104	95	\$ 20,081.84	73	\$ 17,926.43	\$ 245.57	1,421	1,277	\$ 310,906.61	\$ 243.47
Misdemeanor	690	528	\$ 226,917.52	511	\$ 233,924.72	\$ 457.78	7,513	7,384	\$ 3,080,986.05	\$ 417.25
Petition, Modified Release Treatment	0	2	\$ 510.00	0			9	47	\$ 23,824.39	\$ 506.90
Petition, Release or Discharge	0	1	\$ 126.00	1	\$ 372.00	\$ 372.00	5	8	\$ 3,822.67	\$ 477.83
Petition, Termination of Parental Rights	22	34	\$ 29,591.44	29	\$ 29,613.68	\$ 1,021.16	301	633	\$ 519,601.79	\$ 820.86
Post Conviction Review	7	5	\$ 12,659.88	11	\$ 20,149.20	\$ 1,831.75	77	80	\$ 145,799.12	\$ 1,822.49
Probate	1	2	\$ 1,403.60	1	\$ 1,464.00	\$ 1,464.00	11	6	\$ 6,635.74	\$ 1,105.96
Probation Violation	141	123	\$ 56,630.75	120	\$ 60,433.87	\$ 503.62	1,764	1,722	\$ 740,916.85	\$ 430.27
Represent Witness on 5th Amendment	2	5	\$ 1,049.24	0			14	12	\$ 3,747.82	\$ 312.32
Review of Child Protection Order	36	107	\$ 56,545.10	95	\$ 49,877.13	\$ 525.02	560	1,720	\$ 964,012.71	\$ 560.47
Revocation of Administrative Release	0	0		1	\$ 150.00	\$ 150.00	15	14	\$ 4,718.78	\$ 337.06
DefenderData Sub-Total	2,104	1,992	\$ 1,093,494.79	1,750	\$ 1,099,142.74	\$ 628.08	23,727	26,777	\$ 14,871,923.70	\$ 555.40
Paper Voucher Sub-Total	2	2	\$ 2,148.00	2	\$ 2,148.00	\$ 1,074.00	16	16	\$ 8,032.20	\$ 502.01
TOTAL	2,106	1,994	\$1,095,642.79	1,752	\$1,101,290.74	\$ 628.59	23,743	26,793	\$ 14,879,955.90	\$ 555.37

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY17 FUND ACCOUNTING
AS OF 05/31/2017

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY16 Total
FY17 Professional Services Allotment		\$ 4,278,098.25		\$ 4,357,441.00		\$ 4,712,015.00		\$ 2,083,667.00	
FY17 General Operations Allotment		\$ 34,560.00		\$ 34,560.00		\$ 34,560.00		\$ 34,560.00	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 4,312,658.25		\$ 4,392,001.00		\$ 4,746,575.00		\$ 2,118,227.00	\$ 15,569,461.25
Total Expenses	1	\$ (993,008.98)	4	\$ (1,499,285.92)	7	\$ (1,332,496.39)	10	\$ (1,121,248.66)	\$ (4,946,039.95)
	2	\$ (1,778,404.21)	5	\$ (974,177.24)	8	\$ (1,530,508.18)	11	\$ (1,034,305.69)	\$ (5,317,395.32)
	3	\$ (1,290,758.70)	6	\$ (1,949,070.52)	9	\$ (1,978,680.17)	12	\$ -	\$ (5,218,509.39)
Encumbrances (Somerset PDP & Justice Works)		\$ (249,075.75)		\$ 82,110.25		\$ 81,702.50		\$ 55,267.50	\$ (29,995.50)
Encumbrances (WestLaw & Barbara Taylor, business cards)		\$ (1,410.00)		\$ (51,577.00)		\$ 13,408.24		\$ 8,963.41	\$ (30,615.35)
TOTAL REMAINING		\$ 0.61		\$ 0.57		\$ 1.00		\$ 26,903.56	\$ 26,905.74

Q4 Month 11 (as of 05/31/17)	
INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (952,519.92)
Somerset County	\$ (22,687.50)
Subpoena Witness Fees	\$ (26.72)
Private Investigators	\$ (17,572.88)
Mental Health Expert	\$ (9,322.50)
Transcripts	\$ (5,538.80)
Other Expert	\$ (10,454.50)
Analysts & Lab Services	\$ -
Process Servers	\$ (356.89)
Interpreters	\$ (479.60)
Misc Prof Fees & Serv	\$ (719.00)
SUB-TOTAL (LS)	\$ (1,019,678.31)
OPERATING EXPENSES	
Service Center	\$ (794.50)
DefenderData	\$ (4,753.75)
West Publishing Corp	\$ (141.00)
Mileage/Tolls/Parking	\$ (1,192.10)
Mailing/Postage/Freight	\$ (284.10)
VDT reimbursement	\$ (150.00)
business cards	\$ (14.75)
Office Supplies/Equip.	\$ (184.84)
Cellular Phones	\$ (113.26)
Parking Permits	\$ (600.00)
Office Equipment Rental	\$ (228.95)
Barbara Taylor monthly fees	\$ (4,333.33)
OIT/TELCO	\$ (1,836.80)
SUB-TOTAL OE	\$ (14,627.38)
TOTAL	\$ (1,034,305.69)

INDIGENT LEGAL SERVICES	
Q4 Allotment	\$ 2,118,227.00
Q4 Encumbrances for Somerset PDP & Justice Works contracts	\$ 55,267.50
WestLaw & Barbara Taylor Contracts, business card DO	\$ 8,963.41
Q4 Expenses as of 04/30/17	\$ (2,155,554.35)
Remaining Q4 Allotment as of 04/30/17	\$ 26,903.56

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY16 FUND ACCOUNTING

As of 05/31/17

Account 014 95F 2112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY16 Total
Total Budget Allotments		\$ 184,125.00		\$ 184,124.00		\$ 184,124.00		\$ 184,124.00	\$ 736,497.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11		
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Budget Order Adjustment		\$ (26,670.00)		\$ (53,954.00)		\$ (8,177.00)	12	\$ 88,801.00	\$ -
Total Budget Allotments		\$ 157,455.00		\$ 130,170.00		\$ 175,947.00		\$ 272,925.00	\$ 736,497.00
Cash Carryover from Prior Quarter		\$ 23.05		\$ 3,014.37		\$ 2,493.90		\$ 3,487.40	
Collected Revenue from JB	1	\$ 61,742.47	4	\$ 42,429.56	7	\$ 37,557.56	10	\$ 94,260.31	
Promissory Note Payments		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ 40,789.66	5	\$ 46,852.35	8	\$ 37,688.09	11	\$ 61,532.22	
Court Ordered Counsel Fee		\$ -		\$ -		\$ -		\$ 2,500.00	
Collected Revenue from JB (late transfer)		\$ -		\$ -	9	\$ -		\$ -	
Collected Revenue from JB	3	\$ 55,760.61	6	\$ 40,888.57	9	\$ 102,656.56	12	\$ -	
Returned Checks-stopped payments		\$ -		\$ -		\$ 119.00		\$ -	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 158,315.79		\$ 133,184.85		\$ 180,515.11		\$ 161,779.93	\$ 624,776.96
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ -		\$ (3,011.64)		\$ -	***	\$ (3,365.33)	
Counsel Payments	2	\$ -	5	\$ -	8	\$ -	11	\$ (148,770.82)	
Other Expenses		\$ -		\$ -		\$ -			
Counsel Payments	3	\$ (154,443.22)	6	\$ (127,679.31)	9	\$ (172,580.96)	12	\$ -	\$ 124,154.18
Other Expenses	**	\$ -		\$ -	***	\$ (2,489.75)			
REMAINING ALLOTMENT		\$ 3,011.78		\$ (520.95)		\$ 876.29		\$ 120,788.85	\$ 131,538.75
Overpayment Reimbursements	1	\$ (100.00)	4	\$ -	7	\$ (1,938.00)	10	\$ -	
	2	\$ (713.20)	5	\$ -	8	\$ (19.00)	11	\$ (2,261.00)	
	3	\$ (45.00)	6	\$ -	9	\$ -	12	\$ -	
REMAINING CASH Year to Date		\$ 3,014.37		\$ 2,493.90		\$ 3,487.40		\$ 7,382.78	

Q4 Month 11 (as of 05/31/17)	
DEFENDER DATA COUNSEL PAYMENTS	
	\$ 148,770.82
SUB-TOTAL ILS	\$ 148,770.82
OVERPAYMENT REIMBURSEMENTS	\$ (2,261.00)
Paper Voucher	\$ -
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
StaCap Expense	\$ -
SUB-TOTAL OE	\$ (2,261.00)
TOTAL	\$ 146,509.82

** StaCap for December but charged against Q3 expenses

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY17 FUND ACCOUNTING
AS OF 05/31/2017

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY16 Total
FY17 Allotment	\$	181,545.00	\$	205,445.00	\$	181,540.00	\$	189,421.00	\$ -
Financial Order Adjustments	\$	-	\$	-	\$	-	\$	-	
Financial Order Adjustments					\$	-			
Budget Order Adjustments	\$	(10,747.00)	\$	(9,253.00)	\$	-	\$	20,000.00	
Total Budget Allotments	\$	170,798.00	\$	196,192.00	\$	181,540.00	\$	209,421.00	\$ 757,951.00
Total Expenses	1 \$	(55,554.51)	4 \$	(56,634.54)	7 \$	(55,808.36)	10 \$	(52,200.98)	
	2 \$	(58,643.85)	5 \$	(79,274.97)	8 \$	(51,737.55)	11 \$	(69,028.55)	
	3 \$	(56,599.36)	6 \$	(56,077.87)	9 \$	(52,374.18)	12 \$	-	
TOTAL REMAINING	\$	0.28	\$	4,204.62	\$	21,619.91	\$	88,191.47	\$ 114,016.28

Q4 Month 11 (as of 05/31/17)	
Per Diem Payments	\$ (275.00)
Salary	\$ (29,677.06)
Vacation Pay	\$ (6,549.62)
Holiday Pay	\$ (1,561.48)
Sick Pay	\$ (1,440.75)
Employee Hlth Svcs/Workers Comp	\$ -
Health Insurance	\$ (8,887.60)
Dental Insurance	\$ (223.22)
Employer Retiree Health	\$ (4,587.96)
Employer Retirement	\$ (3,016.48)
Employer Group Life	\$ (349.68)
Employer Medicare	\$ (594.38)
Retiree Unfunded Liability	\$ (7,565.34)
Standard Overtime	\$ -
Perm Part Time Full Ben	\$ (4,299.98)
TOTAL	\$ (69,028.55)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY17 FUND ACCOUNTING
As of 05/31/17

Account 014 95F Z112 02 (Conference)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY16 Total
Total Budget Allotments		\$ 10,000.00		\$ 20,000.00		\$ 20,000.00		\$ 7,000.00	\$ 57,000.00
Financial Order Adjustment				\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -			
Budget Order Adjustment		\$ (4,829.00)		\$ (11,508.00)		\$ (3,663.00)		\$ 20,000.00	\$ -
Total Budget Allotments		\$ 5,171.00		\$ 8,492.00		\$ 16,337.00		\$ 27,000.00	\$ 57,000.00
Cash Carryover from Prior Quarter		\$ 14,054.73		\$ 32,159.21		\$ 23,941.11		\$ 23,049.63	
Collected Revenue	1	\$ -	4	\$ 775.00	7	\$ -	10	\$ 975.00	
Collected Revenue	2	\$ 17,600.00	5	\$ 725.00	8	\$ -	11	\$ 500.00	
Collected Revenue	3	\$ 850.00	6	\$ 475.00	9	\$ 4,650.00	12	\$ -	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 32,504.73		\$ 34,134.21		\$ 28,591.11		\$ 24,524.63	\$ 26,550.00
Total Expenses	1	\$ (132.26)	4	\$ (6,686.13)	7	\$ (2,847.93)	10	\$ (371.41)	
	2	\$ (37.58)	5	\$ (2,288.90)	8	\$ (900.09)	11	\$ (8,986.74)	
	3	\$ (0.68)	6	\$ (1,218.07)	9	\$ (1,793.46)	12	\$ -	
Encumbrances		\$ (5,000.00)		\$ 1,725.00		\$ (7,175.00)		\$ 4,950.00	\$ (5,500.00)
REMAINING ALLOTMENT		\$ 0.48		\$ 23.90		\$ 3,620.52		\$ 22,591.85	\$ 26,236.75
REMAINING CASH Year to Date		\$ 32,159.21		\$ 23,941.11		\$ 23,049.63		\$ 15,166.48	

Q4 Month 11 (as of 05/31/17)	
Training Manuals Printing	\$ (800.84)
Training Refreshments/Meals	\$ (2,135.93)
Media Northeast	\$ (4,950.00)
Samoset room reservation fee	\$ (888.80)
Office Supplies	\$ -
Speakers Travel	\$ (204.60)
State Cap Expense	\$ (6.57)
TOTAL	\$ (8,986.74)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

5/31/2017

Court	May-17						Fiscal Year 2017			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	22	23	\$ 15,015.24	33	\$ 19,650.62	\$ 595.47	265	529	\$ 457,014.22	\$ 863.92
AUBSC	13	12	\$ 24,702.75	17	\$ 7,871.55	\$ 463.03	148	282	\$ 188,821.32	\$ 669.58
AUGDC	33	63	\$ 29,124.67	56	\$ 36,284.39	\$ 647.94	493	727	\$ 413,121.62	\$ 568.26
AUGSC	21	34	\$ 19,811.13	24	\$ 31,379.42	\$ 1,307.48	262	407	\$ 240,075.87	\$ 589.87
BANDC	51	93	\$ 28,574.08	56	\$ 22,638.20	\$ 404.25	592	866	\$ 324,310.00	\$ 374.49
BANSC	2	3	\$ 1,507.26	0			23	17	\$ 12,805.18	\$ 753.25
BATSC	2	1	\$ 556.00	1	\$ 756.40	\$ 756.40	15	16	\$ 15,383.57	\$ 961.47
BELDC	4	9	\$ 4,844.40	10	\$ 4,000.56	\$ 400.06	102	197	\$ 132,880.92	\$ 674.52
BELSC	1	0		3	\$ 1,608.00	\$ 536.00	24	32	\$ 17,023.91	\$ 532.00
BIDDC	73	57	\$ 28,990.04	51	\$ 32,789.07	\$ 642.92	684	817	\$ 433,138.16	\$ 530.16
BRIDC	16	12	\$ 6,834.72	8	\$ 2,748.96	\$ 343.62	137	167	\$ 97,066.85	\$ 581.24
CALDC	3	6	\$ 3,436.08	7	\$ 4,866.20	\$ 695.17	91	95	\$ 57,018.92	\$ 600.20
CARDC	5	7	\$ 6,576.00	8	\$ 6,845.49	\$ 855.69	71	148	\$ 102,035.96	\$ 689.43
CARSC	11	8	\$ 8,358.00	5	\$ 2,760.00	\$ 552.00	66	105	\$ 86,399.15	\$ 822.85
DOVDC	8	15	\$ 2,940.00	8	\$ 1,934.04	\$ 241.76	48	103	\$ 49,380.76	\$ 479.42
DOVSC	0	1	\$ 24.00	0			4	3	\$ 1,371.44	\$ 457.15
ELLDC	6	18	\$ 11,508.00	6	\$ 4,993.86	\$ 832.31	189	270	\$ 205,459.77	\$ 760.96
ELLSC	1	0		1	\$ 1,032.00	\$ 1,032.00	7	26	\$ 8,681.00	\$ 333.88
FARDC	15	5	\$ 6,055.92	10	\$ 16,599.18	\$ 1,659.92	118	164	\$ 117,805.71	\$ 718.33
FARSC	0	1	\$ 585.00	0			24	23	\$ 12,703.20	\$ 552.31
FORDC	1	4	\$ 3,932.20	2	\$ 1,332.00	\$ 666.00	51	70	\$ 33,779.11	\$ 482.56
HOUDC	25	19	\$ 5,125.26	14	\$ 5,306.94	\$ 379.07	183	255	\$ 110,530.81	\$ 433.45
HOUSC	0	1	\$ 318.00	2	\$ 864.00	\$ 432.00	24	46	\$ 27,545.33	\$ 598.81
LEWDC	96	66	\$ 27,062.77	97	\$ 57,421.04	\$ 591.97	844	1,101	\$ 558,493.06	\$ 507.26
LINDC	5	11	\$ 4,325.36	13	\$ 10,786.16	\$ 829.70	99	210	\$ 110,395.44	\$ 525.69
MACDC	12	10	\$ 4,599.68	8	\$ 3,198.00	\$ 399.75	123	156	\$ 73,727.76	\$ 472.61
MACSC	1	1	\$ 204.00	2	\$ 831.00	\$ 415.50	17	32	\$ 10,009.48	\$ 312.80
MADDC	2	1	\$ 341.36	1	\$ 429.60	\$ 429.60	24	35	\$ 10,825.41	\$ 309.30
MILDC	1	0		2	\$ 1,033.60	\$ 516.80	39	45	\$ 15,415.56	\$ 342.57
NEWDC	17	21	\$ 9,282.28	23	\$ 7,804.38	\$ 339.32	202	301	\$ 127,411.32	\$ 423.29
PORDC	62	82	\$ 43,933.78	63	\$ 40,692.42	\$ 645.91	868	1,159	\$ 634,241.68	\$ 547.23
PORSC	2	4	\$ 1,848.00	3	\$ 2,772.00	\$ 924.00	36	28	\$ 33,109.92	\$ 1,182.50
PREDC	22	27	\$ 16,217.89	13	\$ 8,004.00	\$ 615.69	196	276	\$ 152,073.41	\$ 550.99
RODC	15	19	\$ 7,041.91	11	\$ 4,470.33	\$ 406.39	199	254	\$ 117,249.75	\$ 461.61
ROSC	3	4	\$ 4,617.74	6	\$ 1,372.38	\$ 228.73	34	61	\$ 43,419.77	\$ 711.80
RUMDC	12	10	\$ 7,401.00	9	\$ 2,927.00	\$ 325.22	122	131	\$ 59,327.97	\$ 452.89
SKODC	25	30	\$ 21,022.84	38	\$ 19,863.00	\$ 522.71	208	466	\$ 252,047.21	\$ 540.87
SKOSC	0	0		0			2	0		
SODUC	4	10	\$ 5,352.80	10	\$ 6,334.19	\$ 633.42	92	171	\$ 93,277.30	\$ 545.48
SOUSC	3	6	\$ 1,536.00	5	\$ 3,489.72	\$ 697.94	66	117	\$ 69,304.08	\$ 592.34
SPRDC	52	56	\$ 32,417.76	36	\$ 19,633.29	\$ 545.37	623	795	\$ 444,405.65	\$ 559.00
Law Ct	9	15	\$ 51,246.96	14	\$ 42,186.19	\$ 3,013.30	123	189	\$ 290,587.49	\$ 1,537.50
YORCD	209	131	\$ 93,703.53	117	\$ 108,362.81	\$ 926.18	2,001	1,720	\$ 1,201,535.43	\$ 698.57
AROCD	69	59	\$ 34,999.32	56	\$ 39,283.27	\$ 701.49	926	862	\$ 491,291.13	\$ 569.94
ANDCD	118	96	\$ 49,230.05	116	\$ 67,609.19	\$ 582.84	1,283	1,225	\$ 678,403.14	\$ 553.80
KENCD	146	119	\$ 44,148.92	93	\$ 28,703.74	\$ 308.64	1,728	1,668	\$ 731,583.98	\$ 438.60
PENCD	193	171	\$ 71,799.89	144	\$ 64,223.26	\$ 445.99	2,248	2,194	\$ 1,042,273.39	\$ 475.06
SAGCD	18	34	\$ 19,453.62	24	\$ 18,458.30	\$ 769.10	307	331	\$ 212,959.40	\$ 643.38
WALCD	27	16	\$ 6,891.16	17	\$ 12,016.48	\$ 706.85	296	311	\$ 157,838.06	\$ 507.52
PISCD	9	14	\$ 2,640.00	6	\$ 786.00	\$ 131.00	112	113	\$ 30,091.92	\$ 266.30
HANCD	33	44	\$ 27,152.50	36	\$ 16,471.50	\$ 457.54	623	566	\$ 263,361.13	\$ 465.30
FRACD	46	36	\$ 15,649.80	27	\$ 28,807.50	\$ 1,066.94	499	492	\$ 268,715.20	\$ 546.17
WASCD	35	36	\$ 17,446.64	31	\$ 9,930.60	\$ 320.34	359	323	\$ 100,827.20	\$ 312.16
CUMCD	322	242	\$ 150,181.06	260	\$ 177,677.50	\$ 683.38	3,595	3,563	\$ 2,127,435.15	\$ 597.09
KNOCD	46	43	\$ 29,800.60	41	\$ 31,064.67	\$ 757.67	511	506	\$ 284,052.65	\$ 561.37
SOMCD	1	0		1	\$ 1,107.68	\$ 1,107.68	14	15	\$ 29,322.04	\$ 1,954.80
OXFCD	78	55	\$ 29,241.68	31	\$ 15,891.56	\$ 512.63	632	592	\$ 286,252.02	\$ 483.53
LINCD	38	42	\$ 16,835.02	20	\$ 10,775.60	\$ 538.78	376	333	\$ 180,091.21	\$ 540.81
WATDC	22	39	\$ 17,467.47	16	\$ 10,712.89	\$ 669.56	245	460	\$ 234,765.64	\$ 510.36
WESDC	21	19	\$ 7,316.97	14	\$ 4,573.57	\$ 326.68	216	298	\$ 124,741.98	\$ 418.60
WISDC	5	13	\$ 5,758.92	6	\$ 5,232.04	\$ 872.01	67	102	\$ 73,187.03	\$ 717.52
WISSC	0	6	\$ 1,753.72	3	\$ 923.20	\$ 307.73	15	27	\$ 11,703.64	\$ 433.47
YORDC	12	12	\$ 4,753.04	15	\$ 7,022.20	\$ 468.15	136	184	\$ 101,817.32	\$ 553.36
TOTAL	2,104	1,992	\$ 1,093,494.79	1,750	\$ 1,099,142.74	\$ 628.08	23,727	26,777	\$ 14,871,923.70	\$ 555.40

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

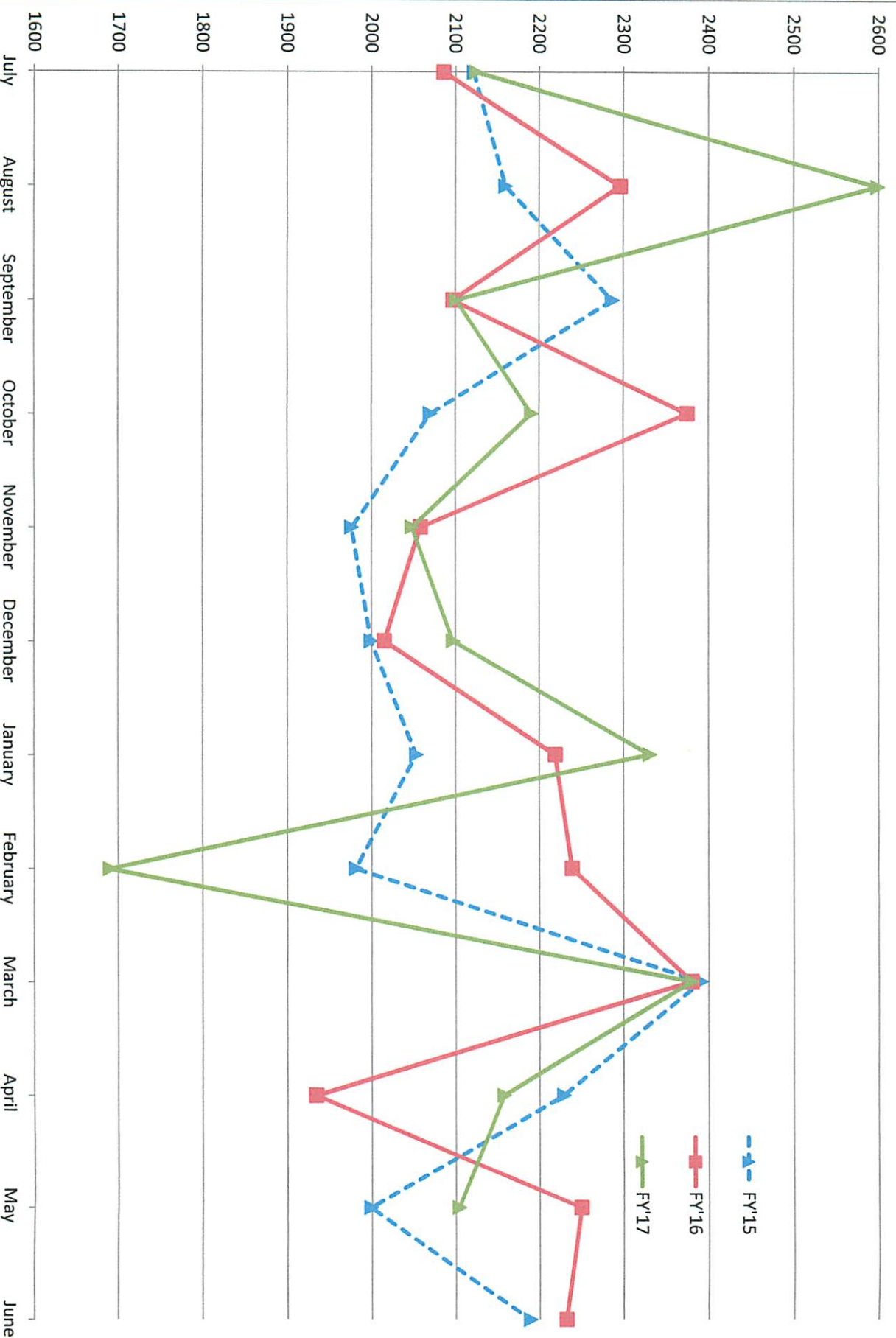
Number of Attorneys Rostered by Court

05/31/2017

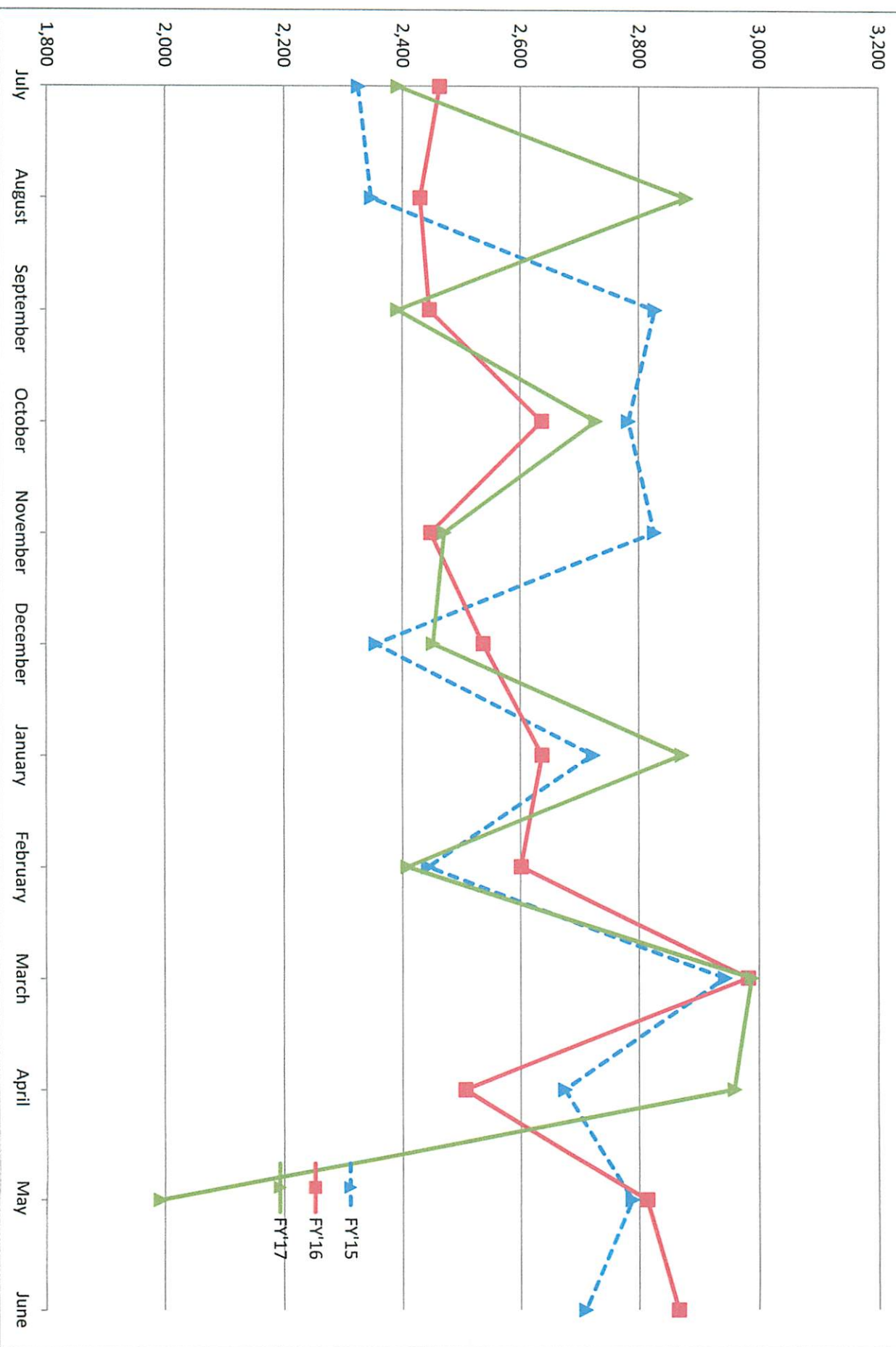
Court	Rostered Attorneys
Augusta District Court	100
Bangor District Court	52
Belfast District Court	52
Biddeford District Court	133
Bridgton District Court	97
Calais District Court	12
Caribou District Court	19
Dover-Foxcroft District Court	26
Ellsworth District Court	45
Farmington District Court	29
Fort Kent District Court	11
Houlton District Court	15
Lewiston District Court	127
Lincoln District Court	28
Machias District Court	18
Madawaska District Court	12
Millinocket District Court	21
Newport District Court	37
Portland District Court	157
Presque Isle District Court	15
Rockland District Court	44
Rumford District Court	25
Skowhegan District Court	25

Court	Rostered Attorneys
South Paris District Court	58
Springvale District Court	120
Unified Criminal Docket Alfred	110
Unified Criminal Docket Aroostook	25
Unified Criminal Docket Auburn	100
Unified Criminal Docket Augusta	90
Unified Criminal Docket Bangor	53
Unified Criminal Docket Bath	90
Unified Criminal Docket Belfast	48
Unified Criminal Docket Dover Foxcroft	23
Unified Criminal Docket Ellsworth	42
Unified Criminal Docket Farmington	31
Unified Criminal Docket Machias	18
Unified Criminal Docket Portland	149
Unified Criminal Docket Rockland	39
Unified Criminal Docket Skowhegan	19
Unified Criminal docket Soperth Paris	94
Unified Criminal Docket Wiscasset	58
Waterville District Court	52
West Bath District Court	113
Wiscasset District Court	63
York District Court	106

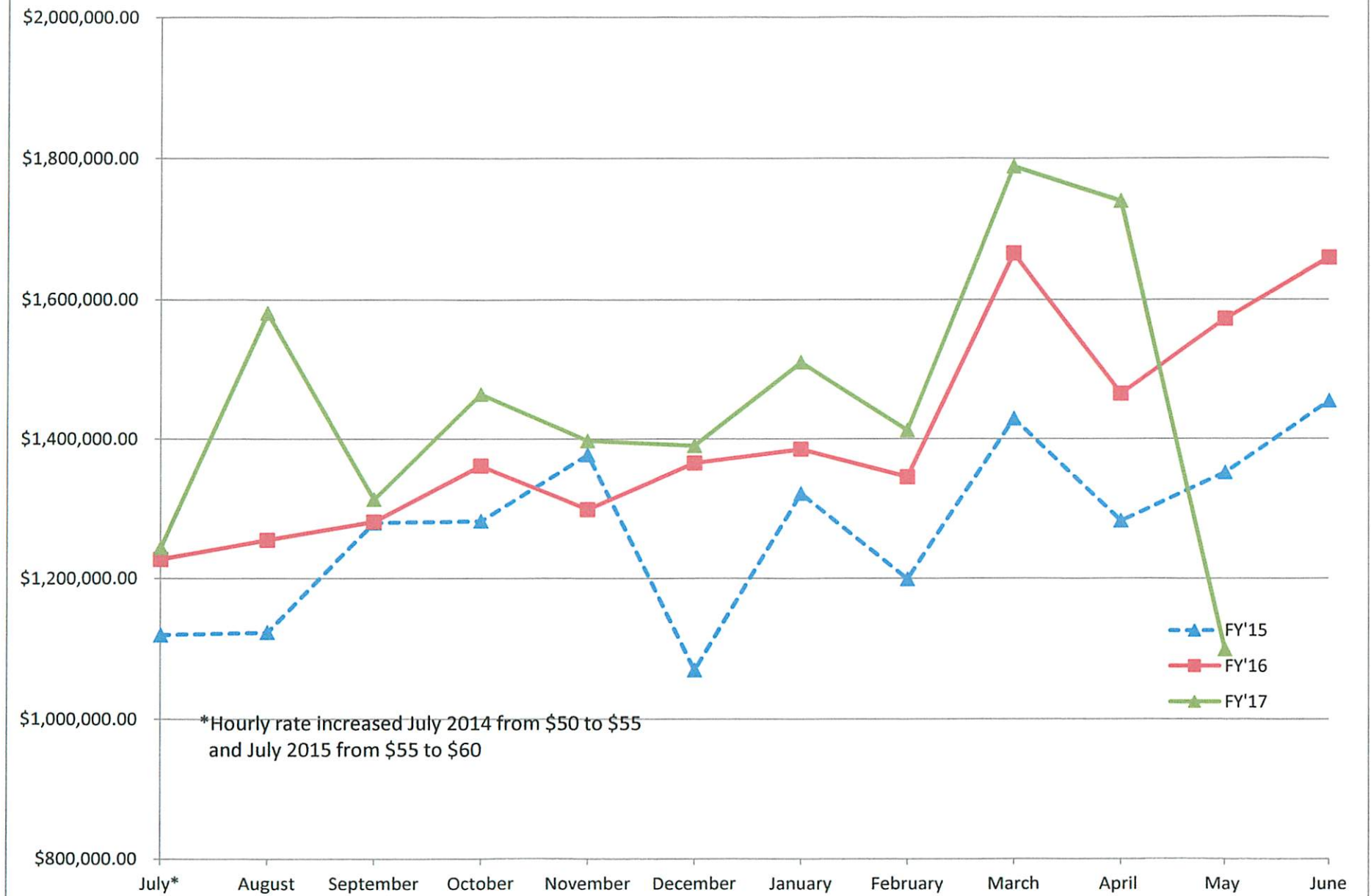
NEW CASES



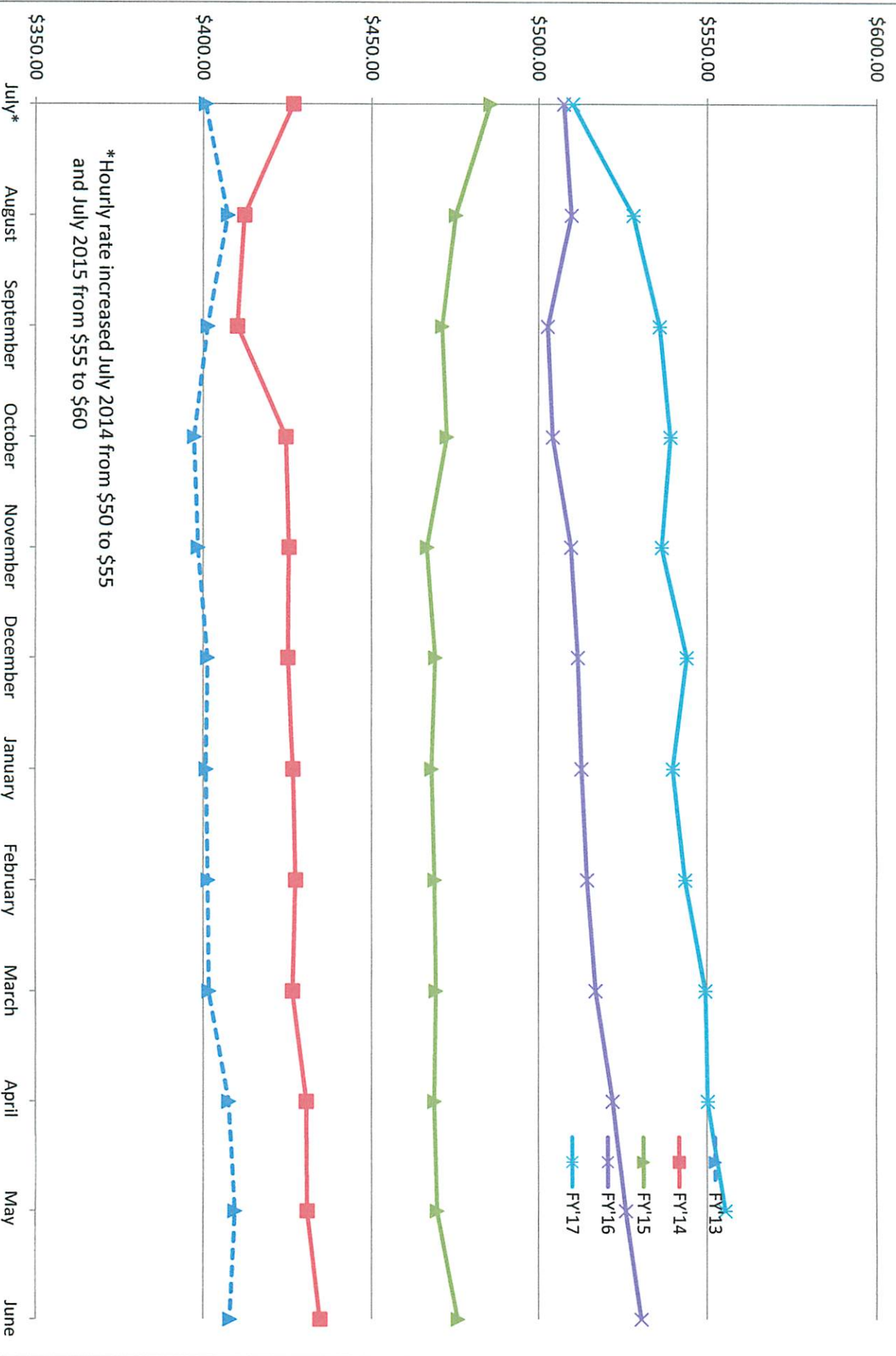
Submitted Vouchers



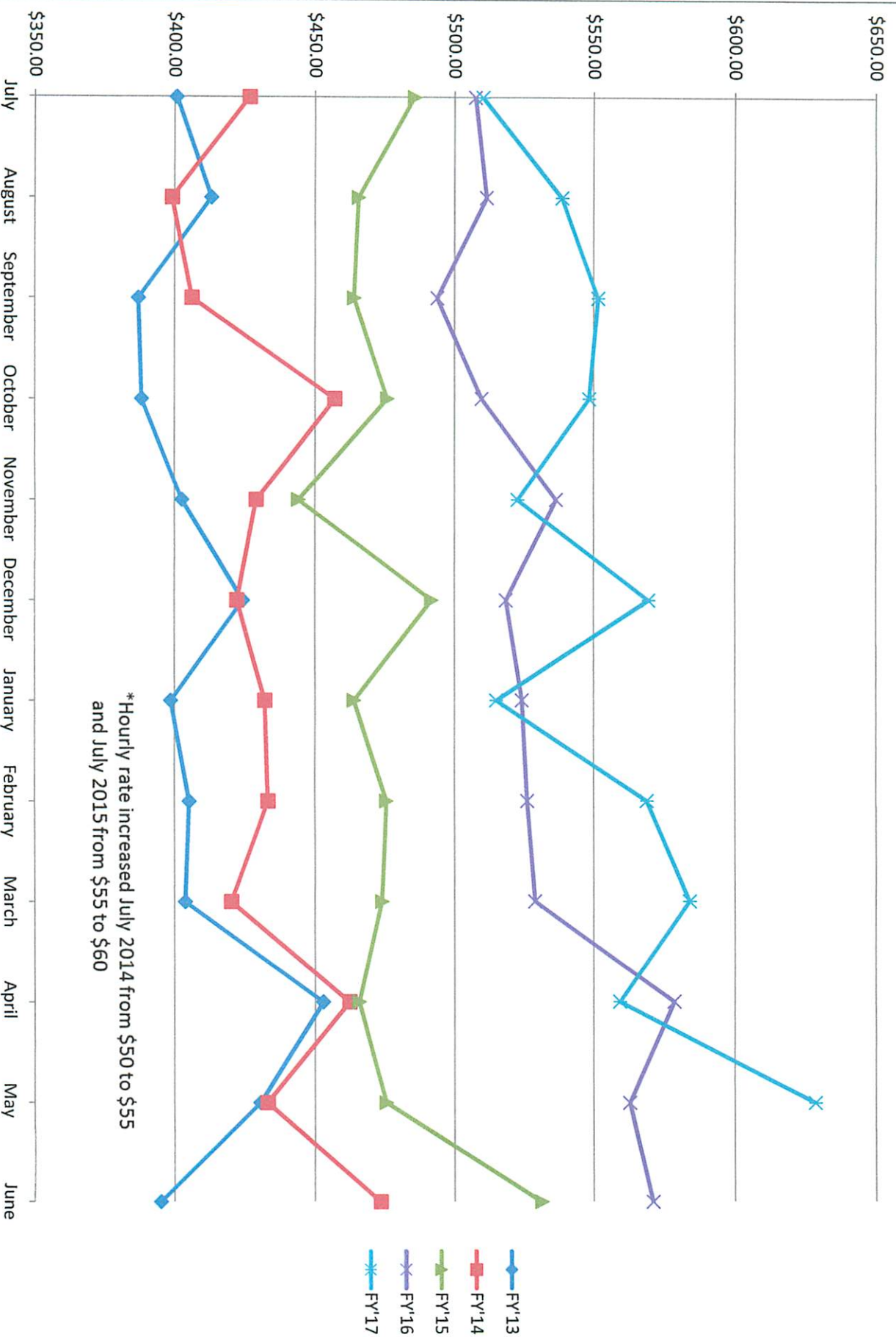
Submitted Voucher Amount



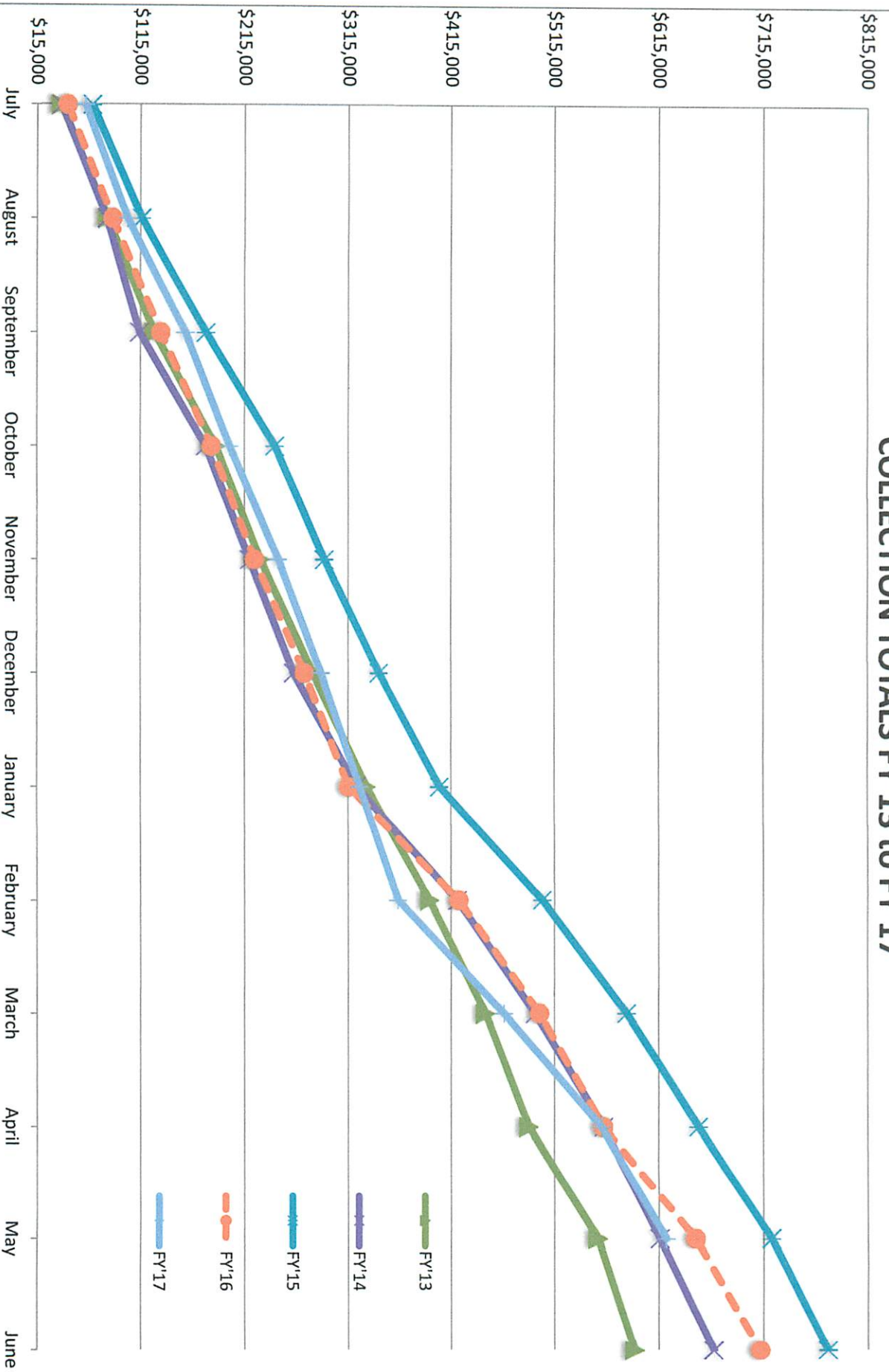
Average Voucher Price Fiscal Year to Date



Monthly Price Per Voucher



COLLECTION TOTALS FY'13 to FY'17



(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 MEMO
DATE: June 6, 2017

Since the Commission's last meeting, the Judiciary Committee held several work sessions on Part UUUU and the Commission's budget. The final report of the Committee to the Appropriations Committee is attached.

The Judiciary Committee was unanimous in three respects. All members supported including \$2.8 million in the Commission's FY'18 budget to cover the backlog of attorney vouchers that is accumulating at this time. All members also supported proposed changes to the Commission's statute that bolster collection authority, as well creating additional data gathering and reporting requirements for the Commission. Finally, all members supported the creation of a "Working Group" that includes Legislators, among others, to review the delivery of indigent legal services and report back to the Committee in December, 2017.

The Committee was not unanimous on the level or duration of funding for the Commission. Six members voted All Other finding in the amount of \$22,234,554 (\$19,403,513 projected costs + \$2,831,041 shortfall) for FY'18 and \$20,799,319 (projected costs) for FY'19. Six members voted All Other funding of \$18,398,766 (\$15,567,676 baseline budget + \$2,831,041 shortfall) for FY'18 and zero funding for FY'19 pending the recommendations of the Working Group.

The Appropriations Committee also did not reach a unanimous vote. Seven members voted for full funding of our projected costs plus an added the amount in FY'18 needed to cover the shortfall. These seven members also endorsed the statutory changes and the Working Group. Four members did not mention the statutory changes or the Working Group and endorsed funding for FY'18 at the 18.3 million level (\$15.5 million baseline + \$2.8 million for the shortfall) and at the \$15.5 million baseline for FY'19. Two members of the Committee endorsed All Other funding of \$18.3 million for both years of the biennium, but the funds for the second year are to be "parked" in a special account pending the report of the Working Group and further legislative action. These two members also endorsed the statute changes and the Working Group.

SENATE

LISA KEIM, DISTRICT 18, CHAIR
RODNEY L. WHITTEMORE, DISTRICT 3
DAWN HILL, DISTRICT 35

MARGARET J. REINSCH, SENIOR LEGISLATIVE ANALYST
JANET STOCCO, LEGISLATIVE ANALYST
SUSAN M. PINETTE, COMMITTEE CLERK



HOUSE

MATTHEW W. MOONEN, PORTLAND, CHAIR
JOYCE MCCREIGHT, HARPSWELL
CHRISTOPHER W. BABIDGE, KENNEBUNK
DONNA BAILEY, SACO
BARBARA A. CARDONE, BANGOR
LOIS GALGAY RECKITT, SOUTH PORTLAND
STACEY K. GUERIN, GLENBURN
ROGER L. SHERMAN, HODGDON
RICHARD T. BRADSTREET, VASSALBORO
CHRIS A. JOHANSEN, MONTICELLO

STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
COMMITTEE ON JUDICIARY

June 1, 2017

TO: Senator James M. Hamper, Senate Chair
Representative Drew Gattine, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Lisa Keim, Senate Chair
Representative Matt Moonen, House Chair
Joint Standing Committee on Judiciary

Re: Judiciary Committee report on Indigent Legal Services

The Judiciary Committee has been struggling with how to improve the provision of indigent legal services since January, and would like to share our recommendations, unanimous except for funding. Thank you for giving us time to collect more information, involve stakeholders and discuss our path forward.

The Judiciary Committee recognizes that the proposed "Office of the Public Defender" included as Part UUUU in the Biennial Budget is not supported as written, and we propose a less dramatic change to current law. We have informally shared with you our unanimous proposal, which makes progress in collecting information and ensuring that scarce resources are appropriately used. A copy of our replacement Part UUUU is attached. We appreciate the Governor's agreement in continuing the discussions and search for improvement, so we have included as a separate document a proposed study that will continue the investigation into improving the delivery of services efficiently, and includes prosecutors as well as the courts in the discussions. Although we are not wedded to the language or the make-up of the working group, we think it is important to provide broader participation than proposed in the Change Package. We strongly support the inclusion of Legislators as members of the working group to help guide the discussion within the group as well as to help to implement recommendations.

The area in which the Judiciary Committee has not reached unanimous agreement is for funding. The three categories of funding and our respective support are as follows.

1. Funding for the FY2017 shortfall, identified to be \$2,831,041: Unanimous support (to be added to the All Other in item 2 below)

2. Funding for 2017-2018:

(Representative Guerin was absent)

- Option 1: \$15,567,725: "Baseline" All Other – supported by 6 members
- Option 2: \$19,403,513: All Other – supported by 6 members

3. Funding for 2018-2019:

(Representative Guerin was absent)

- Option 1: 6 members support providing no funding until the working group reports back and legislative recommendations can be made. The funding that would otherwise be provided should be protected from being appropriated for other uses.
- Option 2: \$20,799,319 Total All Other – 6 members support funding for the full amount requested (and funding for Personal Services, as well as full funding for the Other Special Revenue account)

Please let us know if you have any questions.

Thank you.

Attachments:

JUD-revised Part UUUU
Proposed study language (Sec. UUUU-6)
Proposed funding

JUDICIARY COMMITTEE RECOMMENDATION

Replace Part UUUU with the following:

PART UUUU

Sec. UUUU-1. 4 MRSA §1804 is amended to read:

§1804. Commission responsibilities

1. **Executive director.** The commission shall hire an executive director. The executive director must have experience in the legal field, including, but not limited to, the provision of indigent legal services.

2. **Standards.** The commission shall develop standards governing the delivery of indigent legal services, including:

A. Standards governing eligibility for indigent legal services. The eligibility standards must take into account the possibility of a defendant's or civil party's ability to make periodic installment payments toward counsel fees;

B. Standards prescribing minimum experience, training and other qualifications for contract counsel and assigned counsel;

C. Standards for assigned counsel and contract counsel case loads;

D. Standards for the evaluation of assigned counsel and contract counsel. The commission shall review the standards every 5 years or upon the earlier recommendation of the executive director ;

E. Standards for independent, quality and efficient representation of clients whose cases present conflicts of interest;

F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel; and

G. Other standards considered necessary and appropriate to ensure the delivery of adequate indigent legal services.

3. **Duties.** The commission shall:

A. Develop and maintain a system that uses appointed private attorneys, contracts with individual attorneys or groups of attorneys and consider other programs necessary to provide quality and efficient indigent legal services;

B. Develop and maintain an assigned counsel voucher review and payment authorization system that includes disposition information;

C. Establish processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and case load management systems so that detailed expenditure and case load data are accurately collected, recorded and reported;

JUDICIARY COMMITTEE RECOMMENDATION

D. Develop criminal defense, child protective and involuntary commitment representation training and evaluation programs for attorneys throughout the State to ensure an adequate pool of qualified attorneys;

E. Establish minimum qualifications to ensure that attorneys are qualified and capable of providing quality representation in the case types to which they are assigned, recognizing that quality representation in each of these types of cases requires counsel with experience and specialized training in that field;

F. Establish rates of compensation for assigned counsel;

G. Establish a method for accurately tracking and monitoring case loads of assigned counsel and contract counsel;

H. Submit, by January 15th of each year, to the Legislature, the Chief Justice of the Supreme Judicial Court and the Governor an annual report on the operation, needs and costs of the indigent legal services system. The report must include:

(1) An evaluation of: contracts; services provided by contract counsel and assigned counsel; any contracted professional services; and cost containment measures; and

(2) An explanation of the relevant law changes to the indigent legal services covered by the commission and the effect of the changes on the quality of representation and costs.

The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation on matters related to the report;

I. Approve and submit a biennial budget request to the Department of Administrative and Financial Services, Bureau of the Budget, including supplemental budget requests as necessary;

J. Develop an administrative review and appeal process for attorneys who are aggrieved by a decision of the executive director, or the executive director's designee, determining:

(1) Whether an attorney meets the minimum eligibility requirements to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements;

(2) Whether an attorney previously found eligible is no longer eligible to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements; and

(3) Whether to grant or withhold a waiver of the eligibility requirements set forth in any commission rule.

All decisions of the commission, including decisions on appeals under subparagraphs (1), (2) and (3), constitute final agency action. All decisions of the executive director, or the executive director's designee, other than decisions appealable under subparagraphs (1),

JUDICIARY COMMITTEE RECOMMENDATION

(2) and (3), constitute final agency action; and

K. Pay appellate counsel;

L. Establish processes and procedures to acquire investigative and expert services that may be necessary for a case, including contracting for such services; and

M. Establish procedures for handling complaints about the performance of counsel providing indigent legal services.

4. Powers. The commission may:

A. Establish and maintain a principal office and other offices within the State as it considers necessary;

B. Meet and conduct business at any place within the State;

C. Use voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed;

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish standards under subsection 2, paragraph B and rates of compensation for assigned counsel and contract counsel under subsection 2, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

E. Appear in court and before other administrative bodies represented by its own attorneys.

Sec. UUUU-2. 4 MRSA §1805 is amended to read:

§1805. Executive director

The executive director of the commission hired pursuant to section 1804, subsection 1 shall:

1. **Compliance with standards.** Ensure that the provision of indigent legal services complies with all constitutional, statutory and ethical standards;

2. **Development of standards.** Assist the commission in developing standards for the delivery of adequate indigent legal services;

3. **Delivery and supervision.** Administer and coordinate delivery of indigent legal services and supervise compliance with commission standards;

4. **Most effective method of delivery.** Recommend to the commission the most effective method of the delivery of indigent legal services in furtherance of the commission's purposes;

5. **Training for counsel.** Conduct regular training programs for counsel providing

JUDICIARY COMMITTEE RECOMMENDATION

indigent legal services;

6. Personnel. Subject to policies and procedures established by the commission, hire or contract professional, technical and support personnel, including attorneys, considered reasonably necessary for the efficient delivery of indigent legal services;

7. Submissions to commission. Prepare and submit to the commission:

A. A proposed biennial budget for the provision of indigent legal services, including supplemental budget requests as necessary;

A-1. A monthly report on the amount of revenue collect from counsel fee collections, included counsel expenses recouped each month and the year-to-date;

B. An annual report containing pertinent data on the operation, needs and costs of the indigent legal services system; ~~and~~

B-1. A monthly report on the number of cases opened, the number of vouchers submitted, the amount of vouchers paid, the amount of payments to contract counsel, the number of requests for professional services, the amount of payments for professional services and information on any complaints made against assigned or contract counsel;

C. Any other information as the commission may require;

8. Develop and implement. Coordinate the development and implementation of rules, policies, procedures, regulations and standards adopted by the commission to carry out the provisions of this chapter and comply with all applicable laws and standards;

9. Records. Maintain proper records of all financial transactions related to the operation of the commission;

10. Other funds. Apply for and accept on behalf of the commission funds that may become available from any source, including government, nonprofit or private grants, gifts or bequests. These non-General Fund funds do not lapse at the end of the fiscal year but must be carried forward to use used for the purpose originally intended;

10-A. Reimbursement of expenses. Administer and improve reimbursement of expenses incurred by assigned counsel and contract counsel as described in section 1805-A;

11. Meetings of commission. Attend all commission meetings, except those meetings or portions of the meetings that address the question of appointment or removal of the executive director; and

12. Other assigned duties. Perform other duties as the commission may assign.

Sec. UUUU-3. 4 MRSA §1805-A is enacted to read:

§1805-A. Indigency determinations; redeterminations; verifications; collections

1. Duties. The executive director shall administer and improve reimbursement of

JUDICIARY COMMITTEE RECOMMENDATION

expenses incurred by assigned counsel and contract counsel by:

A. Establishing procedures to ensure that the eligibility of defendants and civil parties is verified and reviewed randomly and when circumstances have changed, information has changed, additional information is provided or as otherwise needed;

B. Petitioning the court to reassess the indigency of a defendant or civil party if the executive director determines that indigency should be reassessed;

C. Providing to the commission recommendations to improve reimbursement of expenses;

D. Requiring that the amount of time spent on each case by assign counsel or contract counsel is recorded separately for each case; and

E. Receiving from the courts collections for the costs of representation from defendants or civil parties who are found to be partially indigent or who have otherwise been determined to be able to reimburse the commission for expenses incurred by assigned counsel or contract counsel.

2. Determination of defendant's or civil party's eligibility. The executive director shall provide the court having jurisdiction over a proceeding information used to determine indigency for guidance to the court in determining a defendant's or civil party's financial ability to obtain private counsel.

3. Partial indigency and reimbursement. This subsection applies to partial indigency and reimbursement of expenses incurred by assigned counsel or contract counsel.

A. If the court determines that defendant or civil party is unable to pay to obtain private counsel but is able to contribute to payment of assigned counsel or contract counsel, the court shall order the defendant or civil party to make installment payments up to the full cost of representation or to pay a fixed contribution. The court shall remit payments received to the commission.

B. A defendant or civil party may not be required to pay for legal services in an amount greater than the expenses actually incurred.

C. Upon petition of a defendant or civil party who is incarcerated, the court may suspend an order for reimbursement issued pursuant to this subsection until the time of the defendant's or civil party's release.

D. The executive director may enter into contracts to secure the reimbursement of fees and expenses paid by the commission as provided for in this section.

Sec. UUUU-4. 15 MRSA §1074, subsection 3 is amended to read:

3. Setoff of defendant's property. When a defendant has deposited cash or other property owned by the defendant as bail or has offered real estate owned by the defendant and subject to a bail lien as bail and the cash, other property or real estate has not been forfeited, the court, before ordering the cash or other property returned to the defendant or discharging the real

JUDICIARY COMMITTEE RECOMMENDATION

estate bail lien, shall determine whether the cash, other property or real estate or any portion of the cash, other property or real estate is subject to setoff as authorized by this section. The court may order all or a portion of the bail owned by a defendant that has not been forfeited to be first paid and applied to one or more of the following:

- A. Any fine, forfeiture, penalty or fee imposed upon a defendant as part of the sentence for conviction of any offense arising out of the criminal proceeding for which the bail has been posted and the sentence for conviction of any offense in an unrelated civil or criminal proceeding;
- B. Any amount of restitution the defendant has been ordered to pay as part of the sentence imposed in the proceeding for which bail has been posted and in any unrelated proceeding;
- C. Any amount of attorney's fees or other expense authorized by the court at the request of the defendant or attorney and actually paid by the State on behalf of the defendant on the ground that the defendant has been found to be indigent in the proceeding for which bail has been posted and in any unrelated proceeding; and
- D. Any surcharge imposed by Title 4, section 1057.

The court shall apply any bail collected pursuant to this subsection first to restitution, then to attorney's fees and then to fines and surcharges.

Sec. UUUU-5. 36 MRSA §191, sub-§2, ¶O-1 is enacted to read:

O-1. The disclosure by employees of the bureau to an authorized representative of the Maine Commission on Indigent Legal Services for determining the eligibility for indigent legal services and the ability to reimburse expenses incurred for assigned counsel and contract counsel under Title 4, chapter 37;

SUMMARY

This amendment replaces Part UUUU. It retains the current configuration of the Maine Commission on Indigent Legal Services and makes changes to improve the delivery and quality of legal services. It emphasizes more accountability in determinations of indigency and the ability to pay the expenses for legal services. It designates repayment of attorney's fees, after restitution, as the appropriate use of forfeited bail. It authorizes the sharing of information by Maine Revenue Services in order to improve collections from recipients of legal services who subsequently have the ability to pay for at least some of the services received.

Judiciary Committee Recommendation: Indigent legal services working group

Proposed Study Group

(11 members: 4 legislators (2 Senate, 2 House); legislative staff)

Sec. UUUU-6. Working group established. The Working Group to Improve the Provision of Indigent Legal Services, referred to in this Part as "the working group," is established.

1. Membership. The working group consists of 11 members appointed as follows:

A. Two members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;

B. Two members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature; and

C. Two members appointed by Chief Justice of the Supreme Judicial Court, at least one of whom is on a court-appointed attorney roster administered by the Maine Commission on Indigent Legal Services;

D. The Attorney General, or the Attorney General's designee;

E. The Commissioner of Administrative and Financial Services, or the commissioner's designee;

F. The Director of the Office of Policy and Management, or the director's designee; and

G. The President of the Maine Prosecutors Association, or the President's designee; and

H. The Chair of the Maine Commission on Indigent Legal Services, or the chair's designee.

2. Chairs. The first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the working group.

3. Appointments; convening. All appointments must be made no later than 30 days following the effective date of this section. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. When the appointment of all members has been completed, the chairs shall call and convene the first meeting of the working group. If 30 days or more after the effective date of this section a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the working group to meet and conduct its business.

4. Duties. The working group shall develop recommendations to improve the delivery of indigent legal services to those eligible to receive such services in the State. The

Judiciary Committee Recommendation: Indigent legal services working group

recommendations must focus on ensuring adequate representation, increasing the efficiency in delivering legal services, verifying eligibility throughout representation and reducing costs while still fully honoring the constitutional and statutory obligations to provide representation. Notwithstanding any other provision of law, the working group may access data maintained by the Maine Commission on Indigent Legal Services, and shall maintain the confidentiality of any confidential information provided to the working group. The working group may invite the participation and input of additional interested parties and request information as necessary to carry out its duties.

5. Staff assistance. The Legislative Council shall provide necessary staffing services to the working group.

6. Report. No later than December 6, 2017, the working group shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the 2nd Regular Session of the 128th Legislature. The Joint Standing Committee on Judiciary may report out to the Second Regular Session of the 128th Legislature legislation to implement recommendations on matters related to the report.

SUMMARY

This bill establishes the Working Group to Improve the Provision of Indigent Legal Services. The working group consist of 11 members including 2 Senators and 2 members of the House of Representatives. The other members represent the other stakeholders, including two appointed by the Chief Justice of the Supreme Judicial Court. Notwithstanding any other provision of law, the working group may access data maintained by the Maine Commission on Indigent Legal Services, and shall maintain the confidentiality of any confidential information provided to the working group. The working group may invite the participation and input of additional interested parties and request information as necessary to carry out its duties.

The working group must submit a report, including recommendations, by December 6, 2017. The Joint Standing Committee on Judiciary may report out legislation to the Second Regular Session.

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Judiciary Committee recommendations for funding for the Maine Commission on
Indigent Legal Services
(Representative Guerin was absent for the votes on funding)

GENERAL FUND

	Option 1 (6)		Option 2 (6)	
	2017-18	2018-19	2017-2018	2018-19
Positions	11.5	0	11.5	11.5
Personal	\$806,606	0	\$806,606	\$832,565
Services				
All Other	\$18,398,766	0	\$22,234,554	\$20,799,319
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TOTAL	\$19,205,372	0	\$23,041,160	\$21,631,884

(For both Option 1 and Option 2: All Other for 2017-18 include the \$2,831,041 necessary to make up the shortfall for 2016-17.)

OTHER SPECIAL REVENUE

	Option 1 (6)		Option 2 (6)	
	2017-18	2018-19	2017-2018	2018-19
All Other	\$793,497	0	\$793,497	\$793,497

(Option 1: All General Fund and Other Special Revenue funds that were originally included for indigent legal services for 2018-19 should be set aside and reserved for the indigent legal services to be provided for 2018-19 once the study has completed its work and the Legislature has acted on the recommendations.)