

MCILS

May 13, 2014

**Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

MAY 13, 2014
COMMISSION MEETING
AGENDA

- 1) Approval of April 8, 2014 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Budget Discussion
- 4) Rule-Making Discussion
- 5) Juvenile Specialized Panel Update
- 6) Training Update
- 7) New Staff Positions Update
- 8) Contracts Update
- 9) Public Comment
- 10) Set Date, Time and Location of Next Regular Meeting of the Commission
- 11) Executive Session, if needed (Closed to Public)

(1.)
April 8, 2014
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
April 8, 2014**

Minutes

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

MCILS Staff Present: John Pelletier, Ellie Brogan

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the March 11, 2014 Commission Meeting Minutes	Copy of minutes received by all Commissioners.	Commissioner Glazier moved for the approval of the minutes. Commissioner Roy seconded. All present voted in favor. Approved.
Operations Reports Review	<p>Director Pelletier presented the <u>March 2014 Operations Reports</u>. The number of new cases opened in DefenderData totaled 2,465 – a 566 case increase over February and the highest monthly total in more than 12 months. In fact, it was one of the highest totals since the early start-up months of the Commission. Voucher costs continued to run high, with 2,618 vouchers totaling \$1,141,086 – a 90 voucher and \$180,000 increase over February. The average price per voucher was \$420.16, a decrease of \$13.09 per voucher over February. The yearly price per voucher is \$426, while last year's price per voucher was \$411. Appeal and Post-Conviction Review cases were the highest average vouchers. Four vouchers exceeding \$5,000 were paid. Private investigator and expert costs have moderated in the last two months, after a very high total in January and the backlog from December. The March transfer of counsel fees, which reflect February's collections, totaled \$98,449.74, up \$38,000 from the previous month. This was the highest monthly total the Commission has ever received and is due in large part to the success of the tax-offset program this year. Third quarter collections were used to pay \$192,488.16 worth of attorney vouchers. Due to an allotment issue, \$8,163.40 in cash will be carried into the fourth quarter. A budget order will allow access to those funds to pay fourth quarter attorney vouchers.</p> <p>Chair Carey was concerned about the high number of new cases in March, specifically protective custody cases, noting that this could mean higher number of vouchers in the future. He also noted his concern about a trend in the increased ratio of felony to</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	misdemeanor cases, with felony cases starting to equal misdemeanor cases. He asked that the Commission continue to monitor this trend. Chair Carey was pleased with February's counsel fee collection totals and noted that the central office position, once filled, could help with collection efforts.	
Budget Discussion	At the end of the third quarter, \$430,000 from fourth quarter allotment was transfer into the third quarter allotment, which enabled the Commission to pay vouchers on schedule until two days before the end of the quarter. The Commission was also able to pay all non-counsel costs due to be paid in the third quarter. While the Commission finished the third quarter in good shape, \$430,000 will be unavailable in the fourth quarter. Voucher submissions and non-counsel costs have continued to run high. The third quarter projected shortfall totals \$207,000, even with the \$430,000 infusion of funds. This maintains the shortfall pace that the Commission based its \$860,000 supplemental budget request on. Fortunately, \$860,000 was included in the supplemental budget that became law on April 2. With this additional appropriation, the Commission is on track to cover its costs for the balance of the fiscal year. The supplemental budget request for FY'15 is currently under consideration by the Legislature.	
Rule-Making Discussion	Director Pelletier asked the Commissioners to consider whether the specialized panel rule, which the Commission's enabling statute designates as a "major substantive" rule, is in need of amendment to address some potential unenforceable requirements. He also asked the Commissioners to consider amendments to the general eligibility rule, also a "major substantive" rule, to address the Executive Director's authority to remove lawyers from the roster for various types of misconduct. Currently, neither the statute nor the existing eligibility rules explicitly grant the Executive Director authority to remove a lawyer from the roster for misconduct or provide any guidance regarding the circumstances that would constitute grounds for removal. Director Pelletier also asked the Commissioners to consider whether the fee schedule rule should be amended to comport with any potential biennial budget request that include a change in the hourly rate. The Commissioners were in agreement that Director Pelletier should put together a concept memo outlining issues and potential amendments to the eligibility and specialized panel rules for the Commissioners to consider at the next meeting. The Commissioners also requested a proposed draft of an amended fee schedule addressing an increase in the hourly rate.	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Discussion of Sex Offense Roster Issues in Franklin County	Director Pelletier and Chair Carey updated the Commissioners on the actions of some Franklin County attorneys taking themselves off the sex offense roster. Director Pelletier spoke to the Franklin County court clerks about this issue and they know to contact him about finding a lawyer outside Franklin County for a sex offense case. Chair Carey has been made aware that Washington County attorneys might also remove themselves from the homicide, sex offense, and juvenile rosters, and that there have been statewide attorney discussions about not filing the application to remain on the juvenile rosters. Chair Carey has received some feedback from legislators that they are concerned that the lack of attorneys in Franklin County willing to take sex offense cases will stretch the Commission's budget. He asked that the Commission continue to monitor the situation.	
Contracts Discussion	Director Pelletier updated the Commissioners on the status of the Somerset County and Justice Works Contracts. A draft RFP for the Somerset County Contract has been submitted to Purchasing for review. Purchasing did not authorize a sole source contract for Justice Works and believes that an RFP should be submitted for this contract. Since the current Justice Works contract expires in June, the Purchasing office had suggested a six month extension to the existing contract to allow time for the RFP process. Chair Carey suggested that he and Director Pelletier request a meeting with Purchasing to discuss the situation and ask that it reconsider that decision since staff workload is heavy right now and Justice Works is doing a great job for the Commission. The Commissioners agreed with that course of action.	
Juvenile Specialized Panel	The juvenile panel application has been posted on the Commission's website and is due at the beginning of May. Director Pelletier is working with Justice Works about the necessary modifications that need to be made to DefenderData in order to implement the juvenile specialized panel.	
New Staff Positions Update	The new screener in Houlton has started and the new screener in Ellsworth is set to start on April 14. Director Pelletier submitted a hiring freeze waiver for the office associate position, and it is currently being reviewed.	
Training	The Disability Rights Center invited the Commission to co-organize an attorney training on involuntary commitment.	
Public Comment	None	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Adjournment of meeting	The Commission then voted to adjourn with the next meeting to be on May 13, 2014, at 9:30 a.m., in the Judiciary Committee Room.	Commissioner Glazier made a motion to adjourn. Commissioner Logan seconded. All present voted in favor.

(2.)
Operations Reports
Review

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
SUBJECT: APRIL 2014 OPERATIONS REPORTS
DATE: MAY 5, 2014

Attached you will find the April, 2014 Operations Reports for your review and our discussion at the upcoming Commission meeting on May 13, 2014. A summary of the operations reports follows:

- 1,880 new cases were opened in the DefenderData system in April. This was a 585 case decrease from March, which had seen the highest new case total in more than 12 months.
- The number of vouchers submitted electronically in April was 2,371, a decrease of 247 vouchers from March, totaling \$1,084,694.61, a decrease of \$56,000 from March. In April, we paid 2,660 electronic vouchers totaling \$1,229,979.64. This was a 57 voucher and \$136,000 increase over March. Our current budget posture is discussed in the Budget Memo included in the packet.
- There was one paper vouchers submitted and paid in April totaling \$111.00
- The average price per voucher in April was \$462.27, up \$42.11 per voucher from March, bringing the year-to-date voucher average to 430.55.
- Appeal and Post-Conviction Review cases had the highest average vouchers in April. There were 9 vouchers exceeding \$5,000, four of which exceeded \$8,000, paid in April. These cases involved 1) a plea to a reduced charge in an Attempted Murder case that required extensive litigation of issues raised by law enforcement's failure to provide discovery; 2) a trial in a 3-count Arson case that resulted in not guilty verdicts on two counts and a hung jury on the third count - the state's ability to re-try that count is the subject of a pending Law Court appeal; 3) a not guilty on a Gross Sexual Assault trial with guilty verdicts on lesser charges; 4) a Manslaughter case where counsel's pre-trial work led to the charge being reduced to Aggravated Assault with a 9 month jail sentence. The other vouchers involved two appeals and an interim voucher in Murder cases, and two cases in which co-counsel were allowed to withdraw and the court refused to assign successor counsel (although standby counsel were brought in).

In our All Other Account, the total expenses for the month of April were \$1,325,468.67. Of the amount, \$13,224.61 was devoted to the Commission's operating expenses, an amount slightly higher than normal because we paid an annual website maintenance charge and an unusually high DefenderData bill due to the large number of new cases created in March.

In the Personal Services Account, we had \$45,977.69 in expenses for the month of April.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of April, which reflects March's collections, totaled \$75,424.36, well above our monthly average for collections for this fiscal year.

In our Conference Account, there was no activity in April leaving the account balance at \$19,941.91.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

4/30/2014

DefenderData Case Type	Apr-14						Fiscal Year 2014			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	17	16	\$ 33,249.15	15	\$ 27,593.62	\$ 1,839.57	118	115	\$ 153,354.67	\$ 1,333.52
Child Protection Petition	181	324	\$ 185,617.88	384	\$ 218,267.99	\$ 568.41	1,649	3,187	\$ 1,606,825.12	\$ 504.18
Drug Court	0	12	\$ 5,699.92	9	\$ 5,814.92	\$ 646.10	1	62	\$ 30,814.92	\$ 497.01
Emancipation	7	6	\$ 1,220.00	9	\$ 1,565.00	\$ 173.89	78	75	\$ 19,688.90	\$ 262.52
Felony	474	536	\$ 371,625.54	596	\$ 426,015.49	\$ 714.79	5,094	5,179	\$ 3,504,687.36	\$ 676.71
Involuntary Civil Commitment	55	106	\$ 18,406.45	68	\$ 9,828.20	\$ 144.53	686	601	\$ 102,169.00	\$ 170.00
Juvenile	63	117	\$ 49,205.34	133	\$ 51,405.22	\$ 386.51	1,122	1,048	\$ 361,286.78	\$ 344.74
Lawyer of the Day - Custody	196	188	\$ 35,689.94	208	\$ 39,782.12	\$ 191.26	2,012	1,897	\$ 355,613.33	\$ 187.46
Lawyer of the Day - Juvenile	31	33	\$ 5,403.97	49	\$ 8,634.03	\$ 176.20	456	441	\$ 77,399.54	\$ 175.51
Lawyer of the Day - Walk-in	89	100	\$ 19,234.30	118	\$ 22,994.70	\$ 194.87	1,055	1,007	\$ 193,786.10	\$ 192.44
Misdemeanor	543	592	\$ 205,926.90	674	\$ 246,671.10	\$ 365.98	5,939	6,034	\$ 2,019,520.84	\$ 334.69
Petition, Modified Release Treatment	2	10	\$ 5,255.00	7	\$ 3,110.00	\$ 444.29	17	50	\$ 17,953.26	\$ 359.07
Petition, Release or Discharge	0	0		0			0	1	\$ 165.00	\$ 165.00
Petition, Termination of Parental Rights	19	39	\$ 27,419.61	39	\$ 27,859.96	\$ 714.36	179	401	\$ 268,803.14	\$ 670.33
Post Conviction Review	9	11	\$ 13,883.72	15	\$ 16,863.62	\$ 1,124.24	59	71	\$ 82,386.78	\$ 1,160.38
Probation Violation	161	141	\$ 49,320.81	172	\$ 50,255.94	\$ 292.19	1,549	1,403	\$ 456,088.35	\$ 325.08
Represent Witness on 5th Amendment	2	0		0			14	10	\$ 2,562.50	\$ 256.25
Review of Child Protection Order	23	137	\$ 57,051.08	159	\$ 72,207.73	\$ 454.14	431	1,566	\$ 718,523.17	\$ 458.83
Revocation of Administrative Release	8	3	\$ 485.00	5	\$ 1,110.00	\$ 222.00	35	40	\$ 11,207.59	\$ 280.19
DefenderData Sub-Total	1,880	2,371	\$ 1,084,694.61	2,660	\$ 1,229,979.64	\$ 462.40	20,494	23,188	\$ 9,982,836.35	\$ 430.52
Paper Voucher Sub-Total	1	1	\$ 111.00	1	\$ 111.00	\$ 111.00	24	24	\$ 11,084.91	\$ 461.87
TOTAL	1,881	2,372	\$1,084,805.61	2,661	\$1,230,090.64	\$ 462.27	20,518	23,212	\$ 9,993,921.26	\$ 430.55

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY14 FUND ACCOUNTING
AS OF 04/30/2014

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY14 Professional Services Allotment		\$ 2,906,477.00		\$ 2,760,552.00		\$ 3,046,863.00		\$ 3,051,713.00	
FY14 General Operations Allotment		\$ 35,362.00		\$ 35,361.00		\$ 35,362.00		\$ 35,359.00	
Financial Order Adjustment						\$ 350.00		\$ 400.00	
Financial Order Adjustment						\$ 430,000.00		\$ (430,000.00)	
Financial Order Adjustment								\$ 810,000.00	
Financial Order Adjustment									
Financial Order Adjustment									
Total Budget Allotments		\$ 2,941,839.00		\$ 2,795,913.00		\$ 3,512,575.00		\$ 3,467,472.00	\$ 12,717,799.00
Total Expenses	1	\$ (979,565.86)	4	\$ (1,364,192.49)	7	\$ (1,602,204.20)	10	\$ (1,325,468.67)	\$ (5,271,431.22)
	2	\$ (1,057,090.90)	5	\$ (1,057,861.53)	8	\$ (985,065.42)	11		\$ (3,100,017.85)
	3	\$ (719,557.24)	6	\$ (435,733.98)	9	\$ (987,180.38)	12		\$ (2,142,471.60)
Encumbrances		\$ (185,625.00)		\$ 61,875.00		\$ 61,875.00		\$ 20,625.00	\$ (41,250.00)
TOTAL REMAINING		\$ 0.00		\$ -		\$ -		\$ 2,162,628.33	\$ 2,162,628.33

Q4 Month 10 (as of 04/30/14)

INDIGENT LEGAL SERVICES

Counsel Payments	\$ (1,230,126.65)
Somerset County	\$ (21,180.00)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (22,114.57)
Mental Health Expert	\$ (12,399.92)
Transcripts	\$ (6,021.97)
Other Expert	\$ (16,341.60)
Air fare-out of state witness	\$ -
Process Servers	\$ (309.65)
Interpreters	\$ (441.60)
Misc Prof Fees & Serv	\$ (3,308.10)
SUB-TOTAL ILS	\$ (1,312,244.06)

OPERATING EXPENSES

Service Center	\$ (794.50)
DefenderData	\$ (4,675.00)
VDI Reimbursements	\$ (350.00)
Mileage/Tolls/Parking	\$ (1,572.34)
Mailing/Postage/Freight	\$ (955.17)
Website Maintenance	\$ (2,640.00)
Parking Permit	\$ (540.00)
Office Supplies/Equip.	\$ (1,088.43)
Cellular Phones	\$ (117.64)
Hotel Room/Lodging/Meals	\$ (363.93)
Office Equipment Rental	\$ (127.60)
OIT/TELCO	\$ -
SUB-TOTAL OE	\$ (13,224.61)

TOTAL \$ (1,325,468.67)

INDIGENT LEGAL SERVICES

Q4 Allotment	\$ 3,467,472.00
Q4 Expenditure for Somerset cty PDP contract from Q1 Allotment	\$ 20,625.00
Q4 Expenses as of 04/30/14	\$ (1,325,468.67)
Remaining Q4 Allotment as of 04/30/14	\$ 2,162,628.33

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY14 FUND ACCOUNTING
As of 04/30/14

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
Total Budget Allotments		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Financial Order Adjustment	1		4		7		10		
Financial Order Adjustment	2		5		8		11		
Budget Order Adjustment	3		6		9	\$ 43,367.00	12		
Financial Order Adjustment		\$ (32,332.00)	4	\$ (11,035.00)	7		10		
Total Budget Allotments		\$ 116,792.00		\$ 138,089.00		\$ 192,491.00		\$ 149,125.00	\$ 596,497.00
FY13 Carryover		\$ 775.00							
Collected Revenue from JB	1	\$ 35,123.80	4	\$ 31,677.47	7	\$ 42,313.67	10	\$ 75,424.36	
Promissory Note Payments						\$ 200.00		\$ 200.00	
Collected Revenue from JB	2	\$ 38,666.27	5	\$ 63,710.67	8	\$ 60,808.05	11		
Promissory Note Payments		\$ 200.00		\$ 800.00		\$ 200.00			
Discovery sanction payment				\$ 300.00					
Collected Revenue from JB	3	\$ 43,621.87	6	\$ 41,975.79	9	\$ 98,449.74	12		
Promissory Note Payments						\$ 200.00			
TOTAL REVENUE COLLECTED		\$ 118,386.94		\$ 138,463.93		\$ 202,171.46		\$ 75,624.36	\$ 534,646.69
Counsel Payments	1		4		7		10		
	2	\$ -	5		8		11		
	3	\$ (116,791.19)	6	\$ (138,088.93)	9	\$ (192,488.16)	12		
REMAINING ALLOTMENT		\$ 0.81		\$ 0.07		\$ 2.84		\$ 149,125.00	\$ 149,128.72
Total Expenses	1		4	\$ (150.00)	7	\$ (790.00)	10	\$ (160.00)	
	2	\$ (360.00)	5	\$ (225.00)	8	\$ (180.00)	11		
	3	\$ (1,235.75)	6		9	\$ (550.00)	12		
REMAINING CASH		\$ -		\$ -		\$ 8,163.30		\$ -	\$ 8,163.30

Q4 Month 10 (as of 04/30/14)	
DEFENDER DATA COUNSEL PAYMENTS	
	\$ -
SUB-TOTAL ILS	
OVERPAYMENT REIMBURSEMENTS	\$ (160.00)
Paper Voucher	
Somerset County CDs	
Private Investigators	
Mental Health Expert	
Transcripts	
Other Expert	
Process Servers	
SUB-TOTAL OE	\$ (160.00)
TOTAL	\$ (160.00)

INDIGENT LEGAL SERVICES	
FY14 Allotment	\$ 596,497.00
YTD Collected Revenue	\$ 534,646.69
YTD Expenses	\$ (3,650.75)
YTD Counsel Payments	\$ (447,368.28)
Q3 Remaining Unexpended Cash	\$ 83,627.66

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY14 FUND ACCOUNTING
AS OF 04/30/2014

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY14 Allotment		\$ 167,116.00		\$ 184,094.00		\$ 156,652.00		\$ 148,503.00	\$ 656,365.00
Financial Order Adjustments		\$ (3,569.00)		\$ 1,423.00		\$ (2,890.00)		\$ (9,179.00)	
Budget Order Adjustments									
Total Budget Allotments		\$ 163,547.00		\$ 185,517.00		\$ 153,762.00		\$ 139,324.00	\$ 642,150.00
Total Expenses	1	\$ (59,858.17)	4	\$ (44,039.57)	7	\$ (44,762.34)	10	\$ (45,977.69)	
	2	\$ (42,837.33)	5	\$ (41,836.86)	8	\$ (48,169.82)	11		
	3	\$ (43,143.13)	6	\$ (58,868.88)	9	\$ (44,842.18)	12		
TOTAL REMAINING		\$ 17,708.37		\$ 40,771.69		\$ 15,987.66		\$ 93,346.31	\$ 167,814.03

Q4 Month 10 (as of 04/30/14)	
Per Diem Payments	\$ (275.00)
Salary	\$ (25,062.31)
Vacation Pay	\$ (215.04)
Holiday Pay	\$ -
Sick Pay	\$ (1,271.46)
Overtime Pay	\$ -
Health Insurance	\$ (8,858.18)
Dental Insurance	\$ (236.34)
Employer Retiree Health	\$ (2,479.32)
Employer Retirement	\$ (1,491.24)
Employer Group Life	\$ (201.26)
Employer Medicare	\$ (367.48)
Retiree Unfunded Liability	\$ (4,053.76)
Retro Pymt	\$ -
Perm Part Time Full Ben	\$ (1,466.30)
TOTAL	\$ (45,977.69)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY14 FUND ACCOUNTING
As of 04/30/14

Account 014 95F Z112 02 (Conference Account)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY13 Carry Over		\$ 19,602.53							\$ -
Total Budget Allotments		\$ 4,000.00	\$ 12,000.00		\$ 4,000.00		\$ 12,000.00		\$ 32,000.00
Budget Order Adjustment									
Total Budget Allotments		\$ 4,000.00	\$ 12,000.00		\$ 4,000.00		\$ 12,000.00		\$ 32,000.00
Actual Collected Earned Revenue	1	\$ 25.00	4	\$ 150.00	7	\$ 200.00	10		
	2	\$ 850.00	5	\$ 1,000.00	8		11		
	3	\$ 225.00	6	\$ 3,275.00	9		12		
ACTUAL CASH BALANCE		\$ 20,702.53	\$ 4,425.00		\$ 200.00		\$ -		\$ 25,327.53
Total Expenses	1	\$ (437.97)	4	\$ (1,453.93)	7	\$ (2,291.33)	10	\$ -	
	2	\$ (81.99)	5		8	\$ -	11		
	3		6	\$ (1,120.40)	9	\$ -	12		
TOTAL REMAINING		\$ 20,182.57	\$ 1,850.67		\$ 2,108.67		\$ 12,000.00		\$ 31,480.04

Q4 Month 10 (as of 04/30/14)

Collected Revenue	\$ -
Training Manuals Printing	\$ -
Training Refreshments/Meals	\$ -
CLE App to the Bar	\$ -
Videographer	\$ -
Refund for non-attendance	\$ -
TOTAL EXPENSES	\$ -

FY14 Allotment	\$ 32,000.00
FY13 Carry Over	\$ 19,602.53
FY14 Collected Revenue	\$ 5,725.00
FY14 Expenses	\$ (5,385.62)
Unexpended Cash	\$ 19,941.91

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

4/30/2014

Court	Apr-14						Fiscal Year 2014			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	107	140	\$ 89,225.99	142	\$ 85,855.75	\$ 604.62	1,453	1,477	\$ 928,184.32	\$ 628.43
AUBSC	67	85	\$ 52,603.05	101	\$ 60,633.37	\$ 600.33	926	1,014	\$ 544,121.08	\$ 536.61
AUGDC	71	117	\$ 46,580.98	108	\$ 41,514.37	\$ 384.39	732	940	\$ 344,464.70	\$ 366.45
AUGSC	88	95	\$ 38,940.58	94	\$ 40,606.56	\$ 431.98	886	909	\$ 435,698.04	\$ 479.32
BANDC	65	100	\$ 28,323.00	110	\$ 34,858.32	\$ 316.89	652	990	\$ 314,578.56	\$ 317.76
BANSC	4	3	\$ 2,018.40	3	\$ 3,621.52	\$ 1,207.17	30	30	\$ 33,590.02	\$ 1,119.67
BATSC	5	9	\$ 6,487.08	8	\$ 9,458.18	\$ 1,182.27	66	106	\$ 77,826.08	\$ 734.21
BELDC	26	43	\$ 18,963.05	36	\$ 16,681.15	\$ 463.37	256	336	\$ 124,967.31	\$ 371.93
BELSC	21	15	\$ 9,196.63	18	\$ 9,750.68	\$ 541.70	184	217	\$ 110,960.67	\$ 511.34
BIDDC	64	87	\$ 32,590.41	92	\$ 31,917.12	\$ 346.93	850	954	\$ 367,748.98	\$ 385.48
BRIDC	11	24	\$ 9,713.65	35	\$ 10,999.68	\$ 314.28	184	223	\$ 80,494.91	\$ 360.96
CALDC	24	17	\$ 6,192.61	13	\$ 6,936.04	\$ 533.54	163	165	\$ 67,985.70	\$ 412.03
CARDC	22	22	\$ 10,975.37	35	\$ 13,872.29	\$ 396.35	184	237	\$ 94,025.29	\$ 396.73
CARSC	32	40	\$ 19,083.68	51	\$ 21,856.88	\$ 428.57	301	317	\$ 161,959.51	\$ 510.91
DOVDC	7	5	\$ 930.00	3	\$ 730.00	\$ 243.33	60	122	\$ 36,151.40	\$ 296.32
DOVSC	3	1	\$ 160.00	1	\$ 115.00	\$ 115.00	14	22	\$ 10,460.26	\$ 475.47
ELLDC	29	76	\$ 46,426.12	86	\$ 52,917.76	\$ 615.32	348	561	\$ 256,037.06	\$ 456.39
ELLSC	8	43	\$ 38,771.95	36	\$ 35,499.95	\$ 986.11	143	188	\$ 127,504.52	\$ 678.22
FARDC	10	18	\$ 7,683.06	21	\$ 7,696.12	\$ 366.48	92	176	\$ 68,957.40	\$ 391.80
FARSC	1	2	\$ 584.00	3	\$ 2,282.44	\$ 760.81	37	130	\$ 89,331.09	\$ 687.16
FORDC	8	4	\$ 2,102.50	12	\$ 7,871.66	\$ 655.97	63	67	\$ 27,269.06	\$ 407.00
HOUDC	34	43	\$ 9,224.91	55	\$ 16,244.13	\$ 295.35	325	356	\$ 108,866.37	\$ 305.80
HOUSC	9	24	\$ 11,521.61	20	\$ 13,027.22	\$ 651.36	140	113	\$ 59,816.86	\$ 529.35
LEWDC	117	119	\$ 43,363.16	144	\$ 49,061.94	\$ 340.71	1,277	1,421	\$ 528,709.32	\$ 372.07
LINDC	9	7	\$ 1,750.32	12	\$ 6,769.84	\$ 564.15	134	171	\$ 62,294.77	\$ 364.30
MACDC	25	35	\$ 10,562.01	35	\$ 10,776.64	\$ 307.90	264	283	\$ 101,106.76	\$ 357.27
MACSC	11	14	\$ 6,384.27	21	\$ 10,251.26	\$ 488.16	151	147	\$ 56,189.96	\$ 382.24
MADDC	1	1	\$ 266.36	3	\$ 721.36	\$ 240.45	22	28	\$ 7,015.22	\$ 250.54
MILDC	1	1	\$ 306.68	2	\$ 691.68	\$ 345.84	19	18	\$ 4,722.26	\$ 262.35
NEWDC	11	19	\$ 7,620.56	21	\$ 8,272.12	\$ 393.91	250	317	\$ 100,199.34	\$ 316.09
PORDC	64	137	\$ 68,623.27	124	\$ 69,090.57	\$ 557.18	876	1,108	\$ 468,767.98	\$ 423.08
PORSC	3	3	\$ 1,465.00	10	\$ 3,075.00	\$ 307.50	49	35	\$ 14,550.00	\$ 415.71
PREDC	13	29	\$ 12,050.50	63	\$ 21,750.17	\$ 345.24	212	322	\$ 122,157.34	\$ 379.37
ROCDL	32	54	\$ 17,377.26	49	\$ 17,651.44	\$ 360.23	452	534	\$ 182,884.48	\$ 342.48
ROCSC	20	36	\$ 37,907.38	33	\$ 32,491.98	\$ 984.61	310	333	\$ 210,546.47	\$ 632.27
RUMDC	11	11	\$ 3,329.60	13	\$ 5,235.00	\$ 402.69	108	154	\$ 66,402.97	\$ 431.19
SKODC	12	40	\$ 14,927.77	24	\$ 10,061.52	\$ 419.23	120	299	\$ 140,697.34	\$ 470.56
SKOSC	0	0		0			8	7	\$ 4,265.00	\$ 609.29
SODUC	19	29	\$ 11,184.97	34	\$ 11,481.75	\$ 337.70	255	314	\$ 97,515.17	\$ 310.56
SOUSC	27	23	\$ 10,303.75	41	\$ 18,055.40	\$ 440.38	326	418	\$ 183,625.45	\$ 439.30
SPRDC	49	53	\$ 19,600.91	75	\$ 29,167.77	\$ 388.90	564	642	\$ 252,598.17	\$ 393.46
Law Ct	9	13	\$ 21,998.67	12	\$ 15,741.22	\$ 1,311.77	76	74	\$ 99,662.14	\$ 1,346.79
PENCD	215	218	\$ 92,238.05	230	\$ 108,115.13	\$ 470.07	1,866	1,924	\$ 736,870.25	\$ 382.99
SAGCD	24	26	\$ 15,065.38	24	\$ 11,426.52	\$ 476.11	170	96	\$ 35,884.00	\$ 373.79
PISCD	20	14	\$ 1,865.00	13	\$ 3,100.00	\$ 238.46	163	154	\$ 26,322.50	\$ 170.93
HANCD	40	40	\$ 23,662.00	36	\$ 14,007.25	\$ 389.09	204	106	\$ 33,120.31	\$ 312.46
FRACD	27	22	\$ 5,226.96	34	\$ 9,865.85	\$ 290.17	330	282	\$ 86,160.73	\$ 305.53
CUMCD	262	268	\$ 123,095.91	337	\$ 171,040.19	\$ 507.54	2,676	2,545	\$ 1,300,488.17	\$ 511.00
SOMCD	0	0		0			8	6	\$ 3,319.56	\$ 553.26
WATDC	52	42	\$ 10,724.03	57	\$ 20,962.55	\$ 367.76	467	615	\$ 186,802.97	\$ 303.74
WESDC	31	29	\$ 7,558.78	32	\$ 11,011.94	\$ 344.12	336	447	\$ 130,235.40	\$ 291.35
WISDC	25	33	\$ 10,858.05	42	\$ 10,338.68	\$ 246.16	266	299	\$ 78,936.41	\$ 264.00
WISSC	22	25	\$ 11,691.16	22	\$ 9,736.86	\$ 442.58	268	239	\$ 116,782.51	\$ 488.63
YORDC	12	17	\$ 5,388.22	34	\$ 15,081.82	\$ 443.58	178	200	\$ 73,004.21	\$ 365.02
TOTAL	1,880	2,371	\$ 1,084,694.61	2,660	\$ 1,229,979.64	\$ 462.40	20,494	23,188	\$ 9,982,836.35	\$ 430.52

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Number of Attorneys Rostered by Court

4/30/2014

Court	Rostered Attorneys
Alfred Superior Court	107
Auburn Superior Court	111
Augusta District Court	90
Augusta Superior Court	88
Bangor District Court	66
Belfast District Court	49
Belfast Superior Court	45
Biddeford District Court	137
Bridgton District Court	104
Calais District Court	15
Caribou District Court	16
Caribou Superior Court	18
Dover-Foxcroft District Court	27
Ellsworth District Court	50
Farmington District Court	32
Fort Kent District Court	7
Houlton District Court	14
Houlton Superior Court	16
Lewiston District Court	141
Lincoln District Court	29
Machias District Court	20
Machias Superior Court	18
Madawaska District Court	8

Court	Rostered Attorneys
Millinocket District Court	23
Newport District Court	38
Portland District Court	157
Presque Isle District Court	13
Rockland District Court	48
Rockland Superior Court	41
Rumford District Court	31
Skowhegan District Court	29
South Paris District Court	69
South Paris Superior Court	65
Springvale District Court	122
Unified Criminal Docket Bangor	66
Unified Criminal Docket Bath	82
Unified Criminal Docket Dover Foxcroft	25
Unified Criminal Docket Ellsworth	44
Unified Criminal Docket Farmington	32
Unified Criminal Docket Portland	145
Unified Criminal Docket Skowhegan	19
Waterville District Court	56
West Bath District Court	111
Wiscasset District Court	72
Wiscasset Superior Court	64
York District Court	113

(3.)

Budget Discussion

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: BUDGET MEMO
DATE: May 5, 2014

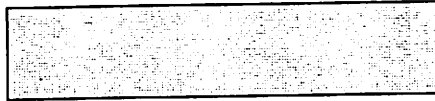
Our budget posture looks good as we approach the end of the fiscal year. While not reflected in the April operations reports, in early May, we received the \$810,000.00 addition to our budget that was appropriated as part of the Legislature's supplemental budget for fiscal year 2014. That budget also authorized the Commission to transfer \$50,000.00 from Personal Services to All Other, bringing the total addition to our All Other budget to \$860,000.00. Attached is a copy of a financial order needed to accomplish that transfer that I have filed with the budget office. Based on the date of filing, I understand that the Financial Order is due for review and signature by the Governor on May 8.

In addition, due to our successful collections in recent months, we require additional allotment authority in our revenue account. Our current allotment authorizes us to collect and spend \$596,497.00 during this fiscal year. Collections are likely to exceed that amount by a significant margin. Attached is a copy of a financial order needed to increase our revenue account allotment by \$80,000 that I have filed with the budget office. This reflects a high-end estimate of revenues for the last two months of the fiscal year, but I want to ensure that we have authority to spend all of the money we do receive in May and June. Based on the date of filing, I understand that the Financial Order is due for review and signature by the Governor on May 8.

With the infusions to our All Other account and increased spending authority for our revenue account, we are on track to cover all of our costs for the balance of the fiscal year.

Finally, the supplemental budget for fiscal year 2015 was recently enacted over the Governor's veto. That budget contains \$490,000.00 for MCILS, one-half of our supplemental budget request for FY'15, intended to cover the projected shortfall in our baseline budget for the first half of fiscal year 2015. The budget also contains \$17,500, also one-half of the amount we requested, to fund a \$5.00/hr. increase in the rate of pay for private investigators. The budget contains language stipulating that the increase is to be effective on January 1, 2015.

State of Maine
Executive Department
FINANCIAL ORDER



ORDERED,

That the State controller transfer \$50,000 from the Personal Services line category to the All Other line category within account 010-95F-Z112-01, Maine Commission - Indigent Legal Services, for the purpose of providing funds to cover the cost of indigent legal services; and

Be it further ordered,
that the State Controller increase the allotment in account 010-95F-Z112-01, Maine Commission - Indigent Legal Services by \$50,000 in the All Other line category and decrease the the allotment in account 010-95F-Z112-01, Maine Commission - Indigent Legal Services by \$50,000 in the Personal Services line category for the purpose of providing funds to cover the cost of indigent legal services; and,

Be it further ordered,
that the State Controller authorize the expenditure in accordance with the attached "Revision of the Work Program for Fiscal Year ending June 30, 2014", for which this shall be our sufficient warrant.

Statement of Fact

The Commission on Indigent Legal Services is authorized to transfer balances from Personal Services to All Other pursuant to Public Law 2013, Chapter 502, Section Z-1. The transfer will cover a shortfall in the All Other line and fund the cost of indigent legal services. This transfer is a one time transfer that will not affect the Commission's future baselines.

Signature of Department Head

John Pelletier, Executive Director

Name and Title

FOR BUREAU OF THE BUDGET USE ONLY

Signature of State Budget Officer

Policy Area: 06 - Justice and Protection

Umbrella: IND00 - MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Agency Contact: John Pelletier

Agency Phone: (207) 287-3254

IND00-0002

Transfers

State of Maine

Report Id: ANN - 0006

Level: Program Summary

Budget & Financial Management System

Page 1 of 1

Department and Agency Financial Order Report

Agency Ref IND00-0002

Program: Z112

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

		Object	Month	2014 1st Quarter	2014 2nd Quarter	2014 3rd Quarter	2014 4th Quarter	2014 Annual Total	Transfer Account
TOTAL			1	(12,737)	(37,263)		50,000		01095FZ11201
	Total			(12,737)	(37,263)		50,000		

Expenditures

Level: Program Summary

State of Maine
Budget & Financial Management System

Report Id: ANN - 0006

Page 1 of 1

Department and Agency Financial Order Report

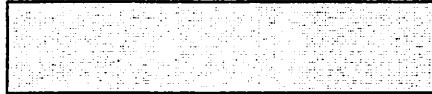
Agency Ref IND00-0002

Program: Z112

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

		Object	Month	2014 1st Quarter	2014 2nd Quarter	2014 3rd Quarter	2014 4th Quarter	2014 Annual Total
Personal Services								
	SALARIES AND WAGES	310000	1	(12,737)	(37,263)			(50,000)
	Subtotal Personal Services		1	(12,737)	(37,263)			(50,000)
	Total Personal Services			(12,737)	(37,263)			(50,000)
All Other								
	COURT APPOINTED ATTORNEYS	404000	1				50,000	50,000
	Subtotal All Other		1				50,000	50,000
	Total All Other						50,000	50,000
	Total			(12,737)	(37,263)		50,000	

State of Maine
Executive Department
FINANCIAL ORDER



ORDERED,

That the State Controller increase the allotment in account 014-95F-Z112-01, Maine Commission - Indigent Legal Services by \$80,000 in the All Other line category for the purpose of allotting additional revenue; and,

Be it further ordered,
that the State Controller authorize the expenditure in accordance with the attached "Revision of the Work Program for Fiscal Year ending June 30, 2014", for which this shall be our sufficient warrant.

Statement of Fact

This financial order will allot funds to pay for indigent legal services. The Commission receives revenue from people who are ordered to reimburse the state for some or all of the cost of indigent legal services provided to them, and these reimbursements flow into account 014-95F-Z112-01, Maine Commission - Indigent Legal Services. Reimbursement revenue collected to date and projected to be collected for the balance of the fiscal year exceeds the amount currently allotted for this account. This financial order is necessary to allow the Commission to use all collected revenue to pay for indigent legal services.

Signature of Department Head

John Pelletier, Executive Director

Name and Title

FOR BUREAU OF THE BUDGET USE ONLY

Signature of State Budget Officer

Policy Area: 06 - Justice and Protection

Umbrella: IND00 - MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Agency Contact: John Pelletier

Agency Phone: (207) 287-3254

IND00-0003

Expenditures

Level: Program Summary

State of Maine
Budget & Financial Management System

Report Id: ANN - 0006

Page 1 of 1

Department and Agency Financial Order Report

Agency Ref IND00-0003

Program: Z112

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

		Object	Month	2014 1st Quarter	2014 2nd Quarter	2014 3rd Quarter	2014 4th Quarter	2014 Annual Total
All Other								
COURT APPOINTED ATTORNEYS		404000	1				80,000	80,000
Subtotal All Other			1				80,000	80,000
Total All Other							80,000	80,000
Total							80,000	80,000

(4.)
Rule-Making Discussion

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: RULEMAKING MEMO
DATE: MAY 5, 2014

Attached are a draft rule and three memos that address potential rulemaking.

The draft rule is an amended fee schedule that sets the hourly rate for counsel at \$70/hr. beginning on July 1, 2015 and \$75/hr. beginning on July 1, 2016, with fee caps adjusted accordingly. The amounts reflect brief, informal discussion at the last commissioner's meeting. Any amendment to this rule is now "major substantive" and must be approved by the Legislature. Because only the hourly rate, start dates and fee caps are changed by this amendment, the Commission, if it chooses, could discuss and resolve these three items and vote to put the rule out to comment, thus getting this rulemaking process underway.

One discussion memo addresses creating a procedure for removing an attorney from the roster based on lack of fitness or misconduct. The staff recommends that our basic eligibility rule be amended to include such a provision. The memo points out issues upon which the staff seeks guidance as it prepares to draft a proposed rule for the Commission's consideration. Changes to the eligibility rule require major substantive rulemaking.

Another memo addresses potential changes to the minimum standards rule. The possible need for at least some changes has been discussed at several recent Commission meetings. The issues raised in the memo are not staff recommendations, but a list of potential issues meant to foster further Commission discussion. Changes to the specialized panel rule require major substantive rulemaking.

Finally, we have been approached by the Supreme Judicial Court about creating an appellate roster. The attached memo summarizes a recent discussion among Ellie, myself, and two Law Court Justices. It is presented for Commission consideration and further discussion. Were we to create an appellate roster as part of the specialized panel rule, that would require major substantive rulemaking, either in conjunction with other amendments or as a stand-alone rulemaking.

Chapter 301: FEE SCHEDULE AND ADMINISTRATIVE PROCEDURES FOR PAYMENT OF COMMISSION ASSIGNED COUNSEL

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

SECTION 1. DEFINITIONS

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

SECTION 2. HOURLY RATE OF PAYMENT

Effective July 1, 2013:

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

Effective July 1, 2014:

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

Effective July 1, 2015:

A rate of Seventy Dollars (\$70.00) per hour is authorized for time spent on an assigned case.

Effective July 1, 2016:

A rate of Seventy-Five Dollars (\$75.00) per hour is authorized for time spent on an assigned case.

SECTION 3. EXPENSES

1. **Routine Office Expenses.** Routine Office expenses are considered to be included in the hourly rate. Routine office expenses, including but not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial

services, routine copying (under 100 pages), local phone calls, parking (except as stated below), and office supplies, etc., will not be reimbursed.

2. **Itemized Non-Routine Expenses.** Itemized non-routine expenses, such as discovery from the State or other agency, long distance calls (only if billed for long distance calls by your phone carrier), collect phone calls, extensive copying (over 100 pages), printing/copying/ binding of legal appeal brief(s), relevant in-state mileage (as outlined below), tolls (as outlined below), and fees paid to third parties. Necessary parking fees associated with multi-day trials and hearings will be reimbursed, but must be approved in advance by the Executive Director.
3. **Travel Reimbursement.** Mileage reimbursement shall not exceed the applicable State rate. Mileage reimbursement will be paid for travel to and from courts other than an attorney's home district and superior court. Mileage reimbursement will not be paid for travel to and from an attorney's home district and superior courts. Tolls will be reimbursed, except that tolls will not be reimbursed for travel to and from attorney's home district and superior court. All out-of-state travel or any overnight travel must be approved by the MCILS in writing prior to incurring the expense. Use of the telephone, video equipment, and email in lieu of travel is encouraged as appropriate.
4. **Itemization of Claims.** Claims for all expenses must be itemized.
5. **Discovery Materials.** The MCILS will reimburse only for one set of discovery materials. If counsel is permitted to withdraw, appropriate copies of discovery materials must be forwarded to new counsel forthwith.
6. **Expert and Investigator Expenses.** Other non-routine expenses for payment to third parties, which historically required preapproval by the Court before July 1, 2010 (e.g., investigators, interpreters, medical and psychological experts, testing, depositions, etc.) are required to be approved in advance by MCILS. Funds for third-party services will be provided by the MCILS only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with the MCILS rules and procedures governing requests for funds for experts and investigators. See Chapter 302 Procedures Regarding Funds for Experts and Investigators.
7. **Witness, Subpoena, and Service Fees.** In criminal and juvenile cases, witness, subpoena, and service fees will be reimbursed only pursuant to M.R. Crim. P. 17(b). It is unnecessary for counsel to advance these costs, and they shall not be included as a voucher expense. Fees for service of process by persons other than the sheriff shall not exceed those allowed by 30-A M.R.S. § 421. The same procedure shall be followed in civil cases.

SECTION 4. MAXIMUM FEES

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

1. **Trial Court Criminal Fees**

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

Effective July 1, 2013:

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

Effective July 1, 2014:

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

10) **Juvenile. \$495**

Effective July 1, 2015:

- 1) **Murder. Fee to be set by the Executive Director on a case by case basis.**
- 2) **Class A. \$3,500**
- 3) **Class B and C (against person). \$2,625**
- 4) **Class B and C (against property). \$1,750**
- 5) **Class D and E (Superior or Unified Criminal Court). \$875**
- 6) **Class D and E (District Court). \$630**
- 7) **Post-Conviction Review. \$1,400**
- 8) **Probation Revocation. \$630**
- 9) **Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.) \$630**
- 10) **Juvenile. \$630**

Effective July 1, 2016:

- 1) **Murder. Fee to be set by the Executive Director on a case by case basis.**
- 2) **Class A. \$3,750**
- 3) **Class B and C (against person). \$2,813**
- 4) **Class B and C (against property). \$1,875**
- 5) **Class D and E (Superior or Unified Criminal Court). \$938**
- 6) **Class D and E (District Court). \$675**
- 7) **Post-Conviction Review. \$1,500**
- 8) **Probation Revocation. \$675**

9) Miscellaneous (i.e. witness representation on 5th Amendment grounds, etc.) \$675

10) Juvenile. \$675

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

2. **District Court Child Protection**

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

~~Effective July 1, 2013:~~

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

Effective July 1, 2014:

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

Effective July 1, 2015:

- 1) **Child protective cases (each stage). \$1,050**
- 2) **Termination of Parental Rights (with a hearing). \$1,470**

Effective July 1, 2016:

- 1) **Child protective cases (each stage). \$1,125**
- 2) **Termination of Parental Rights (with a hearing). \$1,575**

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

3. **Other Superior Court and District Court Civil**

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

Effective July 1, 2013:

- 1) ~~**Application for Involuntary Commitment. \$350**~~
- 2) ~~**Petition for Emancipation. \$350**~~
- 3) ~~**Petition for Modified Release Treatment. \$350**~~
- 4) ~~**Petition for Release or Discharge. \$350**~~

Effective July 1, 2014:

- 1) **Application for Involuntary Commitment. \$385**
- 2) **Petition for Emancipation. \$385**

- 3) **Petition for Modified Release Treatment. \$385**
- 4) **Petition for Release or Discharge. \$385**

Effective July 1, 2015:

- 1) **Application for Involuntary Commitment. \$490**
- 2) **Petition for Emancipation. \$490**
- 3) **Petition for Modified Release Treatment. \$490**
- 4) **Petition for Release or Discharge. \$490**

Effective July 1, 2016:

- 1) **Application for Involuntary Commitment. \$525**
- 2) **Petition for Emancipation. \$525**
- 3) **Petition for Modified Release Treatment. \$525**
- 4) **Petition for Release or Discharge. \$525**

4. **Law Court**

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

Effective July 1, 2013:

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

Effective July 1, 2014:

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

Effective July 1, 2015:

- 1) Appellate work following the grant of petition for certificate of probable cause. \$1,960

Effective July 1, 2016:

- 1) Appellate work following the grant of petition for certificate of probable cause. \$2,100

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

SECTION 5: MINIMUM FEES

Effective July 1, 2013:

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

Effective July 1, 2014:

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

Effective July 1, 2015:

1. Attorneys may charge a minimum fee of \$175 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single

minimum fee may be charged regardless of the number of clients consulted at the request of the court.

Effective July 1, 2016:

1. Attorneys may charge a minimum fee of \$188 for appearance as Lawyer of the Day. Vouchers seeking the minimum fee shall show the actual time expended and the size of the minimum fee adjustment rather than simply stating that the minimum fee is claimed. In addition to previously scheduled representation at initial appearance sessions, Lawyer of the Day representation includes representation of otherwise unrepresented parties at the specific request of the court on a matter that concludes the same day. Only a single minimum fee may be charged regardless of the number of clients consulted at the request of the court.

SECTION 6: ADMINISTRATION

1. Vouchers for payment of counsel fees and expenses shall be submitted within ninety days after the date of disposition of a criminal, juvenile or appeals case, or completion of a stage of a child protection case resulting in an order. Vouchers submitted more than ninety days after final disposition, or completion of a stage of a child protection case, shall not be paid.
 - A. For purposes of this rule, "disposition" of a criminal or juvenile case shall be at the following times:
 - 1) entry of judgment (sentencing, acquittal, dismissal, or filing);
 - 2) upon entry of a deferred disposition;
 - 3) upon issuance of a warrant of arrest for failure to appear;
 - 4) upon granting of leave to withdraw;
 - 5) upon decision of any post-trial motions;
 - 6) upon completion of the services the attorney was assigned to provide (e.g., mental health hearings, "lawyer of the day," bail hearings, etc.); or
 - 7) specific authorization of the Executive Director to submit an interim voucher.
 - B. For purposes of this rule, "each stage" of a child protection case shall be:
 - 1) Order after Summary Preliminary hearing or Agreement

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

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

| EFFECTIVE DATE: OCTOBER 5, 2013

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: DISCUSSION - REMOVING ATTORNEYS FROM THE ROSTER
DATE: April 30, 2014

It has come to the attention of staff that our current statute and rules do not contain explicit authority to remove attorneys from the roster. Because no explicit authority exists, to date, removal has occurred based only on an attorney's failure to comply with objective requirements of existing rules that mandate either certain training or the filing of an annual renewal form. The staff is concerned about its ability to remove attorneys from the roster based on subjective factors such as evidence of unfitness or misconduct and recommends that the Commission consider amending its eligibility rules to provide explicit authority and a procedural framework for doing so. The balance of this memo is intended to provide a basis for discussion of the issues involved in crafting such a rule.

STATUTORY FRAMEWORK

The Commission's governing statute provides that the Commission shall develop "standards considered necessary and appropriate to ensure the delivery of adequate indigent legal services" and requires the Executive Director to "ensure that the provision of indigent legal services complies with all constitutional, statutory and ethical standards." 4 M.R.S.A. § 1804(2)(A), 1805(1). These statutes would support a rule allowing the Executive Director to remove attorneys based on evidence of unfitness or misconduct.

I do not believe that eligibility to provide indigent legal services constitutes a license, but statutory provisions governing licensing by administrative agencies provide relevant guidance. The Administrative Procedures Act states that:

When licensing is required as a matter of constitutional right or by statute to be preceded by notice and opportunity for hearing, the provisions of subchapter IV concerning adjudicatory proceedings shall apply. 5 M.R.S.A. § 10001.

Because no statute requires an adjudicatory proceeding regarding eligibility to provide indigent legal services, none is required before the Executive Director may remove an attorney from the roster.¹

¹ Note that our statute does provide for an appeal to the Commission for attorneys aggrieved by a rostering decision of the Executive Director, and our rule governing those appeals meets the adjudicatory proceedings requirements of the Administrative Procedures Act. See, 4 M.R.S.A. § 1804(3)(J); Chapter 201: Appeals of Decisions of the Executive Director.

With respect to licensing decisions that do not require adjudicatory proceedings, the Administrative Procedures Act states:

Any licensing decision not involving an adjudicatory proceeding, as defined in section 8002, subsection 1, shall be made in writing and shall be made only on the basis of evidence relevant to the case. When the requested license is denied, or only conditionally approved, the decision shall contain or reflect the agency's reasoning, in a manner sufficient to inform the applicant and the public of the basis for the agency's action. 5 M.R.S.A. § 10005.

This statute requires only that the decision of the Executive Director be based on “relevant” evidence and that it be in writing. I recommend that the Commission adhere to these requirements with respect to any rule specifically authorizing the Executive Director to remove attorneys from the roster.

GROUND FOR REMOVAL

The Commission will need to determine the grounds upon which attorneys can be removed from the roster. Below for consideration is a list of potential grounds for removal and discussion of issues that arise with respect to some of them:

- Allegations of Criminal Conduct. Note that criminal defense attorneys feel strongly about the presumption of innocence and the need for a conviction before any allegation can be considered proven. Should conviction be required?² If not, are formal charges required? What about the period between an arrest and release on bail with a summons to court and the filing of a formal complaint or indictment?
- Ethical Violations resulting in Bar Discipline. Should a determination of an ethical violation that does not result in suspension or disbarment nevertheless support removal from the roster? What about allegations of ethical violation that have been publicly disclosed with respect to ongoing, but not yet concluded, disciplinary proceedings? What about evidence of ethical violations that have not resulted in disciplinary proceedings?
- Malfeasance with Respect to Client Funds or MCILS Billing. Would evidence of intentional fraud be required or could evidence negligence suffice?
- Lack of Fitness due to Cognitive Impairment, Physical Infirmary, Mental Illness and/or Substance Abuse. Would documentation such as records of evaluation or treatment be required? If so, should attorneys be required to submit such documentation to the Commission?

² Note that our current rule only requires an attorney to provide the Commission with notice of criminal charges upon conviction. Chapter 2: Standards for Qualifications of Assigned Counsel.

- Unsatisfactory Performance. Would evidence of repeated sub-par representation be required or might a single instance suffice?

PROCEDURAL FRAMEWORK

Based on the statute described above, I believe that any decision of the Executive Director to remove an attorney from the roster should be provided to the attorney in writing and explain the basis of the decision.

The main question is whether the attorney should be given notice that such a decision is being contemplated and an opportunity to respond to the information that raised the concern before any decision is made. Notice and opportunity to be heard are the fundamental elements of due process. On the other hand, circumstances might arise that require immediate action. In such a case, the attorney could be provided an opportunity to comment before a final appealable decision is made.

Another issue is whether the authority to remove an attorney extends to having the attorney withdraw from all pending assigned cases.

Finally, any rule should address the extent, if any, that information gathered must be shared with the attorney in question beyond the extent that it is referred to in any removal decision.

INVESTIGATION/DISCLSOURE

Any rule regarding removal of attorneys should explicitly identify an attorney's obligation to inform the Commission of allegations of misconduct. For example, disclosure of allegations of criminal conduct is not currently required unless a conviction results. Also, should prompt disclosure of mental health or substance abuse treatment be required?

With respect to disclosure requirements, should failure to comply be grounds for removal from the roster?

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: DISCUSSION – MODIFICATIONS TO SPECIALIZED PANEL RULE
DATE: May 2, 2014

For the purpose of facilitating discussion, this memo addresses procedural and substantive issues with respect to the operation of the specialized panel rule.

SERIOUS VIOLENT FELONIES

Should the aggravated drug offenses remain serious violent felonies? Although these charges carry mandatory minimum sentences, the substance of the drug offense charged is identical to the non-aggravated counterpart. The aggravating factors involve ancillary facts, such as the quantity of drugs, the age of the person to whom drugs are trafficked or furnished, prior drug convictions of the defendant, the presence of a firearm, and injury or death from the conduct involved. Although serious, these offenses do not fit the common understanding of “violent” conduct. Perhaps because of this, clerks and judges often assign such cases to attorneys who are not on the serious violent felony panel.

Should aggravated criminal trespass remain a serious violent felony? This charge involves a trespass in a dwelling where the trespasser commits a crime while in the dwelling. It is similar to a burglary, except that the intent to commit the crime need not be proven to have existed at the time of the entry. Burglaries of dwellings are not serious violent felonies unless possession of a firearm is alleged.

Finally, should the text of the rule include offense names for serious violent felonies as well as the statutory sections?

SEX OFFENSES

Two offenses currently classified as sex offenses, Unlawful Sexual Touching and Prohibited Contact with a Minor, do not involve any registration requirement under SORNA. Only a limited aspect of the latter offense is a Class C felony, all other charges are misdemeanors. Should these offenses remain classified as sex offenses?

Two offenses currently not classified as sex offense due carry SORNA consequences, Incest and the version of Violation of Privacy that has come to be known as “up-skirting.” Should these crimes be classified as sex offenses?

OUI AND DOMESTIC VIOLENCE CASES

As the number of specialized case types expands, clerks and judges will face challenges ensuring that assigned counsel have the appropriate eligibility. This is especially true with the expansion of the UCD process that calls for the defendant to be given the name of the assigned attorney at the initial appearance. Consideration should be given to whether any gains that would flow from these panels would outweigh the burden on court staff to identify the correct lawyers and on MCILS staff to deal with assignments that are not in accord with the roster.

JUVENILE SPECIALIZED PANEL

Should the minimum standards training be sufficient to qualify for assignments in juvenile misdemeanor and civil cases? Currently, when attorneys seek to get on the rosters, they typically take the minimum standards training for multiple case types at the same time. Under the current rule, minimum standards training qualifies an attorney for many adult felony and almost all misdemeanor criminal cases. If the six months in practice requirement that currently exists in the rule is maintained, new attorneys who take both the criminal and juvenile training at the same time could lose the benefit of that training with the passage of time before they could start doing juvenile cases. Otherwise, they would have to stagger the trainings. If the minimum standard trainings are as the title implies, should they qualify the attorney to take cases immediately?

As the Commission has discussed previously, the category for cases involving bind-over and competence has issues with ensuring compliance. Even if DefenderData is modified so that an attorney can indicate the presence of these issues at the time a case is created, it is entirely possible that a case could be created and an assignment approved, only to have bind-over or competence come up at a later point. In that case, the staff would not know that the issue arose unless the attorney notified the Commission.

If this panel is maintained, should the rule explicitly require disclosure to the Commission that such an issue has arisen and should failure to disclose grounds for removing an attorney from the juvenile roster?

CHILD PROTECTIVE PANEL

For the reason's addressed above, should the one year in practice requirement be maintained?

Also, is the requirement that experienced counsel be brought into the case when a petition to terminate parental rights is filed likely to be of any benefit to the client? Most termination cases are concluded by agreement of the parents, and often the work most needed to avoid termination must take place during the early phases of the case, well before a petition for termination is filed.

CIVIL COMMITMENT PANEL

For the reason's addressed above, should the one year in practice requirement be maintained?

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: DISCUSSION – CREATION OF AN APPEALS ROSTER
DATE: May 2, 2014

ROSTER OF APPELLATE ATTORNEYS

At the invitation of Supreme Court Justice Ellen Gorman, Ellie and I met with Justice Gorman, Justice Alexander, and Law Court Clerk Matthew Pollack to discuss their request that MCILS create a roster of appellate attorneys. The Law Court often encounters confusion and lack of communication regarding appeals where trial counsel is no longer representing the appellant.

Under the Rules of Criminal Procedure, and by statute in child protective cases, trial counsel continues on appeal unless allowed to withdraw by the court. The need to assign new counsel arises when either trial counsel does not want to do the appeal or the appellant wants a new lawyer on appeal. Currently in such situations, the trial court is supposed to make the assignment of substitute counsel. The Law Court finds that sometimes they receive a file with an order allowing trial counsel to withdraw, but there has been no assignment of substitute counsel. At other times, the trial court has assigned substitute counsel, but there is no indication in the file to that effect, so the Law Court is under the misimpression that trial counsel is appellate counsel.

To remedy this situation, the Law court is considering changing current practice so that whenever trial counsel will not be representing the appellant, the Law court will assign the new attorney. Because they will be assuming this function, they would like an MCILS roster of appellate attorneys to work from.

We also discussed briefly the criteria for placing an attorney on the appellate roster. They expressed concern about having experience doing appeals be the principal requirement because, at least in the view of the Justices that we met with, some attorneys who are often assigned as substitute counsel do a poor job. Ellie and I related the Commission's view that placement on the roster does not guarantee that a lawyer will receive assignments and that the court could exercise discretion in determining who to assign. That suggestion was welcomed, but the Justices also inquired whether the court itself could determine who would be on the roster. We let them know that courts do not currently determine who is on MCILS rosters and that their suggestion would have to be discussed with the Commissioners.

Although the possibility was discussed, the Justices present were not in favor of a rule that appellate counsel should always be different from trial counsel. We noted that if the default position is that

trial counsel continues on appeal, many attorneys who might not be on the appellate roster would continue to do appeals. The response we received was that they see fewer problems with trial counsel continuing on appeal and that problems were more prevalent when new counsel was assigned for the appeal. Hence, their desire that we create a roster of qualified attorneys that they could use to assign counsel when trial counsel is no longer in the case.

The justices did raise an additional point about the current presumption that trial counsel continues on appeal unless granted leave to withdraw. While, as stated above, the Justices did not want to prohibit trial counsel from doing the appeal, they were considering whether to change the rule so that trial counsel's responsibility would end with the trial. Under such a system, trial counsel could apply to continue on appeal, but unless trial counsel affirmatively expressed interest, the Law Court would automatically find new counsel for the appeal. The Justices inquired whether lawyers generally would prefer such a system and asked that we seek feedback from our rostered attorneys on the question.

Finally, the Justices requested that they be kept apprised and that they be allowed provide input with respect to any deliberations the Commission might undertake with respect to the creation of an appellate roster.

(5.)
Juvenile Specialized Panel
Update

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: JUVENILE SPECIALIZED PANEL UPDATE
DATE: May 8, 2014

To date, we have received 100 applications for the Juvenile Specialized Panel. For comparison purposes, there are approximately 280 attorneys currently eligible for juvenile cases. We are in the process of reviewing these applications for approval.

We had a telephone conference with Justiceworks on April 23rd, and they are working on DefenderData changes needed to modify the juvenile rosters to accommodate the different case type eligibilities. We intend to meet with them again in mid-May and hope to implement the new rosters in early June.

(6.)
Training Update

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: MCILS TRAINING UPDATE
DATE: MAY 5, 2014

We have filled out our training schedule for the balance of this calendar year.

We will be presenting minimum standards video replays on June 12, 23, and 24.

On July 25th, we will be co-sponsoring a Civil Commitment training with the Disability Rights Center to be presented at the Penobscot Judicial Center in Bangor. The DRC has arranged for a nationally recognized expert on involuntary commitment law to be the key note speaker. Ellie and I are scheduled to meet with the DRC Executive Director and staff on May 12 to flesh out the rest of the agenda. We plan to video tape the training and use it as our minimum standards training for civil commitment cases.

On September 18th, we will be presenting a video replay of our Advanced Juvenile training here in Augusta.

On October 23rd and 24th, we will be presenting an Advanced Criminal training at the Haraseeket Inn in Freeport.

In November, dates TBD, we will present minimum standards video replays for criminal, child protective and emancipation.

On December 4th, we will present a live Juvenile Law minimum standards training in conjunction with the Maine State Bar Association as part of the Bridging the Gap program. We will videotape the training for future use.