

**MCILS**

**June 12, 2018**

**Commissioner's Meeting  
Packet**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**JUNE 12, 2018**

**COMMISSION MEETING**

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

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- 1) Approval of May 22, 2018, Commission Meeting Minutes
- 2) Operations Reports
- 3) Proposed Policy for Resource Counsel Program
- 4) Action Items Discussion
- 5) Reconsideration of March 26, 2018 Meeting Minutes
- 6) Somerset Contract Update
- 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.)**  
**May 22, 2018**  
**Commission Meeting**  
**Minutes**

**Maine Commission on Indigent Legal Services – Commissioners Meeting  
May 22, 2018**

**Minutes**

**Commissioners Present:** Steven Carey, William Logan, Carlann Welch

**MCILS Staff Present:** Ellie Maciag

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Approval of the April 24, 2018 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Welch moved for approval, Commissioner Logan seconded. All voted in favor. Approved.
Operations Reports Review	<u>March 2018 Operations Report:</u> 2,304 new cases were opened in the DefenderData system in April. This was a 94 case decrease from March. The number of submitted vouchers in April was 2,762, a decrease of 113 vouchers from March, totaling \$1,488,718, a decrease of \$108,000 from March. The average price per voucher was \$538.82, up \$0.78 per voucher over March. Appeal and Post-Conviction Review cases had the highest average vouchers. There were 14 vouchers exceeding \$5,000 paid in April. 134 authorizations to expend funds were issued in April, and we paid \$80,160 for experts and investigators, etc. The monthly transfer from the Judicial Branch for counsel fees for April, which reflects March's collections, totaled \$134,046, down approximately \$46,000 over March. The Commissioners thanked the court clerks for their hard work applying bail towards counsel fees.	
Legislative Update	Deputy Director Maciag updated the Commissioners on the status of several pending Commission related bills.	
Action Items Discussion	Deputy Director Maciag gave an update on the status of the resource counsel program. All counsel who were invited to be resource counsel have agreed to do so. Staff is in the early stages of composing detailed guidelines and	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>procedures for the new program. To help with the planning, staff requested and received materials from Massachusetts regarding their system of supervising attorneys. Deputy Director Maciag noted that staff intended to have a conference call with resource counsel before the July 1 start date to outline the scope of the program and answer questions.</p> <p>The Commissioners reviewed the revised and updated action item list. Chair Carey requested that staff add a review of the criminal practice standards to determine whether any changes are needed due to the implementation of the UCD. Chair Carey stated that he will continue to work on a draft proposal for the fee schedule rule. Commissioner Logan wants to focus on this action item since it will benefit the Commission and help the clerks properly apply bail.</p>	
Reconsideration of March 26, 2018 Meeting Minutes	<p>On May 10, 2018, Chair Carey alerted staff that the March 26, 2018 meeting minutes contained an error about the nature of his input to the Judiciary Committee regarding the bill to revise the number and qualifications of Commissioners. Chair Carey moved to correct the March meeting minutes to correctly reflect what was said at the March meeting; that he did not support either draft but thought the version with the non-voting members was better than the one that limited rostered attorneys to three cases a year.</p> <p>Commissioner Logan stated that he still has issues with both versions of the bill and wanted the minutes to reflect his position. A short discussion ensued and the Commissioners agreed that they do not support either version of LD 1817. Commissioner Logan suggested an amendment to Chair Carey's motion that the March meeting minutes be revised to reflect an accurate account of Chair Carey's statement but to also note that further discussion on the Commission's position on LD 1817 occurred at the May meeting. Chair Carey renewed his motion with Commissioner Logan's amendment. Commissioner Logan seconded. All voted in favor to revise the March meeting minutes.</p>	

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Somerset Contract Update	Deputy Director Maciag updated the Commissioners on the status of the one-year extension for the Somerset County contract.	
Public Comment	None	
Executive Session	None	
Adjournment of meeting	The Commission voted to adjourn with the next meeting to be on June 12, 2018 at 9:30 a.m.	Commissioner Logan moved to adjourn. Commissioner Welch seconded. All present in favor.

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

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## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**SUBJECT:** MAY 2018 OPERATIONS REPORTS  
**DATE:** JUNE 6, 2018

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Attached you will find the May, 2018, Operations Reports for your review and our discussion at the Commission meeting on June 12, 2018. A summary of the operations reports follows:

- 2,203 new cases were opened in the DefenderData system in May. This was a 101 case decrease from April.
- The number of vouchers submitted electronically in May was 2,692, a decrease of 70 vouchers from April, totaling \$1,513,879.15, an increase of \$25,000 over April. In May, we paid 2,664 electronic vouchers totaling \$1,510,753.97, representing a decrease of 98 vouchers and an increase of \$22,000 compared to April.
- There were no paper vouchers submitted and paid in May.
- The average price per voucher in May was \$567.10, up \$28.28 per voucher over April.
- Appeal and Post-Conviction Review cases had the highest average vouchers in May. There were 10 vouchers exceeding \$5,000 paid in May. See attached addendum for details.
- The contract amount paid for representation in Somerset County in May was \$22,687.50.
- In May, we issued 96 authorizations to expend funds: 63 for private investigators, 25 for experts, and 8 for miscellaneous services such as interpreters and transcriptionists. In May, we paid \$67,950.94 for experts and investigators, etc. There were no requests denied or modified in May.
- In May, we received one attorney complaint via the newly published feedback form. The person complained about lack of attorney contact and lack of notice to of court dates. The person stated that she decided to plead guilty due to the lack of attorney attention to the case. The form was sent to the attorney. In response, the attorney disagreed that she had not contacted the client appropriately or been otherwise inattentive to her case. The attorney response was detailed and thorough and satisfied the Executive Director that the complaint was unfounded.



We also received a complaint from successor counsel in a Juvenile case concerned that initial counsel had not made effective use of an evaluation concluding that the juvenile, who was detained at Long Creek, was not competent. Upon follow-up with the complaining attorney, that attorney did state that new facts had come to light that ameliorated some, but not all, of the concerns. The Executive Director spoke with initial counsel, who was aware of the evaluation and had made use of it in plea negotiations and placement planning. The attorney was counseled on the high degree of leverage and potential for release from detention that immediate pursuit of a competency determination could provide and, also, on the need to visit detained juveniles more often. The attorney was open and receptive to these suggestions.

Finally, we received a complaint from a court clerk about a lawyer's failure to appear at scheduled court dates, an issue raised in a meeting among judges and attorneys by attorneys who had been required to step in at the last minute at such proceedings. The Executive Director spoke to the attorney, and has asked the court clerk to let him know if failures to appear occurred in the future.

In our All Other Account, the total expenses for the month of May were \$1,616,203.27. Of that amount, just under \$15,000 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$77,646.64 in expenses for the month of May.

In the Revenue Account, the May transfer of collected revenue, reflecting April's collections, totaled \$119,995.15, down \$14,000 from the previous month, but still a robust collection total.

Questions from May 22, 2018 meeting: The projected revenue for the current fiscal year was \$736,497. Should we end the year with a balance in the Revenue account, which appears likely, the funds remain in that account as an unencumbered balance forward. We will need to apply for a financial order in FY'19 for additional allotment to allow us to spend the balance.

In our Conference Account, we collected registration payments for the upcoming minimum standards training. The account balance stands at \$16,926.01.

VOUCHERS EXCEEDING \$5,000 PAID MAY 2018

	Voucher Total	Case total
Voucher after a 10-day Murder trial in a cold case Murder. Investigation required detailed analysis of a timeline over a number of years and several witnesses now residing in multiple different states. Defendant found guilty.	\$52,494	\$66,752 (co-counsel from separate firm paid \$14,258)
Voucher after a 6-day trial in a Murder case. Representation lasted 22 months. Case involved multiple co-defendants who pled guilty. Defendant found guilty.	\$16,896	\$16,896
Voucher after a 10-day Murder trial in a cold case Murder. Investigation required detailed analysis of a timeline over a number of years and several witnesses now residing in multiple different states. Defendant found guilty.	\$14,258	\$66,752 (lead counsel from separate firm paid \$52,494)
Voucher after a 7-day trial in 2-count Vehicular Manslaughter case. Forensic evidence of impairment was unusual in nature and complicated. Defendant found guilty,	\$12,433	\$30,684 (\$12,859 paid to co-counsel from a different firm; \$5,392 paid to counsel who was initially assigned and withdrew at the client's request)
Voucher after 2-day trial in an Elevated Aggravated Assault case. Extensive review of medical records and pre-trial litigation. Defendant found not guilty.	\$10,607	\$10,607
Voucher in a Termination of Parental Rights case where the hearing extended over 7 days. Client (in fact, both parents) had requested withdrawal of 3 previous counsel. Ellsworth attorney but all court matters in Calais.	\$7,476	\$7,476
Voucher in a Gross Sexual Assault and Sexual Exploitation of a Minor by a Parent case. Some counts were credible, but many others were not, and extensive work was required to distinguish between them. Ultimately, 9 counts were dismissed and the client pled guilty to 5 counts.	\$6,577	\$6,577
Interim voucher in a Post-conviction Review case involving a Murder conviction that has been pending since 2011. This voucher covers two years culminating in a two-day testimonial hearing followed by written arguments.	\$6,207	\$16,178 (\$9,971 interim voucher paid covering period from 2011 to mid-2016)
Voucher after a 3-day trial in an Aggravated Assault – Strangulation case. Not guilty on Aggravated Assault, but guilty on a lesser charge with a fully probated sentence.	\$5,952	\$5,952
Voucher in a Vehicular Manslaughter case. One chemical test was suppressed and the other excluded on a motion in limine. Client pled to Reckless Conduct for time served.	\$5,208	\$5,208

FUNDS REQUESTS DENIED/MODIFIED MAY 2018

- No requests for funds were denied or modified in May.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

5/31/2018

	May-18						Fiscal Year 2018			
DefenderData Case Type	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	20	28	\$ 35,725.30	24	\$ 25,357.11	\$ 1,056.55	177	270	\$ 401,528.03	\$ 1,487.14
Child Protection Petition	153	340	\$ 220,315.95	366	\$ 243,526.79	\$ 665.37	1,601	3,869	\$ 2,529,100.99	\$ 653.68
Drug Court	0	10	\$ 9,816.00	9	\$ 8,211.40	\$ 912.38	21	76	\$ 59,740.60	\$ 786.06
Emancipation	2	5	\$ 2,800.56	5	\$ 2,800.56	\$ 560.11	68	89	\$ 36,823.78	\$ 413.75
Felony	542	617	\$ 593,072.73	601	\$ 574,705.79	\$ 956.25	5,678	7,035	\$ 6,143,167.31	\$ 873.23
Involuntary Civil Commitment	80	97	\$ 18,949.01	82	\$ 17,369.96	\$ 211.83	959	985	\$ 223,967.50	\$ 227.38
Juvenile	67	83	\$ 34,027.48	83	\$ 32,504.52	\$ 391.62	875	1,049	\$ 448,355.04	\$ 427.41
Lawyer of the Day - Custody	217	241	\$ 57,462.44	237	\$ 56,251.94	\$ 237.35	2,524	2,728	\$ 654,734.08	\$ 240.01
Lawyer of the Day - Juvenile	36	35	\$ 7,209.47	35	\$ 7,050.51	\$ 201.44	451	486	\$ 93,612.76	\$ 192.62
Lawyer of the Day - Walk-in	108	117	\$ 27,778.60	118	\$ 28,656.09	\$ 242.85	1,282	1,401	\$ 332,083.86	\$ 237.03
Misdemeanor	726	755	\$ 311,790.90	732	\$ 308,858.06	\$ 421.94	7,980	9,024	\$ 3,719,498.89	\$ 412.18
Petition, Modified Release Treatment	0	2	\$ 564.95	2	\$ 564.95	\$ 282.48	8	57	\$ 25,772.53	\$ 452.15
Petition, Release or Discharge	0	0		0			1	13	\$ 11,986.80	\$ 922.06
Petition, Termination of Parental Rights	11	38	\$ 30,873.75	37	\$ 35,857.92	\$ 969.13	226	738	\$ 564,511.57	\$ 764.92
Post Conviction Review	11	9	\$ 14,551.22	11	\$ 17,325.32	\$ 1,575.03	85	97	\$ 203,658.42	\$ 2,099.57
Probate	1	2	\$ 1,608.00	5	\$ 2,808.00	\$ 561.60	27	22	\$ 13,901.48	\$ 631.89
Probation Violation	191	179	\$ 69,967.14	178	\$ 75,160.90	\$ 422.25	1,934	2,143	\$ 842,237.11	\$ 393.02
Represent Witness on 5th Amendment	6	3	\$ 1,308.00	3	\$ 1,308.00	\$ 436.00	23	29	\$ 10,537.36	\$ 363.36
Review of Child Protection Order	30	129	\$ 75,667.65	133	\$ 71,998.15	\$ 541.34	481	1,865	\$ 1,018,092.04	\$ 545.89
Revocation of Administrative Release	2	2	\$ 390.00	3	\$ 438.00	\$ 146.00	10	15	\$ 4,446.00	\$ 296.40
DefenderData Sub-Total	2,203	2,692	\$ 1,513,879.15	2,664	\$ 1,510,753.97	\$ 567.10	24,411	31,991	\$ 17,337,756.15	\$ 541.96
Paper Voucher Sub-Total	0	0	\$ -	0	\$ -	#DIV/0!	8	8	\$ 4,312.34	\$ 539.04
<b>TOTAL</b>	<b>2,203</b>	<b>2,692</b>	<b>\$1,513,879.15</b>	<b>2,664</b>	<b>\$1,510,753.97</b>	<b>\$ 567.10</b>	<b>24,419</b>	<b>31,999</b>	<b>\$ 17,342,068.49</b>	<b>\$ 541.96</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY18 FUND ACCOUNTING**  
**AS OF 05/31/2018**

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	
Financial Order Adjustment				\$ -		\$ -			
Encumbered Balance Forward FY17		\$ 28,759.02		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 7,066,361.02</b>		<b>\$ 4,392,001.00</b>		<b>\$ 4,746,575.00</b>		<b>\$ 4,940,227.00</b>	<b>\$ 21,145,164.02</b>
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	\$ -	
Encumbrances (Somerset PDP & Justice Works)		\$ (264,063.50)		\$ 84,712.50		\$ 89,299.50		\$ 57,070.00	\$ (32,981.50)
Encumbrances (B Taylor, JW amend contract, envelopes, business cards)		\$ (13,000.03)		\$ (44,000.01)		\$ 13,000.11		\$ 8,648.66	\$ (35,351.27)
<b>TOTAL REMAINING</b>		<b>\$ 1,086,149.78</b>		<b>\$ 0.40</b>		<b>\$ 0.01</b>		<b>\$ 1,780,730.83</b>	<b>\$ 2,866,881.02</b>

**Q4 Month 11**

**INDIGENT LEGAL SERVICES**

Counsel Payments	\$ (1,510,753.97)
Somerset County	\$ (22,687.50)
Somerset County Discovery	\$ (190.00)
Subpoena Witness Fees	\$ (29.90)
Private Investigators	\$ (23,685.34)
Mental Health Expert	\$ (13,012.50)
Transcripts	\$ (20,310.43)
Other Expert	\$ (9,902.50)
Lodging for Trial	\$ -
Process Servers	\$ (596.99)
Interpreters	\$ (413.28)
Misc Prof Fees & Serv	\$ -

**SUB-TOTAL ILS** \$ (1,601,582.41)

**OPERATING EXPENSES**

Service Center	\$ -
DefenderData	\$ (5,727.50)
Risk Management Insurances	\$ -
Mileage/Tolls/Parking	\$ (996.29)
Mailing/Postage/Freight	\$ (651.88)
West Publishing Corp	\$ (168.30)
OIT/TELCO charges	\$ (2,354.26)
Office Supplies/Equip.	\$ (169.05)
Cellular Phones	\$ (111.15)
InforME Annual Fee	\$ -
Office Equipment Rental	\$ (109.10)
Printing & Binding	\$ -
Barbara Taylor monthly fees	\$ (4,333.33)

**SUB-TOTAL OE** \$ (14,620.86)

**TOTAL** \$ (1,616,203.27)

**INDIGENT LEGAL SERVICES**

Q4 Allotment	\$ 4,940,227.00
Q4 Encumbrances for Somerset PDP & Justice Works contracts	\$ 57,070.00
Barbara Taylor Contract, envelopes, business cards	\$ 8,648.66
Q4 Expenses to date	\$ (3,225,214.83)
Remaining Q4 Allotment	\$ 1,780,730.83

**Non-Counsel Indigent Legal Services**

Monthly Total	\$ (67,950.94)
Total Q1	\$ (308,598.67)
Total Q2	\$ (236,789.37)
Total Q3	\$ (231,939.99)
Total Q4	\$ (148,111.46)
Fiscal Year Total	\$ (925,439.49)

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**FY18 FUND ACCOUNTING**

As of 04/30/18

<b>Account 014 95F Z112 01 (Revenue)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY18 Total</b>
<b>Total Budget Allotments</b>		\$ 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	\$ -	\$ -
<b>Total Budget Allotments</b>		\$ 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	\$ -	
Returned Checks-stopped payments		\$ -		\$ 75.00		\$ -		\$ -	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		\$ 161,480.25		\$ 223,102.62		\$ 337,762.19		\$ 254,041.68	\$ 976,386.74
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	\$ -	
Other Expenses	*	\$ (2,247.73)	**	\$ (2,893.78)	***	\$ (2,570.74)		\$ -	
<b>REMAINING ALLOTMENT</b>		\$ 0.27		\$ 6.32		\$ 3.97		\$ 184,124.00	\$ 184,134.56
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	\$ -	
<b>REMAINING CASH Year to Date</b>		\$ 8.02		\$ 14,751.80		\$ 151,924.16		\$ 251,254.84	\$ 417,938.82

<b>Q4 Month 10</b>	
<b>DEFENDER DATA COUNSEL PAYMENTS</b>	
	\$ -
<b>SUB-TOTAL ILS</b>	\$ -
<b>OVERPAYMENT REIMBURSEMENTS</b>	
Paper Voucher	\$ (2,598.84)
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
StaCap Expense	\$ -
<b>SUB-TOTAL OE</b>	\$ (2,598.84)
<b>TOTAL</b>	\$ (2,598.84)

\* 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 05/31/2018

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		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 191,878.00</b>		<b>\$ 216,894.00</b>		<b>\$ 191,873.00</b>		<b>\$ 184,672.00</b>	<b>\$ 785,317.00</b>
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	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 37,180.20</b>		<b>\$ 37,499.25</b>		<b>\$ 29,562.35</b>		<b>\$ 52,065.98</b>	<b>\$ 156,307.78</b>

Q4 Month 11	
Per Diem Payments	\$ (165.00)
Salary	\$ (37,490.80)
Vacation Pay	\$ (4,421.31)
Holiday Pay	\$ (1,636.28)
Sick Pay	\$ (1,502.86)
Employee Hlth Svs/Workers Comp	\$ -
Health Insurance	\$ (9,024.08)
Dental Insurance	\$ (223.22)
Employer Retiree Health	\$ (5,276.15)
Employer Retirement	\$ (3,047.29)
Employer Group Life	\$ (399.00)
Employer Medicare	\$ (672.80)
Retiree Unfunded Liability	\$ (9,667.15)
Retro Pymt	\$ (24.40)
Perm Part Time Full Ben	\$ (4,096.30)
<b>TOTAL</b>	<b>\$ (77,646.64)</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY18 FUND ACCOUNTING**  
As of 05/31/18

Account 014 95F Z112 02 (Conference)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY18 Total
<b>Total Budget Allotments</b>		\$ 20,500.00		\$ 15,000.00		\$ 15,000.00		\$ 12,000.00	\$ 62,500.00
Financial Order Adjustment				\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -			
Budget Order Adjustment		\$ -		\$ -		\$ -		\$ -	\$ -
<b>Total Budget Allotments</b>		\$ 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	\$ -	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		\$ 21,082.80		\$ 18,337.13		\$ 16,447.49		\$ 17,067.99	\$ 14,035.00
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	\$ -	
State Cap	**	\$ (89.67)		\$ (50.47)		\$ (2.51)		\$ (1.98)	\$ (144.63)
Encumbrances		\$ (4,272.55)		\$ -		\$ -		\$ -	\$ (4,272.55)
<b>REMAINING ALLOTMENT</b>		\$ 8,111.78		\$ 11,385.36		\$ 14,820.50		\$ 11,858.02	\$ 46,175.66
<b>REMAINING CASH Year to Date</b>		\$ 12,967.13		\$ 14,722.49		\$ 16,267.99		\$ 16,926.01	

<b>Q4 Month 11</b>	
Training Manuals Printing	\$ -
Training Refreshments/Meals	\$ -
Media Northeast	\$ -
Overseers of the Bar CLE fees	\$ -
Speaker Fees & Travel Expenses	\$ -
Non-attendance refunds	\$ -
State Cap Expense	
<b>TOTAL</b>	\$ -

\*\* Q1 State Cap posted in Q2



## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

## Activity Report by Court

5/31/2018

Court	May-18						Fiscal Year 2018			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	15	14	\$ 10,957.58	14	\$ 10,237.58	\$ 731.26	122	256	\$ 178,369.29	\$ 696.76
AUBSC	2	7	\$ 6,246.00	5	\$ 5,826.00	\$ 1,165.20	77	152	\$ 123,661.12	\$ 813.56
AUGDC	29	68	\$ 37,144.94	72	\$ 39,295.95	\$ 545.78	447	777	\$ 391,676.42	\$ 504.09
AUGSC	25	15	\$ 22,107.95	18	\$ 24,258.95	\$ 1,347.72	211	335	\$ 191,017.64	\$ 570.20
BANDC	62	72	\$ 26,346.28	81	\$ 25,965.75	\$ 320.56	585	1,019	\$ 375,833.37	\$ 368.83
BANSC	1	3	\$ 21,622.07	5	\$ 22,366.07	\$ 4,473.21	17	22	\$ 31,394.93	\$ 1,427.04
BATSC	0	0		0			7	9	\$ 3,240.88	\$ 360.10
BELDC	14	26	\$ 13,942.41	30	\$ 18,648.95	\$ 621.63	103	238	\$ 137,156.47	\$ 576.29
BELSC	0	2	\$ 850.68	2	\$ 850.68	\$ 425.34	4	17	\$ 12,573.89	\$ 739.64
BIDDC	52	76	\$ 37,536.16	71	\$ 35,613.20	\$ 501.59	620	924	\$ 476,512.34	\$ 515.71
BRIDC	9	31	\$ 18,273.35	30	\$ 16,352.32	\$ 545.08	121	224	\$ 127,786.43	\$ 570.48
CALDC	4	19	\$ 13,510.52	19	\$ 19,142.08	\$ 1,007.48	84	136	\$ 91,922.92	\$ 675.90
CARDC	10	8	\$ 4,216.47	8	\$ 4,588.47	\$ 573.56	57	128	\$ 62,678.64	\$ 489.68
CARSC	2	3	\$ 783.00	3	\$ 3,339.95	\$ 1,113.32	40	94	\$ 73,088.98	\$ 777.54
DOVDC	4	12	\$ 3,978.00	9	\$ 3,240.00	\$ 360.00	54	144	\$ 44,202.24	\$ 306.96
DOVSC	0	0		0			1	2	\$ 324.00	\$ 162.00
ELLDC	3	22	\$ 17,281.20	27	\$ 19,025.06	\$ 704.63	132	297	\$ 186,451.29	\$ 627.78
ELLSC	1	4	\$ 1,984.00	4	\$ 2,348.00	\$ 587.00	13	24	\$ 7,685.20	\$ 320.22
FARDC	9	13	\$ 6,778.35	15	\$ 7,958.51	\$ 530.57	115	184	\$ 125,651.05	\$ 682.89
FARSC	0	2	\$ 723.28	2	\$ 723.28	\$ 361.64	1	7	\$ 3,935.24	\$ 562.18
FORDC	6	14	\$ 10,518.00	13	\$ 9,249.81	\$ 711.52	40	62	\$ 33,485.73	\$ 540.09
HOUDC	18	17	\$ 7,730.00	15	\$ 7,046.00	\$ 469.73	178	293	\$ 130,908.08	\$ 446.79
HOUSC	0	2	\$ 576.00	1	\$ 246.00	\$ 246.00	10	13	\$ 29,407.46	\$ 2,262.11
LEWDC	80	130	\$ 56,843.44	114	\$ 53,488.44	\$ 469.20	747	1,282	\$ 577,955.32	\$ 450.82
LINDC	3	9	\$ 5,548.28	14	\$ 8,354.80	\$ 596.77	85	182	\$ 89,285.38	\$ 490.58
MACDC	0	2	\$ 162.00	2	\$ 162.00	\$ 81.00	97	188	\$ 86,741.52	\$ 461.39
MACSC	2	1	\$ 408.00	1	\$ 408.00	\$ 408.00	18	26	\$ 21,600.28	\$ 830.78
MADDC	1	1	\$ 401.36	1	\$ 401.36	\$ 401.36	18	17	\$ 5,005.60	\$ 294.45
MILDC	1	2	\$ 876.00	2	\$ 576.00	\$ 288.00	28	28	\$ 9,704.68	\$ 346.60
NEWDC	11	17	\$ 8,076.88	12	\$ 5,245.96	\$ 437.16	111	260	\$ 105,523.33	\$ 405.86
PORDC	80	121	\$ 57,449.60	103	\$ 50,715.24	\$ 492.38	891	1,336	\$ 671,590.97	\$ 502.69
PORSC	2	1	\$ 654.00	1	\$ 654.00	\$ 654.00	11	22	\$ 59,999.16	\$ 2,727.23
PREDC	17	16	\$ 9,200.63	24	\$ 11,378.63	\$ 474.11	134	377	\$ 203,879.86	\$ 540.80
ROCD	20	28	\$ 12,276.02	26	\$ 10,039.37	\$ 386.13	193	297	\$ 147,271.52	\$ 495.86
ROSC	1	3	\$ 1,440.00	2	\$ 564.00	\$ 282.00	20	29	\$ 19,309.46	\$ 665.84
RUMDC	2	11	\$ 4,506.00	12	\$ 4,263.28	\$ 355.27	87	154	\$ 97,077.11	\$ 630.37
SKODC	13	28	\$ 16,142.54	31	\$ 16,592.90	\$ 535.25	193	505	\$ 287,967.95	\$ 570.23
SKOSC	2	0		0			3	1	\$ 534.00	\$ 534.00
SODUC	4	15	\$ 9,081.72	13	\$ 5,943.64	\$ 457.20	63	117	\$ 74,079.30	\$ 633.16
SOUSC	2	6	\$ 3,514.50	5	\$ 3,124.50	\$ 624.90	20	57	\$ 38,596.99	\$ 677.14
SPRDC	35	44	\$ 27,428.16	53	\$ 36,250.48	\$ 683.97	431	750	\$ 429,891.54	\$ 573.19
Law Ct	18	22	\$ 29,416.39	19	\$ 20,992.20	\$ 1,104.85	137	194	\$ 309,746.12	\$ 1,596.63
YORCD	227	235	\$ 151,316.92	224	\$ 150,056.00	\$ 669.89	2,267	2,705	\$ 1,880,256.28	\$ 695.10
AROD	96	112	\$ 64,685.33	96	\$ 62,324.59	\$ 649.21	1,227	1,341	\$ 792,032.12	\$ 590.63
ANDCD	177	164	\$ 91,150.03	158	\$ 87,772.87	\$ 555.52	1,698	1,693	\$ 863,262.50	\$ 509.90
KENCD	133	159	\$ 64,031.12	166	\$ 58,370.91	\$ 351.63	1,580	2,020	\$ 966,437.67	\$ 478.43
PENCD	231	242	\$ 139,913.29	242	\$ 144,698.95	\$ 597.93	2,641	3,006	\$ 1,403,627.59	\$ 466.94
SAGCD	32	32	\$ 19,967.78	32	\$ 20,824.26	\$ 650.76	368	380	\$ 236,756.23	\$ 623.04
WALCD	25	46	\$ 27,429.07	40	\$ 19,688.53	\$ 492.21	351	376	\$ 209,640.47	\$ 557.55
PISCD	20	15	\$ 5,114.50	11	\$ 3,015.88	\$ 274.17	156	164	\$ 40,721.54	\$ 248.30
HANCD	58	69	\$ 35,527.44	71	\$ 38,771.22	\$ 546.07	688	773	\$ 352,610.35	\$ 456.16
FRACD	57	79	\$ 34,078.23	79	\$ 32,006.49	\$ 405.15	511	557	\$ 289,036.96	\$ 518.92
WASCD	50	40	\$ 17,422.64	37	\$ 14,818.64	\$ 400.50	490	506	\$ 193,938.61	\$ 383.28
CUMCD	326	329	\$ 188,134.74	332	\$ 202,109.48	\$ 608.76	3,760	4,161	\$ 2,366,713.76	\$ 568.78
KNOCD	73	72	\$ 61,804.66	79	\$ 53,307.80	\$ 674.78	526	635	\$ 365,816.62	\$ 576.09
SOMCD	4	0		0			15	9	\$ 6,994.56	\$ 777.17
OXFCD	49	97	\$ 50,742.36	97	\$ 49,564.14	\$ 510.97	705	830	\$ 444,084.07	\$ 535.04
LINCD	39	35	\$ 19,615.20	27	\$ 13,464.36	\$ 498.68	415	501	\$ 264,483.92	\$ 527.91
WATDC	12	34	\$ 18,841.96	44	\$ 23,582.89	\$ 535.97	263	543	\$ 273,627.12	\$ 503.92
WESDC	23	28	\$ 10,174.96	29	\$ 15,898.52	\$ 548.22	244	309	\$ 134,815.02	\$ 436.29
WISDC	5	7	\$ 2,496.00	12	\$ 8,135.77	\$ 677.98	83	134	\$ 96,205.03	\$ 717.95
WISSC	1	0		1	\$ 2,414.10	\$ 2,414.10	6	13	\$ 10,308.22	\$ 792.94
YORDC	4	10	\$ 4,901.16	8	\$ 4,451.16	\$ 556.40	90	156	\$ 71,663.81	\$ 459.38
<b>TOTAL</b>	<b>2,203</b>	<b>2,692</b>	<b>\$ 1,513,879.15</b>	<b>2,664</b>	<b>\$ 1,510,753.97</b>	<b>\$ 567.10</b>	<b>24,411</b>	<b>31,991</b>	<b>\$ 17,337,756.15</b>	<b>\$ 541.96</b>

# MAINE COMMISSION ON INDIGENT LEGAL SERVICES

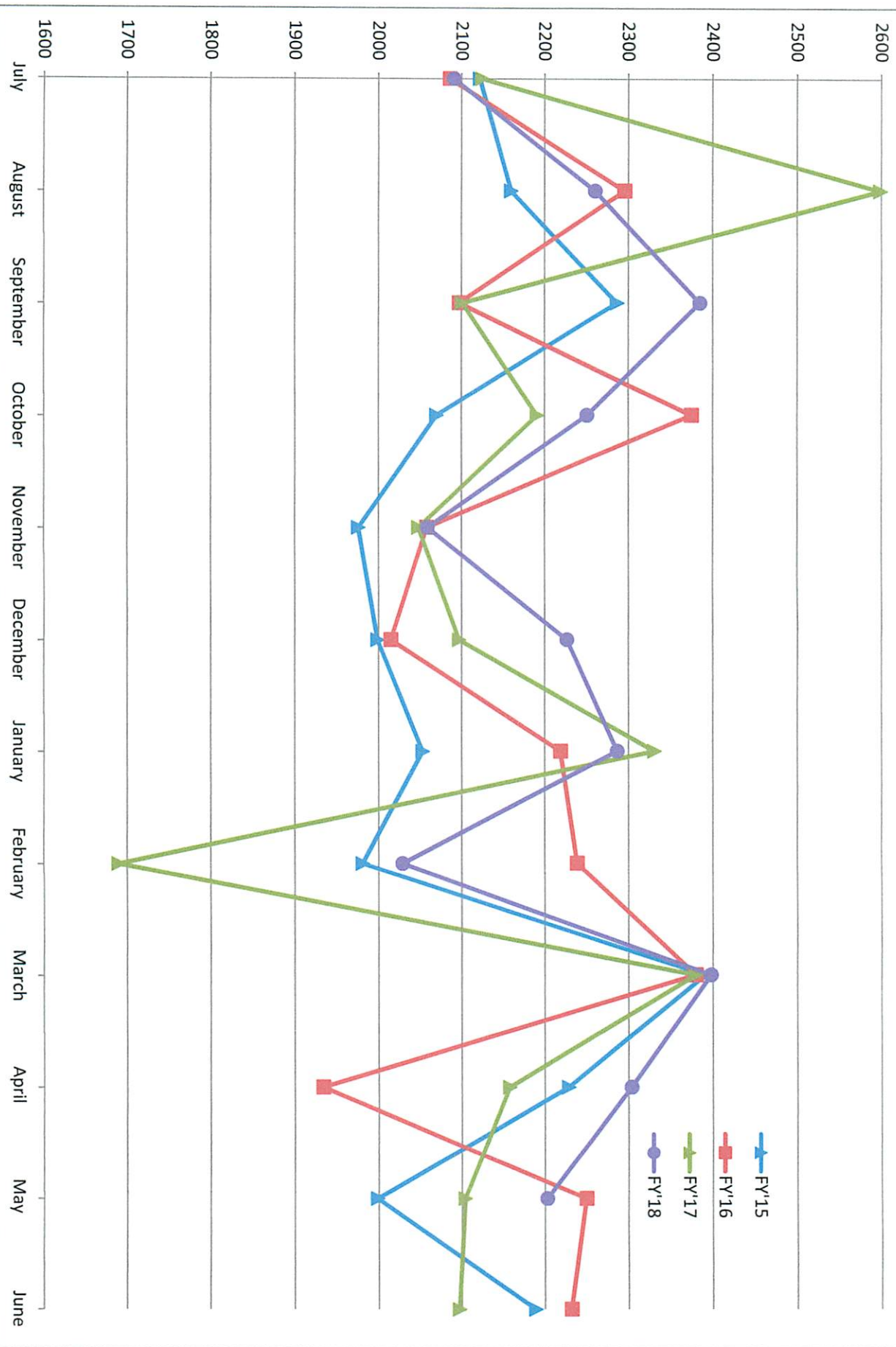
## Number of Attorneys Rostered by Court

05/31/2018

Court	Rostered Attorneys
Augusta District Court	96
Bangor District Court	47
Belfast District Court	47
Biddeford District Court	132
Bridgton District Court	89
Calais District Court	11
Caribou District Court	17
Dover-Foxcroft District Court	24
Ellsworth District Court	35
Farmington District Court	33
Fort Kent District Court	9
Houlton District Court	13
Lewiston District Court	120
Lincoln District Court	25
Machias District Court	17
Madawaska District Court	10
Millinocket District Court	18
Newport District Court	34
Portland District Court	155
Presque Isle District Court	14
Rockland District Court	38
Rumford District Court	23
Skowhegan District Court	29

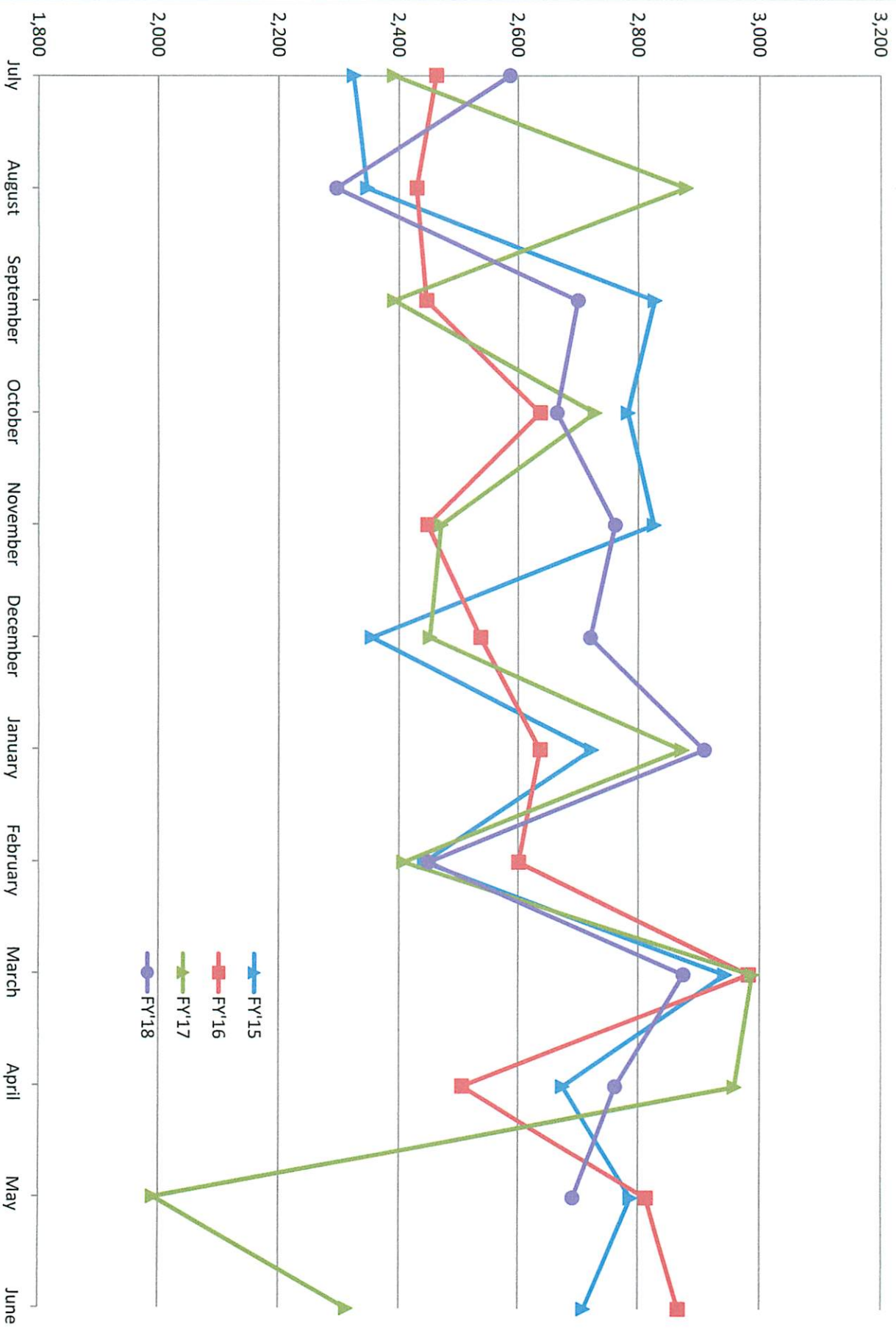
Court	Rostered Attorneys
South Paris District Court	53
Springvale District Court	118
Unified Criminal Docket Alfred	120
Unified Criminal Docket Aroostook	23
Unified Criminal Docket Auburn	102
Unified Criminal Docket Augusta	88
Unified Criminal Docket Bangor	51
Unified Criminal Docket Bath	91
Unified Criminal Docket Belfast	46
Unified Criminal Docket Dover Foxcroft	21
Unified Criminal Docket Ellsworth	40
Unified Criminal Docket Farmington	34
Unified Criminal Docket Machias	18
Unified Criminal Docket Portland	156
Unified Criminal Docket Rockland	35
Unified Criminal Docket Skowhegan	21
Unified Criminal Docket South Paris	78
Unified Criminal Docket Wiscasset	55
Waterville District Court	50
West Bath District Court	111
Wiscasset District Court	59
York District Court	101

# NEW CASES

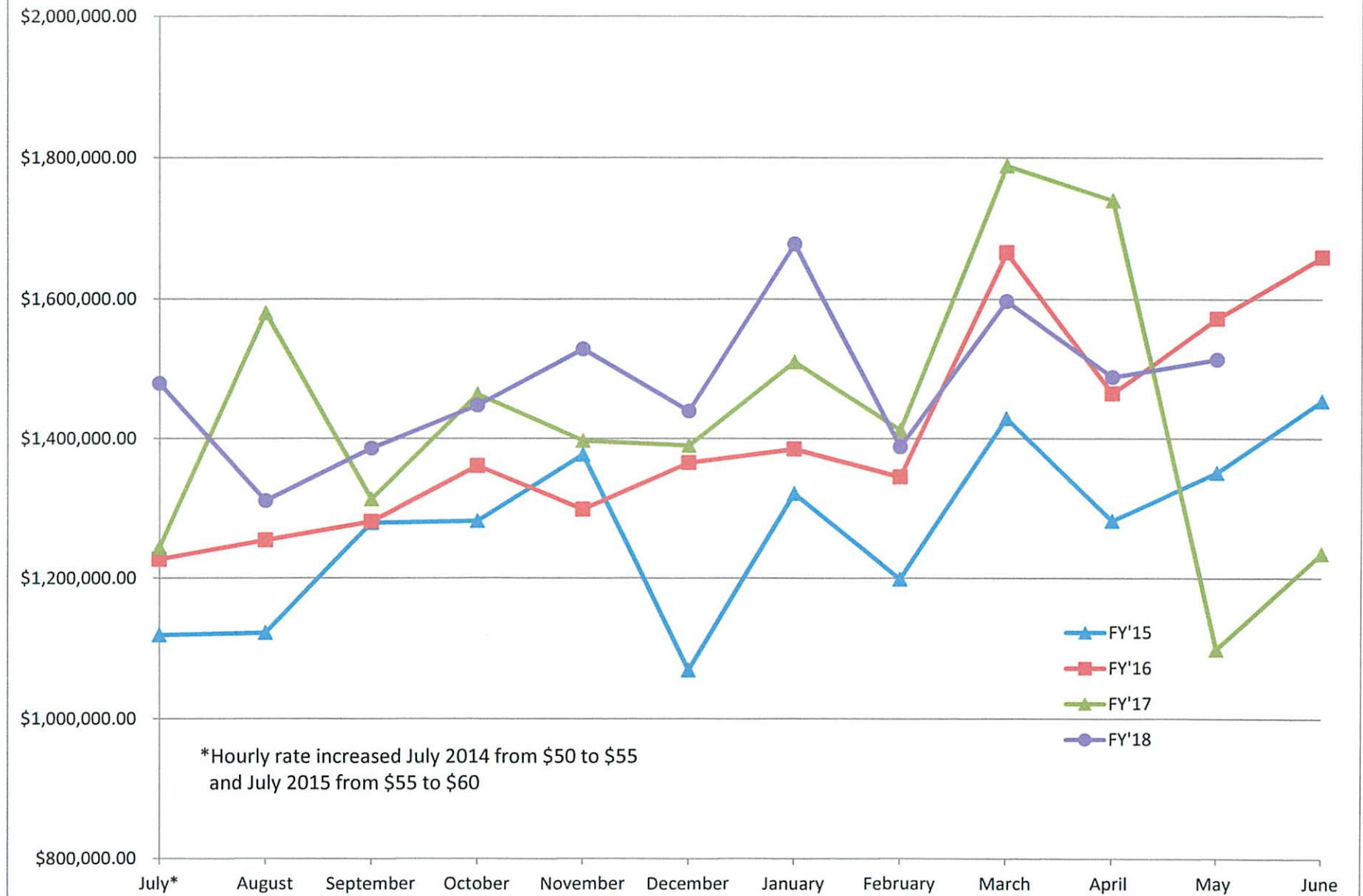




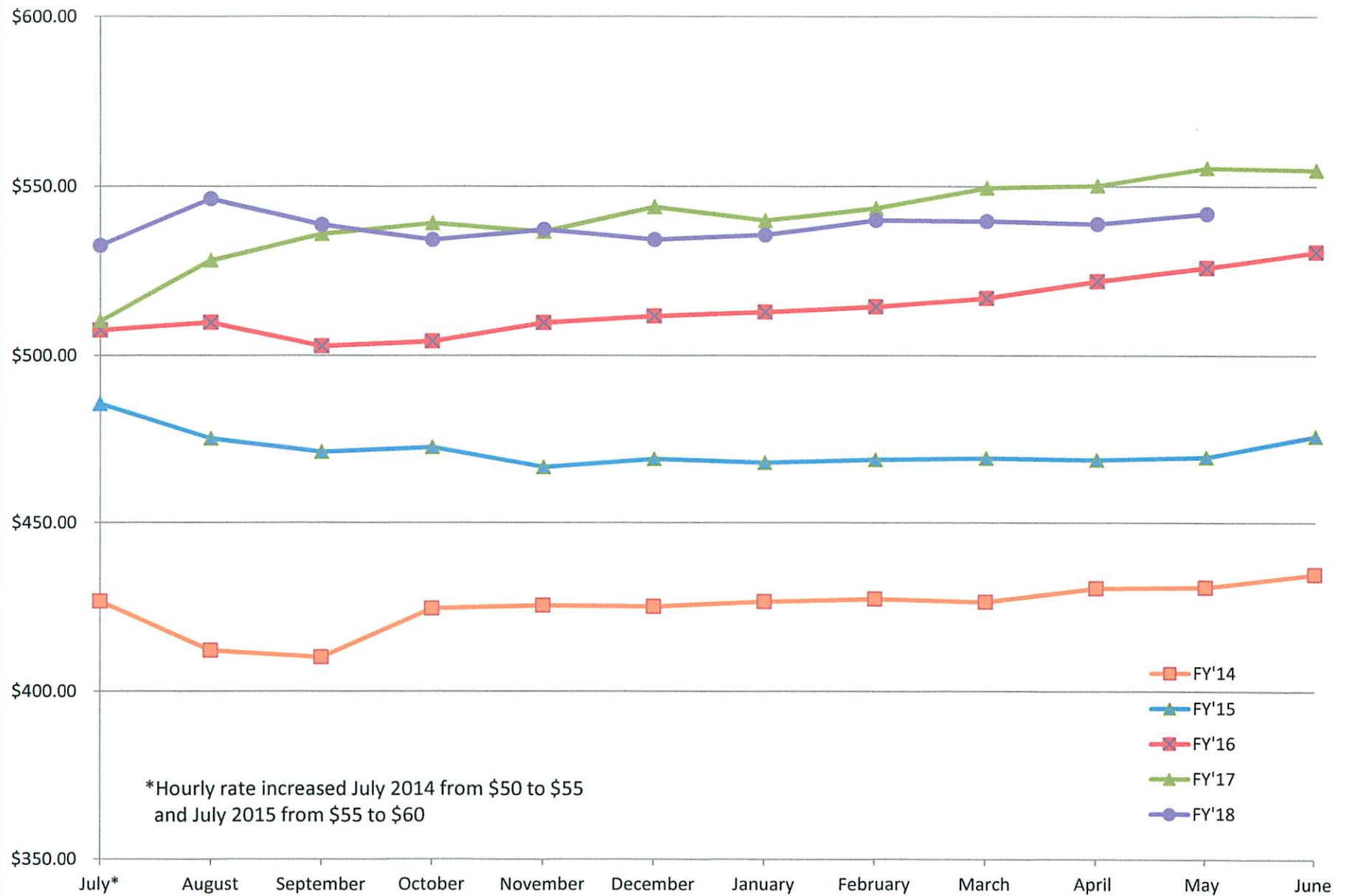
# Submitted Vouchers



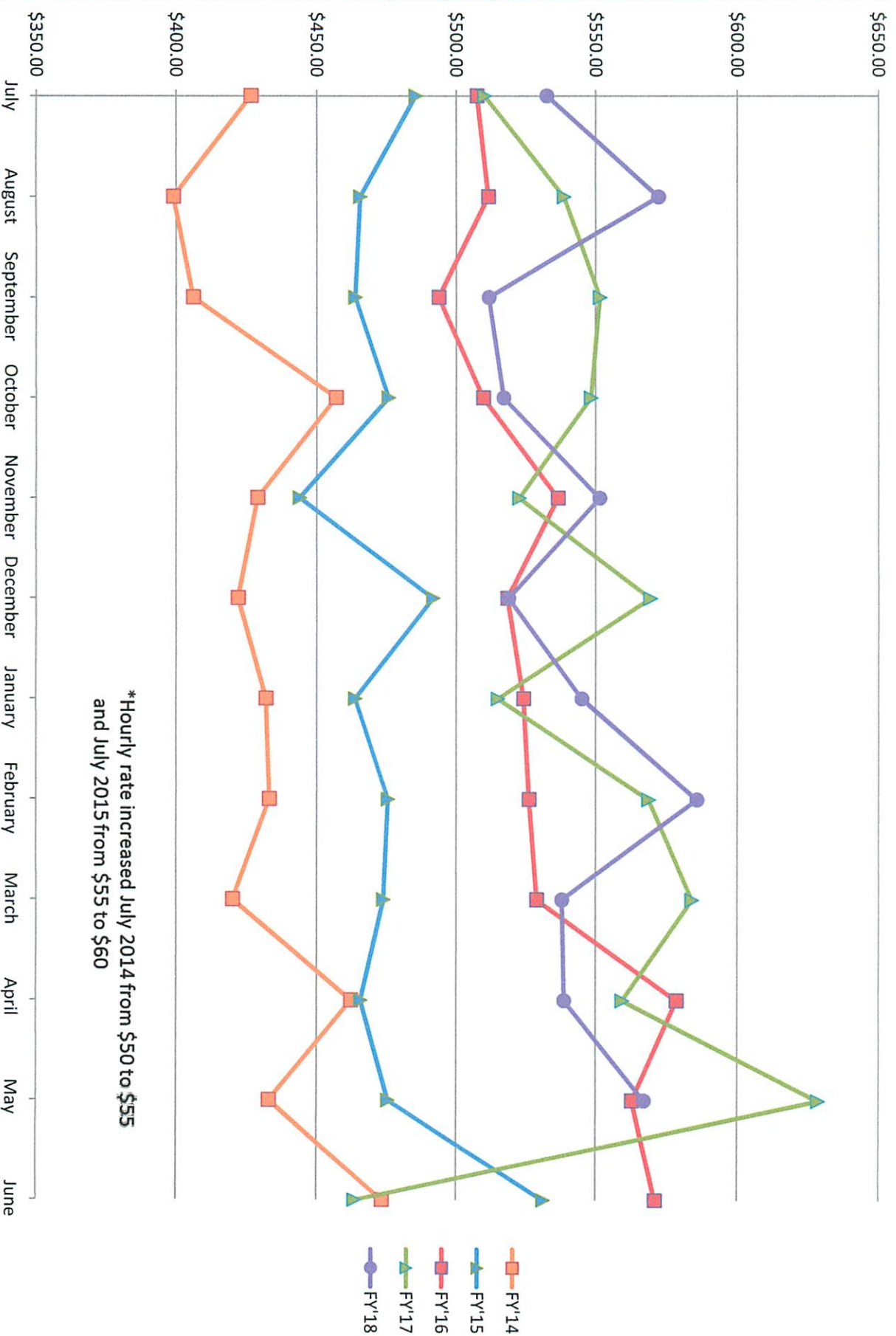
## Submitted Voucher Amount



## Average Voucher Price Fiscal Year to Date

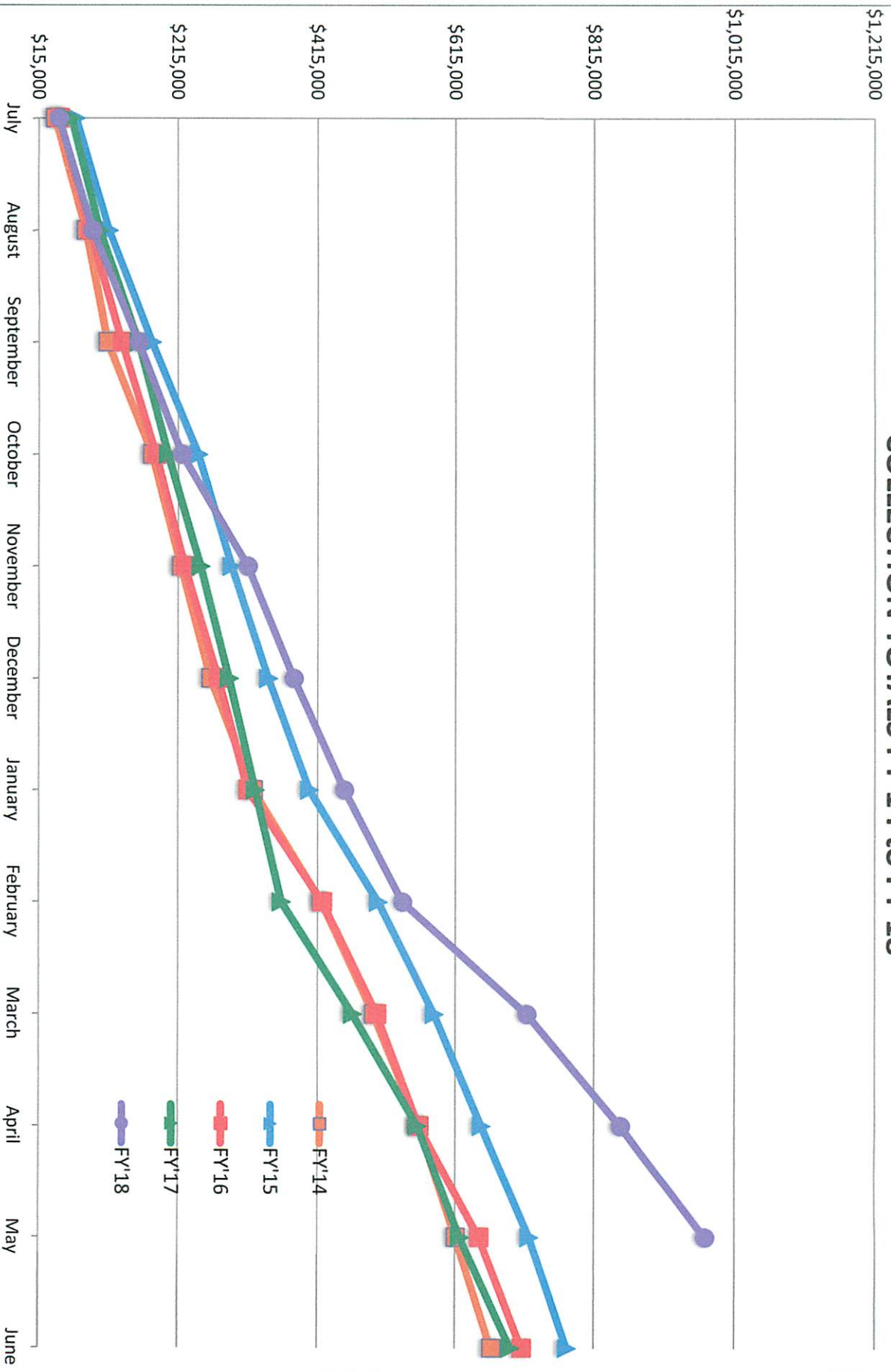


## Monthly Price Per Voucher



\*Hourly rate increased July 2014 from \$50 to \$55 and July 2015 from \$55 to \$60

# COLLECTION TOTALS FY'14 to FY'18





**(3.)**  
**Resource Counsel**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** POLICY GUIDELINES FOR RESOURCE COUNSEL  
**DATE:** June 6, 2018

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Attached is a draft policy and procedures document for the Resource Counsel program. The draft seeks to establish a more narrow program focused on mentoring services at the outset. It is expected that as we gain experience with both mentoring and feedback based on day-to-day observations reported by Resource Counsel, we can move to a more structured supervision and evaluation regime informed by our on-going experience. The proposal specifically calls for review and possible amendment by the Commission within six months.

## 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.

### 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.

## 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.

**(4.)**

## **Action Items Discussion**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** ACTION ITEMS DISCUSSION  
**DATE:** June 6, 2018

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At the last Commission meeting, Staff was asked to review the criminal practice standards to determine whether changes should be made in light of the statewide adoption of the UCD process involving the dispositional conference, a newly created court event. The standards do not address specific court events, and thus, do not appear to contain any provisions directly related to the pre-UCD "status conference" or inconsistent with the new dispositional conference. For your review, attached are copies of the portion of the standards addressing plea bargaining and the decision to file pretrial motions, both related to the dispositional conference, and a copy of the dispositional conference rule.

Staff was also asked to add review of the criminal practice standards to the Action Items List. A copy of the updated list is attached.

7. Presentment and Arraignment.

- A. Defense counsel should preserve the client's rights at the initial appearance on the charges by:
  - (1) advising the client to enter a plea of not guilty in all but the most extraordinary circumstances where a sound tactical reason exists for not doing so or unless the client insists on pleading guilty despite counsel's advice to the contrary;
  - (2) seeking a determination of whether there is probable cause to support the charges alleged and, if there is not probable cause, or other grounds exist for dismissal, requesting that the court dismiss the charge or charges.

8. The Plea Negotiation Process and the Duties of Defense Counsel.

- A. Defense counsel should explore with the client the possibility and desirability of reaching a negotiated disposition of the charges rather than proceeding to a trial and in doing so should fully explain the rights that would be waived by a decision to enter a plea and not to proceed to trial.
- B. Defense counsel should ordinarily obtain the consent of the client before entering into any plea negotiation.
- C. Defense counsel should keep the client fully informed of any continued plea discussion and negotiations and convey to the accused any offers made by the prosecution for a negotiated settlement.
- D. Defense counsel should not accept any plea agreement without the client's express authorization. The decision to enter a plea of guilty rests solely with the client, and defense counsel should not attempt to unduly influence that decision.
- E. The existence of ongoing tentative plea negotiations with the prosecution should not prevent defense counsel from taking steps necessary to preserve a defense.

9. The Decision to File Pretrial Motions.

- A. Defense counsel should consider filing an appropriate motion whenever there exists a good faith reason to believe that the applicable law may entitle the defendant to relief which the court has discretion to grant.
- B. The decision to file pretrial motions should be made after thorough investigation, and after considering the applicable law in light of the circumstances of each case. Among the issues that defense counsel should consider addressing in a pretrial motion are:
  - (1) the pretrial custody of the accused;
  - (2) the constitutionality of the implicated statute or statutes;
  - (3) the potential defects in the charging process;
  - (4) the sufficiency of the charging document;
  - (5) the propriety and prejudice of any joinder of charges or co-defendants in the charging document;



- (6) the discovery obligations of the prosecution and the reciprocal discovery obligations of the defense;
  - (7) the suppression of evidence gathered as the result of violations of the Fourth, Fifth or Sixth Amendments to the United States Constitution, or corresponding or additional state constitutional provisions, including:
    - (a) the fruits of illegal searches or seizures;
    - (b) involuntary statements or confessions;
    - (c) statements or confessions obtained in violation of the client's right to counsel, or privilege against self-incrimination;
    - (d) unreliable identification evidence which would give rise to a substantial likelihood of irreparable misidentification.
  - (8) suppression of evidence gathered in violation of any right, duty or privilege arising out of state or local law;
  - (9) access to resources which or experts who may be denied to an accused because of his or her indigence;
  - (10) the defendant's right to a speedy trial;
  - (11) the defendant's right to a continuance in order to adequately prepare his or her case;
  - (12) matters of trial evidence which may be appropriately litigated by means of a pretrial motion in limine;
  - (13) matters of trial or courtroom procedure.
- C. Defense counsel should withdraw a motion or decide not to file a motion only after careful consideration, and only after determining whether the filing of a motion may be necessary to protect the client's rights against later claims of waiver or procedural default.

#### 10. Filing and Arguing Pretrial Motions.

- A. Motions should be filed in a timely manner, should comport with the formal requirements of the court rules and should succinctly inform the court of the authority relied upon. In filing a pretrial motion, defense counsel should be aware of the effect it might have upon the defendant's speedy trial rights.
- B. When a hearing on a motion requires the taking of evidence, defense counsel's preparation for the evidentiary hearing should include:
  - (1) investigation, discovery and research relevant to the claim advanced;
  - (2) the subpoenaing of all helpful evidence and the subpoenaing and preparation of all helpful witnesses;
  - (3) full understanding of the burdens of proof, evidentiary principles and trial court procedures applying to the hearing, including the benefits and costs of having the client testify.

#### 11. Subsequent Filing of Pretrial Motions.

Defense counsel should be prepared to raise during the subsequent proceedings any issue which is appropriately raised pretrial, but could not have been so raised because the facts supporting the motion were unknown or not reasonably available. Further, defense counsel should be prepared to renew a pretrial motion if new supporting information is disclosed in later proceedings.

admissible at trial. The motion in limine shall be accompanied by a copy of the yet unserved subpoena.

Upon receipt of the motion, the court shall make a preliminary determination that the moving party has sufficiently set forth the relevancy, admissibility, and specificity of the requested documents. If the motion fails to meet the minimum threshold of information required, the court may summarily deny the motion. If the motion satisfies the minimal threshold of information required, the court shall direct the clerk to set the matter for hearing and issue a notice of hearing. The notice shall state the date and time of the hearing and direct the subpoenaed individual or entity from whom the documentary evidence is sought to submit the documentary evidence subject to the subpoena for *in camera* review by the court or to adequately explain in writing any reasons for a failure to submit the documentary evidence for *in camera* review. Following the clerk's issuance of a notice, the party seeking production shall serve the subpoena, the motion, and the notice on the subpoenaed individual or entity from whom the documentary evidence is sought in accordance with subdivision (b).

Upon receipt of the subpoena, the motion and the notice, the subpoenaed individual or entity to whom the subpoena is directed shall either submit the documentary evidence subject to the subpoena for *in camera* review by the court or provide in writing reasons for the failure to submit the documentary evidence for *in camera* review before the date of the hearing. After the hearing, the court may issue any order necessary to protect any party's or nonparty's privileges, confidentiality protections, or privacy protections under federal law, Maine law, or the Maine Rules of Evidence. A party or nonparty that may assert a privilege, confidentiality protection, or privacy protection may waive the right to a hearing and any applicable privileges or protections by notifying the court in writing that the party or nonparty is waiving any applicable privileges or protections.

**(g) Grand Jury Proceedings.** This Rule does not apply to a grand jury proceeding except as to the form, issuance, and service of a grand jury subpoena; sanction for noncompliance; and the rights of a subpoenaed nonparty.

## **RULE 18. DISPOSITIONAL CONFERENCE**

**(a) Appearance required.** The defendant and defendant's counsel, if any, shall appear at the dispositional conference. The State shall be represented at the dispositional conference by an attorney who has full authority to make decisions

regarding disposition of, and sentencing recommendations regarding, the charges against the defendant.

**(b) Participation.** The court shall have broad discretion in the conduct of the dispositional conference. Counsel and unrepresented defendants must be prepared to engage in meaningful discussion regarding all aspects of the case with a view toward reaching an appropriate resolution. The court may participate in such discussions and may facilitate a plea agreement by suggesting or addressing a specific aspect of the matters under consideration.

**(c) Content of Discussions Inadmissible.** Except when relevant to (1) the resolution of an ineffective assistance of counsel claim asserted by the participating defendant or (2) the enforcement or alleged violation of a plea agreement, including sentencing, evidence of conduct or statements made during the dispositional conference is not admissible for any purpose.

**(d) Agreement; Plea.** If the parties reach a plea agreement, the court shall take the plea in open court or schedule the plea for a later time.

**(e) No Agreement; Subsequent Proceedings.** If the parties do not reach a plea agreement, the matter shall be set for jury trial, unless the defendant waives the defendant's right to a trial by jury. If the defendant waives the right to a trial by jury pursuant to Rule 23(a), the matter shall be set for a jury-waived trial. If any criminal charge discussed in a dispositional conference is accompanied by a civil violation triable of right by a jury, and the civil matter is not resolved at the dispositional conference, the civil matter shall be set for a jury-waived trial, unless the defendant files a demand for a jury trial and pays the \$300 jury fee no later than 7 days after the dispositional conference, pursuant to M.R. Civ. P. 38.

**(f) No Agreement; Inquiry Regarding Indictment.** If the parties fail to reach a plea agreement in a case involving a complaint or information that charges at least one Class C or higher crime, the court shall call upon the defendant to elect whether to waive the right to have the matter presented to the grand jury and to be prosecuted by indictment, and to proceed to trial upon the complaint or information. If indictment is not waived, the court shall schedule the matter for arraignment upon the indictment after the next term of the grand jury.

## POTENTIAL ACTION ITEMS – JUNE 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.

### 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.

**(5)**

**Reconsideration**

**March 26, 2018 minutes**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**CC:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**SUBJECT:** MARCH 26, 2018 MEETING MINUTES  
**DATE:** June 6, 2018

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At the May meeting, the Commissioners voted to revise the March 26, 2018 meeting minutes to accurately reflect Chair Carey's remarks regarding the bill to revise the number and qualifications of Commissioners. A copy of the relevant portion of the revised minutes is attached for your review and final approval.

## Proposed Amended March 26, 2018 Commission Meeting Minutes

Legislative Update	<p>Director Pelletier gave an update on the two bills related to the recommendations of the Working Group and the two bills addressing the Commission's budget. For the bill concerning the number and qualifications of the Commissioners, Director Pelletier noted that during the language review stage, the Judiciary Committee converted two members to non-voting status with no restriction on Commission related work. The Judiciary Committee contacted Chair Carey to ascertain the Commission's position on the proposed bill. Chair Carey relayed that he responded that the Commission did not support either draft but believed the version with the non-voting members was <u>better than the one that limited rostered attorneys to 3 cases a year.*</u></p>	<p>*As amended by Commission vote on May 22, 2018, the underlined text reflects corrected language to accurately reflect Chair Carey's remarks. See May 22, 2018 meeting minutes for further Commission discussion on the issue.</p>
Action Items Discussion	<p>Director Pelletier informed the Commissioners that the feedback form seeking comments on attorney performance had been distributed to the financial screeners and posted to the Commission's website. Director Pelletier will request that the Trial Chiefs distribute the form to judges and court staff and that the Maine Prosecutors' Association distribute it to their members. The Commissioners requested that staff track the data that comes in by fiscal year.</p> <p>Director Pelletier stated that recruiting for a roster of resource counsel will be the next action item staff will work on, with a July 1 target start date for the program. Chair Carey asked that staff make progress each month and to keep the Commissioners updated. Chair Carey suggested that the Commissioners review the action item list for next month's meeting.</p>	



**(6.)**

**Somerset Contract**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** SOMERSET COUNTY UPDATE  
**DATE:** June 6, 2018

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In May, a single source contract justification for the contract extension was submitted to the Purchasing Division. Preliminary feedback is that the justification is reasonable and the form is in order. Final approval will have to await formal submission through the electronic Purchasing Maine app.

Formal submission is awaiting the authorization of our allotment for FY'19. The FY'19 work program, which sets the allotment amounts in the State's budget system, has been completed for the new Other Special Revenue account. Once the statewide work program is implemented by the budget office, we will be able to submit the amendment in the usual manner.