

**MCILS**

**September 10, 2019  
Commissioner's Meeting  
Packet**

---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**SEPTEMBER 10, 2019**

**COMMISSION MEETING**

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

**AGENDA**

---

- 1) Approval of August 13, 2019, Commission Meeting Minutes
- 2) Operations Reports
- 3) Next Steps in Light of the Sixth Amendment Center Report
- 4) Proposed Amendment to Fee Schedule Rule
- 5) Proposal for Enhanced Representation for Juveniles at Long Creek
- 6) Budget Update
- 7) OPEGA Investigation
- 8) Public Comment
- 9) Set Date, Time and Location of Next Regular Meeting of the Commission
- 10) Executive Session, if needed (Closed to Public)

**(1.)**

**August 13, 2019  
Commission Meeting  
Minutes**

**Maine Commission on Indigent Legal Services – Commissioners Meeting  
August 13, 2019**

**Minutes**

**Commissioners Present:** Sarah Churchill, Robert Cummins, Roger Katz, Robert LeBrasseur, Joshua Tardy, Mary Zmigrodski  
**MCILS Staff Present:** Ellie Maciag, John Pelletier

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Approval of the May 14, 2019 Commission Meeting Minutes	No discussion of meeting minutes.	Commissioner Zmigrodski moved for approval, Commissioner Cummins seconded. Commissioner Katz was absent for the vote. All present voted in favor. Approved.
Operations Reports Review	<p><u>May 2019 Operations Report:</u> 2,269 new cases were opened in the DefenderData system in May. This was a 5 case decrease from April. The number of submitted vouchers in May was 2,773, an increase of 49 vouchers over April, totaling \$1,566,637, an increase of \$88,000 over April. The average price per voucher was \$554.73, up \$30.78 per voucher over April. Appeal and Post-Conviction Drug Court cases had the highest average vouchers. There were 9 vouchers exceeding \$5,000 paid in May. 129 authorizations to expend funds were issued in May, and we paid \$158,327 for experts and investigators, etc. The monthly transfer from the Judicial Branch for counsel fees for May, which reflects April's collections, totaled \$125,429, down approximately \$55,000 from March. Three attorney complaints were received in May.</p> <p><u>June 2019 Operations Report:</u> 2,509 new cases were opened in the DefenderData system in June. This was a 240 case increase over May. The number of submitted vouchers in June was 2,885, an increase of 112 vouchers over May, totaling</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>\$1,556,678, a decrease of \$10,000 from May. The average price per voucher was \$543.23, down \$11.50 per voucher from May. For FY'19, the average price per voucher was \$530.33, down \$15.18 per voucher from the previous fiscal year. Appeal and Drug Court cases had the highest average vouchers. There were 21 vouchers exceeding \$5,000 paid in June. 117 authorizations to expend funds were issued in April, and we paid \$112,335 for experts and investigators, etc. The monthly transfer from the Judicial Branch for counsel fees for June, which reflects May's collections, totaled \$98,360, down approximately \$27,000 from May. One attorney complaint was received in June.</p> <p><u>July 2019 Operations Report:</u> 2,591 new cases were opened in the DefenderData system in July. This was an 82 case increase over June. The number of submitted vouchers in July was 2,860, a decrease of 25 vouchers from June, totaling \$1,489,000, a decrease of \$67,000 from June. The average price per voucher was \$516.25, down \$26.98 per voucher from June. Post-Conviction Review and Probate cases had the highest average vouchers. There were 8 vouchers exceeding \$5,000 paid in July. 127 authorizations to expend funds were issued in July, and we paid \$112,335 for experts and investigators, etc. The monthly transfer from the Judicial Branch for counsel fees for July, which reflects June's collections, totaled \$78,559, down approximately \$20,000 from June. No attorney complaints were received in July.</p>	
Budget Update	Director Pelletier reviewed the Commission's recent budget history and outlined the current biennial budget's funding gap of \$2.8 million and the need for a supplemental budget request. A brief discussion ensued about the Court following financial screener recommendations.	
Rule-Making Update	Director Pelletier reviewed the former Commissioners' work on revising the fee schedule rule and sought input on the next step. The Commissioners requested additional time to review the proposed changes and suggest further changes before putting the rule out to public comment.	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Sixth Amendment Center Report	<p>Director Pelletier reviewed the actions the Commission staff have taken in response to the Sixth Amendment Center report, including not renewing the Somerset contract, implementing an email alert system that flags a date when an attorney enters time in excess of 12 hours, and requiring all attorneys to certify on their renewal application that they have reviewed the practice standards promulgated by the Commission in the area(s) of law in which they provide presentation. Director Pelletier then reviewed the list of action items the previous Commissioners considered undertaking in response to the Sixth Amendment Center report.</p>	
OPEGA Investigation	<p>Director Pelletier briefed the Commissioners on the status of the OPEGA investigation. OPEGA staff has met with Director Pelletier and will soon meet with additional staff members. Director Pelletier has provided OPEGA staff with billing and payment data.</p>	
Discussion of Next Steps	<p>The Commissioners discussed potential action items/topics they want to see discussed at future meetings, focused primarily around the findings and recommendations of the Sixth Amendment Center report. The consensus was that addressing staffing needs should be a top priority in order to implement increased oversight, evaluation, and supervision and address issues outlined in the Sixth Amendment Center report.</p>	
Public Comment	<p><u>Tina Nadeau, Esq.</u>: Attorney Nadeau suggested the Commission take a broader view of system reform. She urged the Commission to review the hourly rate in order to attract and retain qualified attorneys. Attorney Nadeau also suggested that Commission training, supervision, and evaluation all need improvement and that steps taken to date were not adequate.</p> <p><u>Zachary Heiden, Esq.</u>: Attorney Heiden called for Commission's focus to be oriented around the needs of the indigent clients and to increase the training, supervision, and evaluation of its attorneys in light of the Sixth Amendment Center report.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Executive Session	None	
Adjournment of meeting	The next meeting will be on September 10, 2019, at 1:00 p.m.	

**(2.)**

## **Operations Reports**



---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**SUBJECT:** AUGUST 2019 OPERATIONS REPORTS  
**DATE:** SEPTEMBER 3, 2019

---

Attached you will find the August, 2019, Operations Reports for your review and our discussion at the Commission meeting on September 10, 2019. A summary of the operations reports follows:

- 2,626 new cases were opened in the DefenderData system in August. This was a 35 case increase over July.
- The number of vouchers submitted electronically in August was 2,735, a decrease of 125 vouchers from July, totaling \$1,337,915.54, a decrease of \$151,000 from July. In August, we paid 3,380 electronic vouchers totaling \$1,680,164.75, representing an increase of 1,666 vouchers and \$796,000 compared to July.
- The average price per voucher in August was \$497.09, down \$19.16 per voucher from July.
- Post-Conviction Review cases and vouchers submitted by representatives to the various Drug Courts had the highest average vouchers in August. There were 9 vouchers exceeding \$5,000 paid in August. See attached addendum for details.
- Because the Somerset County contract terminated effective July 30, 2019, no payments were made in August pursuant to that contract.
- In August, we issued 120 authorizations to expend funds: 69 for private investigators, 43 for experts, and 8 for miscellaneous services such as interpreters and transcriptionists. In August, we paid \$140,377.95 for experts and investigators, etc. Two requests for funds were denied in August. See attached addendum for details.
- We received one attorney complaint in the form of a copy of a letter to the court seeking new counsel. We forwarded the letter to counsel, who had withdrawn from the case, and counsel's response satisfied the staff that her representation had been appropriate.
- We approved one request for co-counsel in August in a case with an extraordinary amount of audio-visual discovery that needed to be reviewed and organized. The case involved 80 separate charges and over 40 hours of recordings.

In our All Other Account, the total expenses for the month of August were \$1,849,796.47. Of that amount, just under \$30,000 was devoted to the Commission's

operating expenses. The operating expenses amount was higher than unusual because we paid two monthly installments on the immigration consultant contract and two monthly OIT bills during August.

In the Personal Services Account, we had \$174,797.03 in expenses for the month of August. The Personal Services expenditure for August was well above normal because the financial screeners were paid approximately 19 months of retroactive pay increases associated with their reclassification.

In the Revenue Account, the transfer for August, reflecting July's collections, totaled \$79,457.90 an increase of approximately \$1,000 over the previous month.

During August, we paid training related expenses in the form of fees to the Overseers of the Bar for approval of CLE credit related to our upcoming trainings.

VOUCHERS EXCEEDING \$5,000 PAID AUGUST 2019

	Voucher Total	Case total
Interim voucher after a 5-day trial in a murder case. Defendant found guilty. Sentencing remains to be completed.	\$12,636	\$25,116 (\$12,480 paid to co-counsel from a different firm)
Voucher after a 5-day murder trial. Defendant found guilty. Voucher submitted by local counsel in Aroostook County. Case lasted 18 months.	\$12,311	\$29,280 (Interim vouchers of \$9,859, 2,876, and 4,234 paid to lead counsel from southern Maine)
Voucher representing work on 5 cases, most involving charges of felony stalking. Extensive evaluation of client's mental health issues. In addition, printed discovery from an electronic device totaled over 5,000 pages. Most counts dismissed, but client still received a substantial sentence after pleas to several felony counts.	\$9,530	\$9,530
Voucher in a Vehicular Manslaughter case that the State dismissed on the eve of trial. Case involved accident reconstruction and mental health experts and litigated suppression issues.	\$9,019	\$16,531 (\$7,494 paid to co-counsel from a different firm)
Voucher after a 4-day trial (includes two days of jury selection) in an Aggravated Assault case. Defendant found not guilty of Aggravated Assault but convicted of Domestic Violence Assault. Voucher included time on companion Probation Violation and VCR cases.	\$8,389	\$8,389
Voucher after a 4-day murder trial. Defendant found guilty.	\$8,251	\$8,251
Voucher in a case where a Murder charge was dismissed in return for a plea to Manslaughter. Case lasted 22 months.	\$6,355	\$10,370 (\$4,015 paid to co-counsel from a different firm)
Interim voucher in a Murder case submitted by counsel changing firms. This voucher represents work after client pled guilty on eve of trial, but then sought to withdraw the plea.	\$5,402	\$26,866 (Interim vouchers of \$11,248 and 10,216 paid to leaving counsel and co-counsel after the plea)
Voucher in a Post-Conviction Review in a murder case. Petition denied after litigation of a request to recuse the judge. The matter then decided on briefs and oral argument.	\$5,250	\$5,250

### FUNDS REQUESTS DENIED/MODIFIED AUGUST 2019

- Two requests for funds were denied in August. One request came from counsel who was retained, and the request was denied upon a determination that the client was not indigent. The other sought funds for the assistance of a private investigator in locating the client. This was denied because clients have an obligation to remain in contact with counsel.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

8/31/2019

	Aug-19						Fiscal Year 2020			
DefenderData Case Type	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	21	28	\$ 35,776.04	30	\$ 32,543.86	\$ 1,084.80	36	35	\$ 36,077.86	\$ 1,030.80
Child Protection Petition	305	496	\$ 281,247.37	588	\$ 333,362.08	\$ 566.94	561	886	\$ 498,015.81	\$ 562.09
Drug Court	1	3	\$ 5,433.46	7	\$ 8,247.46	\$ 1,178.21	2	12	\$ 12,153.46	\$ 1,012.79
Emancipation	6	7	\$ 1,938.24	4	\$ 1,254.00	\$ 313.50	8	6	\$ 2,214.00	\$ 369.00
Felony	620	531	\$ 408,385.40	706	\$ 541,921.38	\$ 767.59	1,204	1,048	\$ 833,400.44	\$ 795.23
Involuntary Civil Commitment	59	86	\$ 19,468.44	88	\$ 22,674.31	\$ 257.66	158	128	\$ 31,070.30	\$ 242.74
Juvenile	73	65	\$ 25,061.16	103	\$ 45,393.75	\$ 440.72	142	153	\$ 68,898.79	\$ 450.32
Lawyer of the Day - Custody	249	235	\$ 54,558.94	305	\$ 70,746.00	\$ 231.95	498	446	\$ 104,949.83	\$ 235.31
Lawyer of the Day - Juvenile	44	32	\$ 6,340.28	47	\$ 9,587.96	\$ 204.00	75	70	\$ 13,915.92	\$ 198.80
Lawyer of the Day - Walk-in	137	107	\$ 26,536.82	119	\$ 28,193.86	\$ 236.92	245	190	\$ 45,869.75	\$ 241.42
Misdemeanor	845	713	\$ 251,349.06	880	\$ 330,544.52	\$ 375.62	1,673	1,351	\$ 529,111.76	\$ 391.64
Petition, Modified Release Treatment	0	4	\$ 2,229.07	5	\$ 2,469.37	\$ 493.87	2	5	\$ 2,469.37	\$ 493.87
Petition, Release or Discharge	0	1	\$ 552.00	2	\$ 918.00	\$ 459.00	0	2	\$ 918.00	\$ 459.00
Petition, Termination of Parental Rights	20	41	\$ 31,732.07	38	\$ 34,809.15	\$ 916.03	47	70	\$ 60,548.46	\$ 864.98
Post Conviction Review	11	12	\$ 18,937.91	15	\$ 27,613.95	\$ 1,840.93	24	19	\$ 38,046.70	\$ 2,002.46
Probate	2	3	\$ 3,166.60	2	\$ 2,038.60	\$ 1,019.30	2	5	\$ 6,536.60	\$ 1,307.32
Probation Violation	173	153	\$ 64,975.38	198	\$ 74,905.09	\$ 378.31	363	305	\$ 118,719.39	\$ 389.24
Represent Witness on 5th Amendment	0	0		0			0	2	\$ 363.00	\$ 181.50
Resource Counsel Criminal	0	3	\$ 408.00	3	\$ 372.00	\$ 124.00	0	5	\$ 462.00	\$ 92.40
Resource Counsel Juvenile	0	1	\$ 30.00	1	\$ 30.00	\$ 30.00	0	1	\$ 30.00	\$ 30.00
Resource Counsel Protective Custody	0	2	\$ 288.00	2	\$ 288.00	\$ 144.00	0	3	\$ 360.00	\$ 120.00
Review of Child Protection Order	60	211	\$ 99,255.30	236	\$ 112,005.41	\$ 474.60	125	350	\$ 159,648.17	\$ 456.14
Revocation of Administrative Release	0	1	\$ 246.00	1	\$ 246.00	\$ 246.00	1	2	\$ 1,239.28	\$ 619.64
<b>DefenderData Sub-Total</b>	<b>2,626</b>	<b>2,735</b>	<b>\$ 1,337,915.54</b>	<b>3,380</b>	<b>\$ 1,680,164.75</b>	<b>\$ 497.09</b>	<b>5,166</b>	<b>5,094</b>	<b>\$ 2,565,018.89</b>	<b>\$ 503.54</b>
<b>Paper Voucher Sub-Total</b>		<b>0</b>		<b>0</b>	<b>\$ -</b>	<b>#DIV/0!</b>		<b>0</b>		<b>#DIV/0!</b>
<b>TOTAL</b>	<b>2,626</b>	<b>2,735</b>	<b>\$1,337,915.54</b>	<b>3,380</b>	<b>\$1,680,164.75</b>	<b>\$ 497.09</b>	<b>5,166</b>	<b>5,094</b>	<b>\$ 2,565,018.89</b>	<b>\$ 503.54</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**FY20 FUND ACCOUNTING**

AS OF 08/31/2019

Account 014 95F Z258 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY20 Total
FY20 Professional Services Allotment		\$ 4,727,001.00		\$ 4,597,001.00		\$ 4,737,477.00		\$ 2,413,246.00	
FY20 General Operations Allotment		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00	
FY19 Encumbered Balance Forward		\$ 32,712.53		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 4,807,713.53</b>		<b>\$ 4,645,001.00</b>		<b>\$ 4,785,477.00</b>		<b>\$ 2,461,246.00</b>	<b>\$ 16,699,437.53</b>
Total Expenses	1	\$ (947,049.13)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (1,849,796.47)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
				\$ -		\$ -		\$ -	\$ -
Encumbrances (Justice Works)		\$ (59,237.50)		\$ -		\$ -		\$ -	\$ (59,237.50)
Encumbrances (B Taylor)		\$ (17,333.37)		\$ -		\$ -		\$ -	\$ (17,333.37)
Encumbrances (Videographer)		\$ (4,800.00)		\$ -		\$ -		\$ -	\$ (4,800.00)
<b>TOTAL REMAINING</b>		<b>\$ 1,929,497.06</b>		<b>\$ 4,645,001.00</b>		<b>\$ 4,785,477.00</b>		<b>\$ 2,461,246.00</b>	<b>\$ 13,821,221.06</b>

**Q1 Month 2**

**INDIGENT LEGAL SERVICES**

Counsel Payments	\$ (1,680,164.75)
Interpreters	\$ (2,805.73)
Private Investigators	\$ (28,094.46)
Mental Health Expert	\$ (35,304.50)
Misc Prof Fees & Serv	\$ (147.99)
Transcripts	\$ (23,883.09)
Other Expert	\$ (49,719.43)
Process Servers	\$ (422.75)
Subpoena Witness Fees	\$ -
	\$ -
	\$ -
Lodging & Meals for Trial	\$ -
<b>SUB-TOTAL ILS</b>	<b>\$ (1,820,542.70)</b>

**OPERATING EXPENSES**

Ergonomic Office Equipment	\$ (2,571.09)
DefenderData	\$ (6,442.50)
Service Center	\$ (1,829.00)
Mileage/Tolls/Parking	\$ (1,216.60)
Mailing/Postage/Freight	\$ (1,364.60)
West Publishing Corp	\$ (185.13)
Business cards	\$ (39.00)
Office Supplies/Equip.	\$ (413.36)
Cellular Phones	\$ (290.45)
OIT/TELCO	\$ (5,895.83)
Office Equipment Rental	\$ (115.55)
Board of Overseers of the Bar	\$ (70.00)
Barbara Taylor monthly fees	\$ (8,666.66)
VDT reimbursement	\$ (154.00)
<b>SUB-TOTAL OE</b>	<b>\$ (29,253.77)</b>

**INDIGENT LEGAL SERVICES**

Q1 Allotment	\$ 4,807,713.53
Q1 Encumbrances for Justice Works contract	\$ (59,237.50)
Barbara Taylor Contract	\$ (17,333.37)
Videographer Contract	\$ (4,800.00)
Q1 Expenses to date	\$ (2,796,845.60)
Remaining Q1 Allotment	<b>\$ 1,929,497.06</b>

**Non-Counsel Indigent Legal Services**

Monthly Total	\$ (140,377.95)
Total Q1	\$ 191,421.65
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
Fiscal Year Total	<b>\$ 191,421.65</b>

**Conference Account Transactions**

Training Videographer	\$ -
Training Facilities & Meals	\$ -
Printing/Binding	\$ -
Overseers of the Bar CLE fee	\$ (70.00)
Collected Registration Fees	\$ -
Current Month Total	<b>\$ (70.00)</b>

MAINE COMMISSION ON INDIGENT LEGAL SERVICES  
FY20 FUND ACCOUNTING  
As of 08/31/19

Account 014 95F Z258 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY20 Total
<b>Total Budget Allotments</b>		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11		
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Budget Order Adjustment		\$ -		\$ -		\$ -	12	\$ -	\$ -
<b>Total Budget Allotments</b>		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Cash Carryover from Prior Quarter		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ 78,559.60	4	\$ -	7	\$ -	10	\$ -	
Promissory Note Payments		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ 79,457.90	5	\$ -	8	\$ -	11	\$ -	
Court Ordered Counsel Fee		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB (late transfer)		\$ -		\$ -	9	\$ -		\$ -	
Collected Revenue from JB	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Returned Checks-stopped payments		\$ -		\$ -		\$ -		\$ -	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		\$ 158,017.50		\$ -		\$ -		\$ -	\$ 158,017.50
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -		\$ -		\$ -	
Counsel Payments	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Other Expenses	*	\$ -	**	\$ -	***	\$ -		\$ -	
<b>REMAINING ALLOTMENT</b>		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Overpayment Reimbursements	1	\$ (168.00)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>REMAINING CASH Year to Date</b>		\$ 157,849.50		\$ -		\$ -		\$ -	\$ 157,849.50

**Collections versus Allotment**

Monthly Total	\$ 79,457.90
Total Q1	\$ 158,017.50
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
Allotment Expended to Date	\$ -
Fiscal Year Total	\$ 158,017.50

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY20 FUND ACCOUNTING**  
AS OF 08/31/2019

Account 014 95F Z258 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY20 Total
FY20 Allotment		\$ 326,128.00		\$ 242,565.00		\$ 214,283.00		\$ 233,702.00	\$ -
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments				\$ -		\$ -			
<b>Total Budget Allotments</b>		<b>\$ 326,128.00</b>		<b>\$ 242,565.00</b>		<b>\$ 214,283.00</b>		<b>\$ 233,702.00</b>	<b>\$ 1,016,678.00</b>
Total Expenses	1	\$ (62,240.56)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (174,797.03)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 89,090.41</b>		<b>\$ 242,565.00</b>		<b>\$ 214,283.00</b>		<b>\$ 233,702.00</b>	<b>\$ 779,640.41</b>

Q1 Month 2	
Interest Due Employees	\$ (867.78)
Salary	\$ (30,896.78)
Vacation Pay	\$ (6,284.09)
Holiday Pay	\$ -
Sick Pay	\$ (1,376.24)
Empl Hlth SVS/Worker Comp	\$ (166.00)
Health Insurance	\$ (10,641.56)
Dental Insurance	\$ (349.40)
Employer Retiree Health	\$ (11,816.61)
Employer Retirement	\$ (5,906.25)
Employer Group Life	\$ (339.20)
Employer Medicare	\$ (1,750.71)
Retiree Unfunded Liability	\$ (20,664.40)
Retro lump sums pymts	\$ (81,470.80)
Perm Part Time Full Ben	\$ (2,267.21)
<b>TOTAL</b>	<b>\$ (174,797.03)</b>



## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

## Activity Report by Court

8/31/2019

Court	Aug-19						Fiscal Year 2020			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	4	5	\$ 3,097.58	7	\$ 4,147.58	\$ 592.51	10	14	\$ 10,390.73	\$ 742.20
AUBSC	4	4	\$ 4,284.70	2	\$ 2,863.80	\$ 1,431.90	4	2	\$ 2,863.80	\$ 1,431.90
AUGDC	48	71	\$ 32,788.09	59	\$ 36,789.14	\$ 623.54	97	97	\$ 54,454.57	\$ 561.39
AUGSC	4	9	\$ 5,583.07	14	\$ 6,621.37	\$ 472.96	11	17	\$ 7,881.37	\$ 463.61
BANDC	72	151	\$ 47,997.27	142	\$ 47,131.23	\$ 331.91	151	200	\$ 63,768.81	\$ 318.84
BANSC	1	1	\$ 216.00	1	\$ 216.00	\$ 216.00	2	4	\$ 450.00	\$ 112.50
BATSC	0	0		0			0	0		
BELDC	15	20	\$ 10,785.06	32	\$ 16,690.70	\$ 521.58	27	40	\$ 19,450.70	\$ 486.27
BELSC	0	1	\$ 1,530.64	1	\$ 1,530.64	\$ 1,530.64	0	1	\$ 1,530.64	\$ 1,530.64
BIDDC	75	88	\$ 55,110.33	119	\$ 67,397.66	\$ 566.37	140	166	\$ 89,077.25	\$ 536.61
BRIDC	15	21	\$ 13,057.87	27	\$ 14,139.07	\$ 523.67	23	37	\$ 18,343.77	\$ 495.78
CALDC	11	6	\$ 4,561.92	7	\$ 4,657.92	\$ 665.42	18	14	\$ 8,017.44	\$ 572.67
CARDC	18	23	\$ 10,788.10	30	\$ 14,456.66	\$ 481.89	30	48	\$ 21,581.10	\$ 449.61
CARSC	7	1	\$ 1,272.00	0			8	0		
DOVDC	3	7	\$ 2,836.92	12	\$ 3,946.00	\$ 328.83	4	19	\$ 5,974.08	\$ 314.43
DOVSC	0	0		0			0	0		
ELLDC	25	49	\$ 28,885.27	37	\$ 19,283.96	\$ 521.19	32	52	\$ 32,030.56	\$ 615.97
ELLSC	3	0		0			4	1	\$ 450.00	\$ 450.00
FARDC	9	24	\$ 14,341.16	22	\$ 18,803.47	\$ 854.70	16	34	\$ 28,187.91	\$ 829.06
FARSC	1	0		0			1	0		
FORDC	5	4	\$ 1,248.00	7	\$ 3,751.36	\$ 535.91	8	12	\$ 6,358.36	\$ 529.86
HOUDC	43	30	\$ 13,351.33	38	\$ 17,898.42	\$ 471.01	62	53	\$ 25,622.07	\$ 483.44
HOUSC	1	0		0			1	1	\$ 354.00	\$ 354.00
LEWDC	75	90	\$ 36,921.36	133	\$ 54,150.36	\$ 407.15	139	187	\$ 81,806.10	\$ 437.47
LINDC	12	18	\$ 9,084.84	21	\$ 11,337.40	\$ 539.88	31	24	\$ 13,729.84	\$ 572.08
MACDC	7	16	\$ 11,417.20	29	\$ 16,191.08	\$ 558.31	23	46	\$ 29,747.32	\$ 646.68
MACSC	0	1	\$ 228.00	1	\$ 228.00	\$ 228.00	0	2	\$ 360.00	\$ 180.00
MADDC	1	3	\$ 1,302.28	2	\$ 456.28	\$ 228.14	4	4	\$ 756.28	\$ 189.07
MILDC	7	10	\$ 2,876.72	14	\$ 4,228.72	\$ 302.05	14	16	\$ 4,757.92	\$ 297.37
NEWDC	21	41	\$ 15,226.95	33	\$ 13,742.22	\$ 416.43	46	68	\$ 25,687.96	\$ 377.76
PORDC	61	98	\$ 40,333.03	135	\$ 59,922.51	\$ 443.87	150	208	\$ 92,251.56	\$ 443.52
PORSC	7	2	\$ 468.00	2	\$ 468.00	\$ 234.00	7	2	\$ 468.00	\$ 234.00
PREDC	25	16	\$ 5,574.00	19	\$ 7,566.00	\$ 398.21	49	43	\$ 19,407.88	\$ 451.35
ROCD	21	24	\$ 12,540.00	41	\$ 20,272.87	\$ 494.46	45	53	\$ 25,241.68	\$ 476.26
RODC	2	1	\$ 576.00	3	\$ 1,082.28	\$ 360.76	3	3	\$ 1,082.28	\$ 360.76
RUMDC	12	9	\$ 6,628.02	10	\$ 9,026.77	\$ 902.68	27	16	\$ 12,289.69	\$ 768.11
SKODC	41	80	\$ 31,758.76	83	\$ 32,020.16	\$ 385.79	85	132	\$ 51,081.27	\$ 386.98
SKOSC	1	0		0			1	0		
SODC	13	16	\$ 7,807.56	17	\$ 8,041.20	\$ 473.01	36	34	\$ 16,100.87	\$ 473.56
SOUSC	2	0		1	\$ 414.00	\$ 414.00	2	3	\$ 3,029.75	\$ 1,009.92
SPRDC	54	54	\$ 28,208.98	72	\$ 33,628.03	\$ 467.06	109	112	\$ 61,181.87	\$ 546.27
Law Ct	19	22	\$ 32,309.33	23	\$ 27,495.20	\$ 1,195.44	28	28	\$ 31,029.20	\$ 1,108.19
YORCD	181	181	\$ 114,481.54	289	\$ 191,549.76	\$ 662.80	421	447	\$ 310,609.30	\$ 694.88
AROCD	169	118	\$ 79,414.34	179	\$ 118,454.34	\$ 661.76	281	272	\$ 179,792.31	\$ 661.00
ANDCD	149	125	\$ 63,079.82	151	\$ 70,349.87	\$ 465.89	303	218	\$ 105,409.95	\$ 483.53
KENDC	217	180	\$ 79,071.84	196	\$ 92,971.92	\$ 474.35	379	271	\$ 124,866.74	\$ 460.76
PENCD	290	237	\$ 83,587.37	257	\$ 85,675.75	\$ 333.37	481	412	\$ 135,555.76	\$ 329.02
SAGCD	29	20	\$ 11,766.51	23	\$ 6,588.86	\$ 286.47	55	36	\$ 11,855.62	\$ 329.32
WALCD	30	38	\$ 18,680.96	57	\$ 22,619.50	\$ 396.83	57	81	\$ 29,083.10	\$ 359.05
PISCD	22	19	\$ 3,823.50	19	\$ 3,977.59	\$ 209.35	43	32	\$ 7,185.83	\$ 224.56
HANCD	48	47	\$ 32,622.00	54	\$ 34,605.00	\$ 640.83	94	90	\$ 63,906.08	\$ 710.07
FRACD	33	62	\$ 33,401.17	56	\$ 39,969.69	\$ 713.74	73	82	\$ 48,551.23	\$ 592.09
WASCD	28	35	\$ 10,368.24	59	\$ 17,238.24	\$ 292.17	67	88	\$ 32,527.36	\$ 369.63
CUMCD	365	339	\$ 179,627.77	424	\$ 241,162.91	\$ 568.78	732	673	\$ 398,348.06	\$ 591.90
KNOCD	38	53	\$ 23,876.20	89	\$ 39,163.72	\$ 440.04	122	127	\$ 53,764.42	\$ 423.34
SOMCD	82	63	\$ 19,074.54	70	\$ 16,602.60	\$ 237.18	268	80	\$ 17,814.60	\$ 222.68
OXFCD	77	65	\$ 19,792.81	76	\$ 25,824.99	\$ 339.80	148	134	\$ 51,741.61	\$ 386.13
LINCD	54	29	\$ 10,494.08	48	\$ 20,516.32	\$ 427.42	98	70	\$ 28,909.73	\$ 413.00
WATDC	27	56	\$ 30,813.42	68	\$ 32,990.08	\$ 485.15	55	93	\$ 43,240.49	\$ 464.95
WESDC	26	38	\$ 22,486.19	43	\$ 23,206.75	\$ 539.69	58	59	\$ 35,321.55	\$ 598.67
WISDC	8	12	\$ 4,685.70	17	\$ 10,099.90	\$ 594.11	13	19	\$ 10,452.62	\$ 550.14
WISSC	1	0		1	\$ 767.50	\$ 767.50	1	1	\$ 767.50	\$ 767.50
YORDC	7	2	\$ 1,771.20	8	\$ 5,233.40	\$ 654.18	13	16	\$ 8,518.40	\$ 532.40
<b>TOTAL</b>	<b>2,626</b>	<b>2,735</b>	<b>\$ 1,337,915.54</b>	<b>3,380</b>	<b>\$ 1,680,164.75</b>	<b>\$ 497.09</b>	<b>5,210</b>	<b>5,094</b>	<b>\$ 2,565,018.89</b>	<b>\$ 503.54</b>

# MAINE COMMISSION ON INDIGENT LEGAL SERVICES

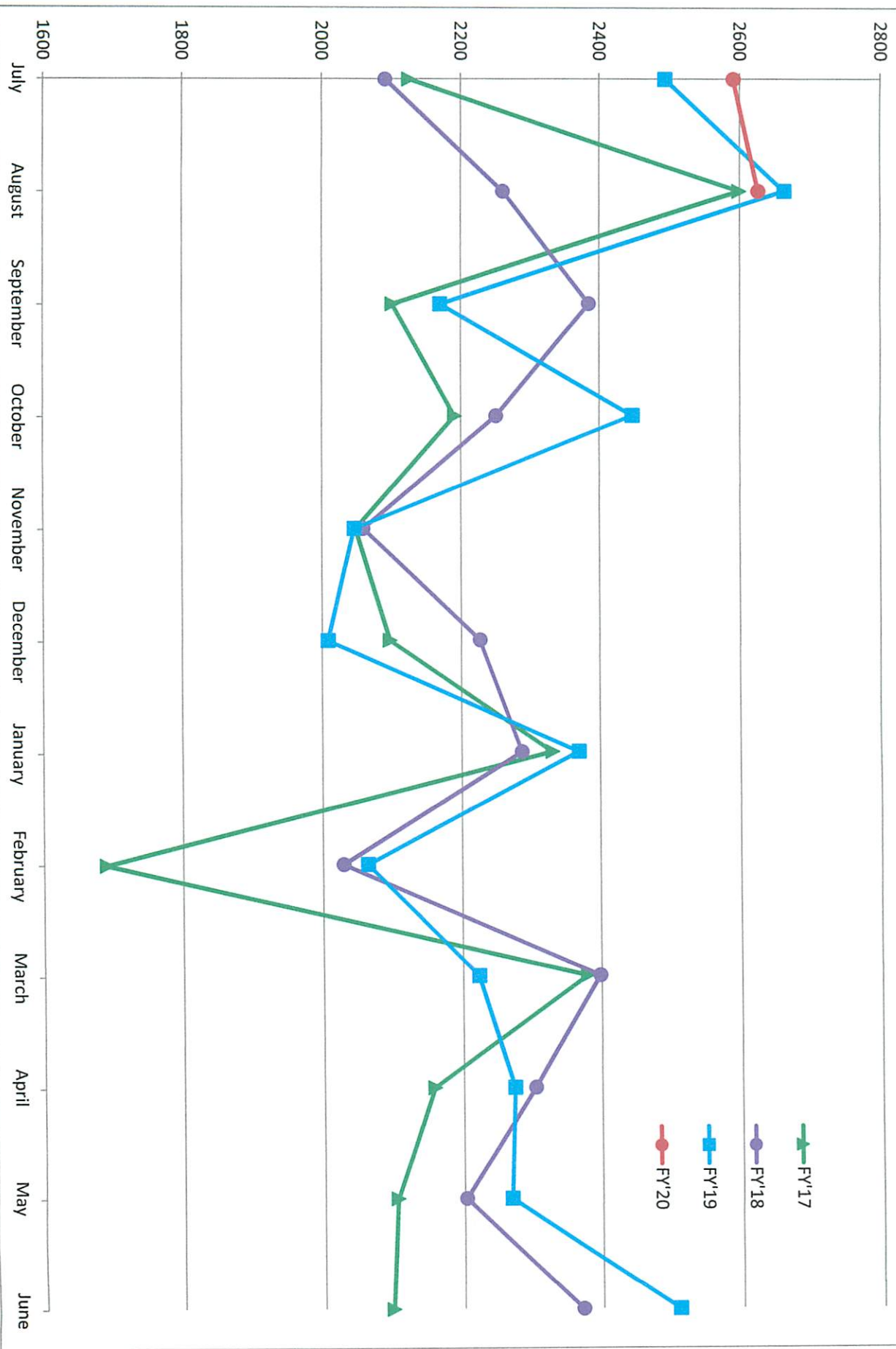
## Number of Attorneys Rostered by Court

08/31/2019

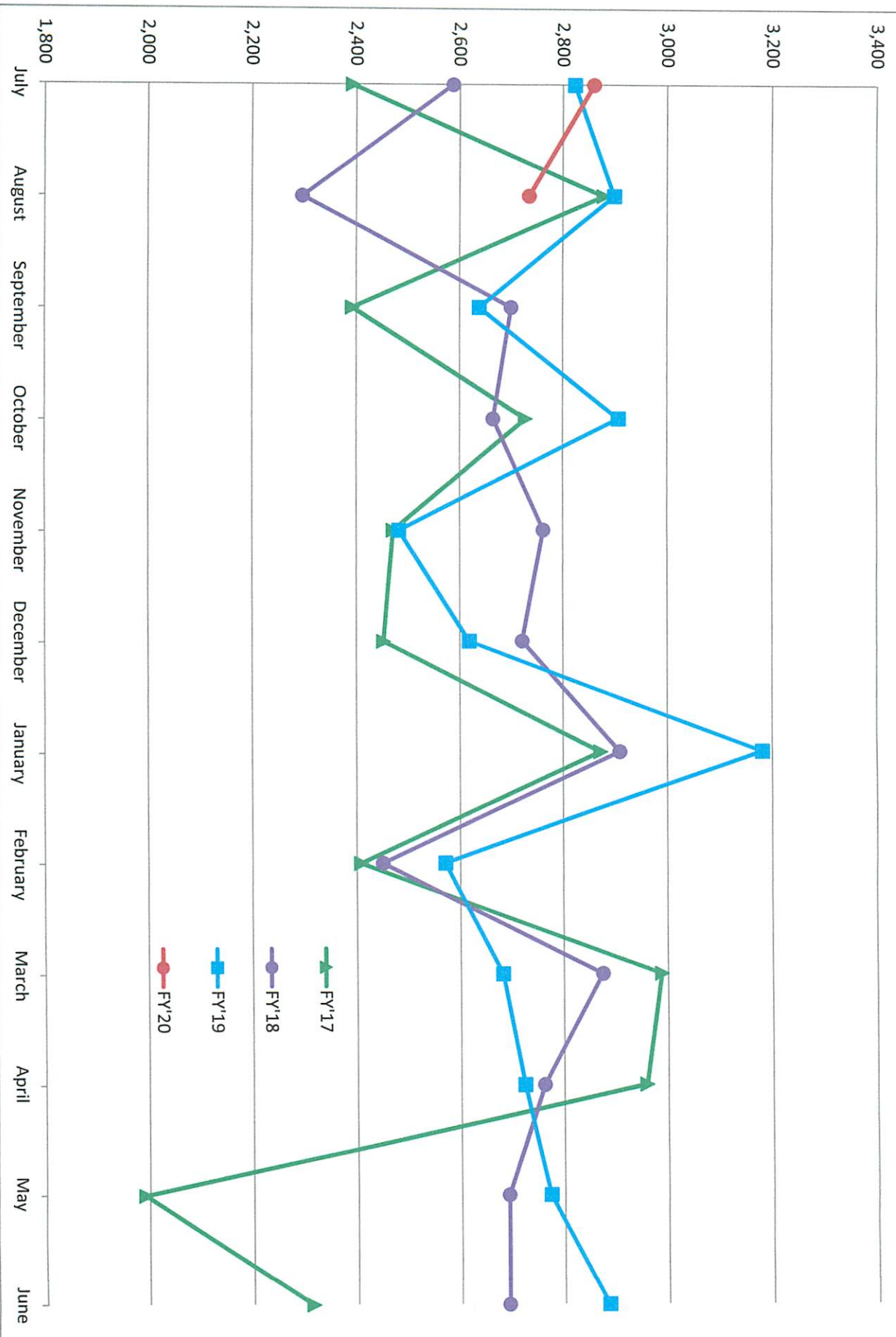
Court	Rostered Attorneys
Augusta District Court	79
Bangor District Court	43
Belfast District Court	39
Biddeford District Court	120
Bridgton District Court	76
Calais District Court	10
Caribou District Court	15
Dover-Foxcroft District Court	23
Ellsworth District Court	31
Farmington District Court	33
Fort Kent District Court	8
Houlton District Court	12
Lewiston District Court	112
Lincoln District Court	20
Machias District Court	15
Madawaska District Court	9
Millinocket District Court	13
Newport District Court	29
Portland District Court	143
Presque Isle District Court	13
Rockland District Court	31
Rumford District Court	24
Skowhegan District Court	22

Court	Rostered Attorneys
South Paris District Court	46
Springvale District Court	106
Unified Criminal Docket Alfred	105
Unified Criminal Docket Aroostook	20
Unified Criminal Docket Auburn	89
Unified Criminal Docket Augusta	75
Unified Criminal Docket Bangor	41
Unified Criminal Docket Bath	80
Unified Criminal Docket Belfast	38
Unified Criminal Docket Dover Foxcroft	22
Unified Criminal Docket Ellsworth	35
Unified Criminal Docket Farmington	35
Unified Criminal Docket Machias	17
Unified Criminal Docket Portland	140
Unified Criminal Docket Rockland	25
Unified Criminal Docket Skowhegan	24
Unified Criminal Docket South Paris	36
Unified Criminal Docket Wiscasset	45
Waterville District Court	40
West Bath District Court	96
Wiscasset District Court	51
York District Court	90

# NEW CASES

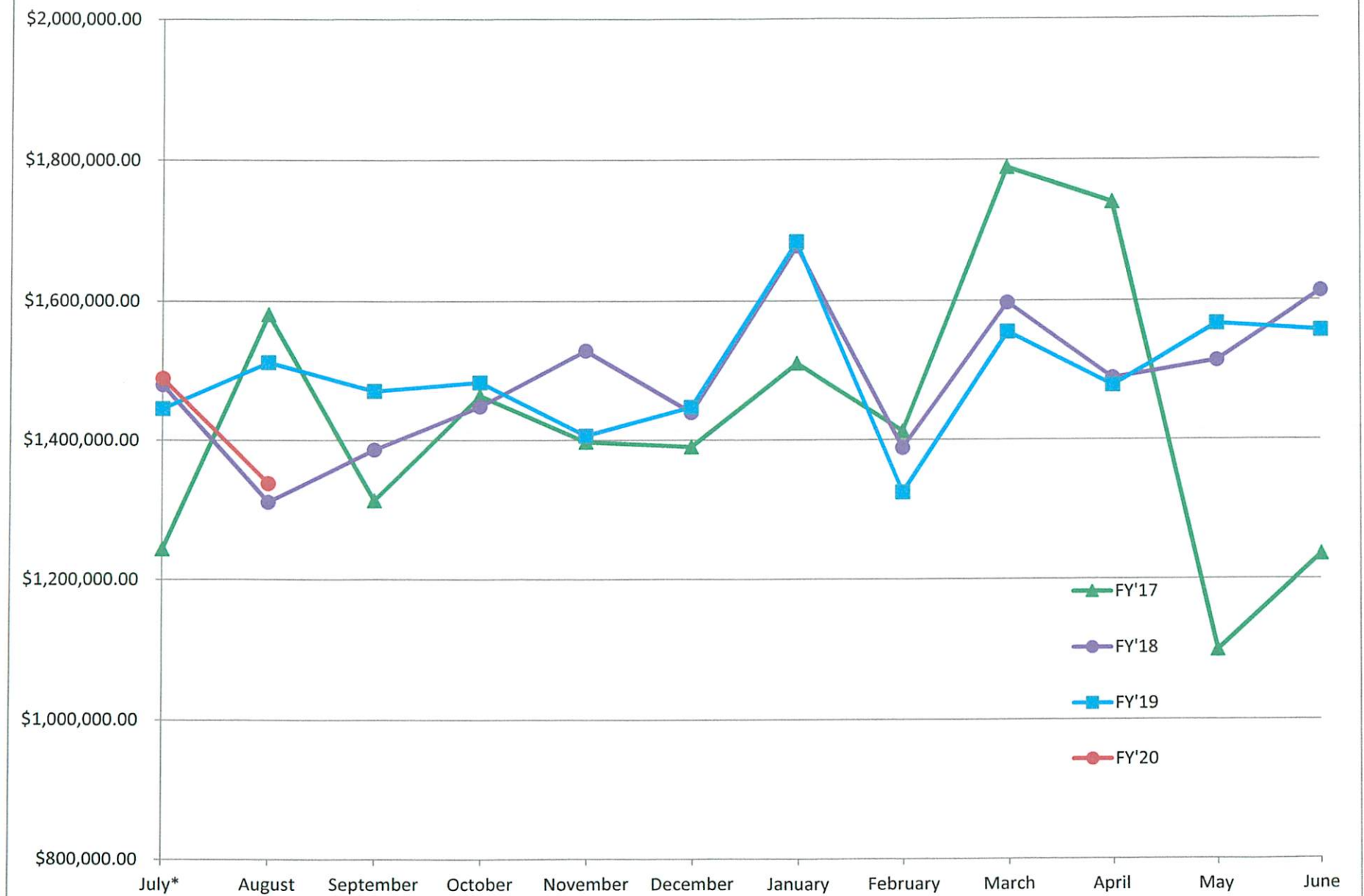


# Submitted Vouchers

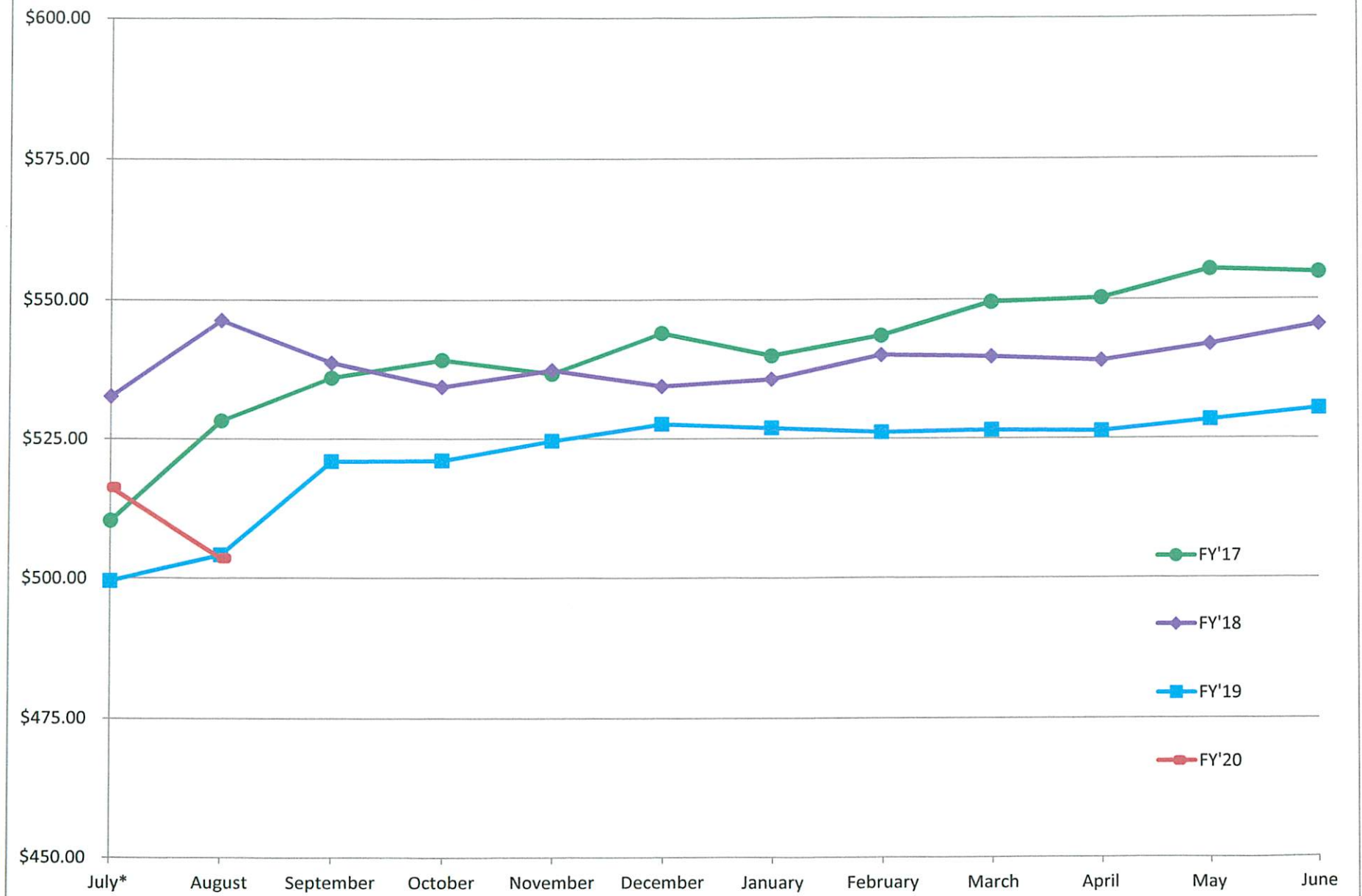




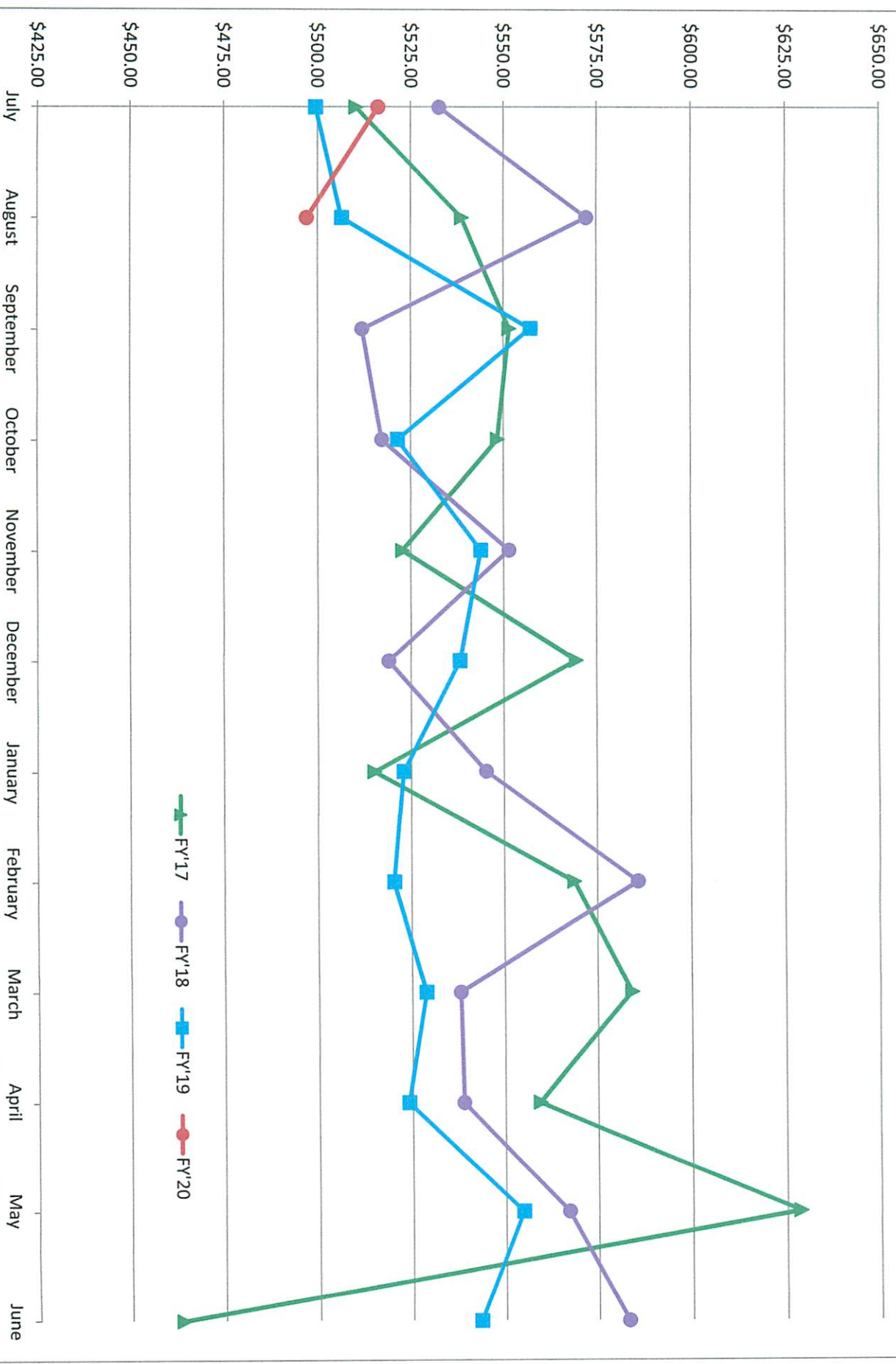
## Submitted Voucher Amount



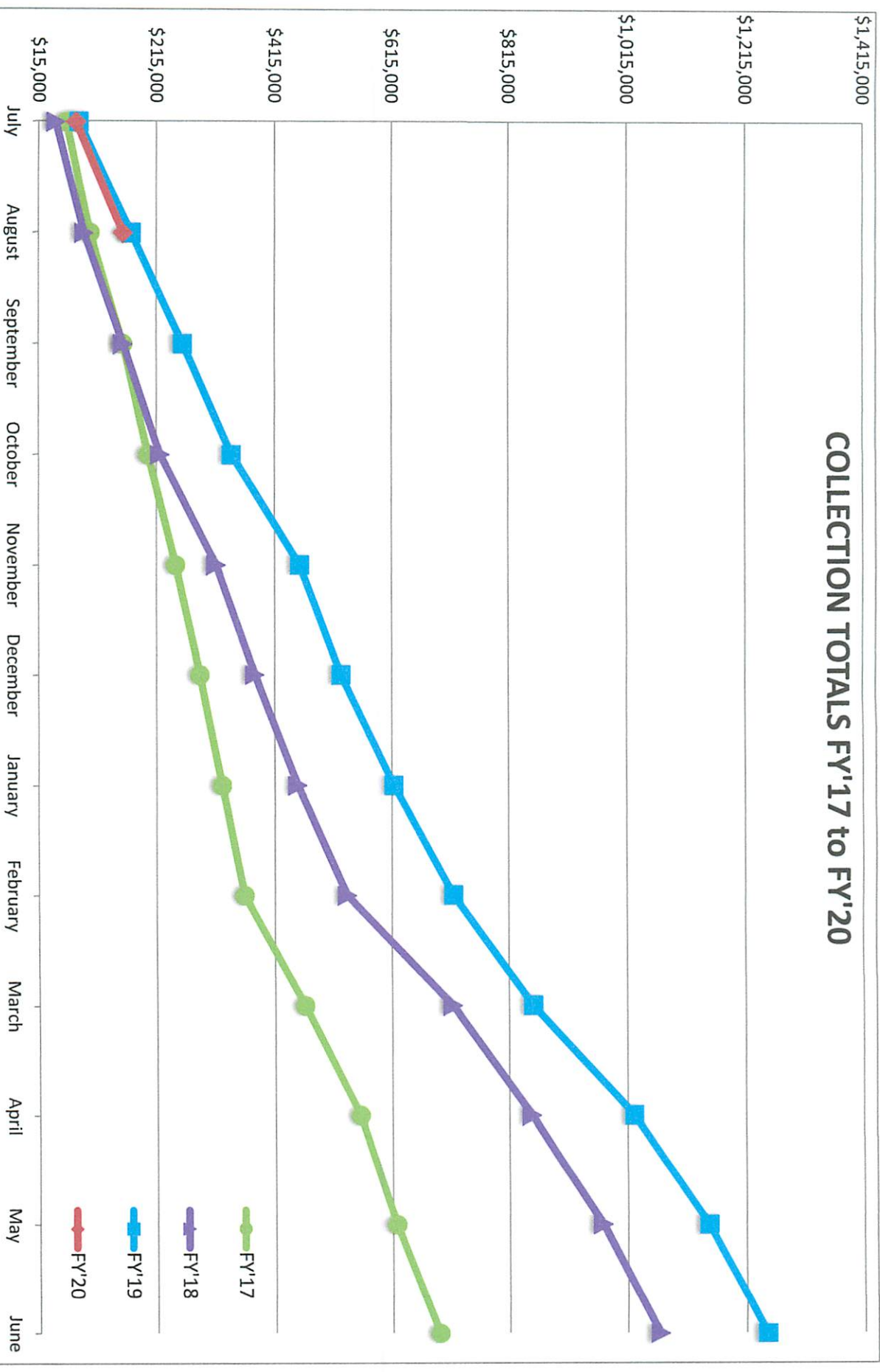
### Average Voucher Price Fiscal Year to Date



## Monthly Price Per Voucher



# COLLECTION TOTALS FY'17 to FY'20





**(3.)**

**Next Steps discussion**

---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** NEXT STEPS DISCUSSION  
**DATE:** SEPTEMBER 4, 2019

---

At its last meeting, Commission members expressed a desire for a broad discussion of next steps to be undertaken by the Commission in light of the report of the Sixth Amendment Center. To the extent you may find it useful, I have reproduced below a list of potential action items generated at the last meeting of the former Commissioners.

- Reviewing the attorney qualification and specialized panel rules, as well as asking the Legislature to make the qualifications standards rule minor technical, as opposed major substantive
- Strengthening ongoing CLE requirements, including increased trainings specific to each specialized panel and reviewing training programs of other states
- Promulgate a lawyer of the day rule, and draft a script for use by lawyers of the day
- Create an earnings report in defenderData that staff can run to produce data similar to that presented to the Sixth Amendment Center and review performance of low earners
- Closing rosters to new lawyers in areas flush with lawyers
- How best to accomplish attorney evaluation and oversight
- Review feasibility of PD office in certain areas.

**(4.)**

## **Fee Rule Discussion**

---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** FEE SCHEDULE RULE  
**DATE:** SEPTEMBER 4, 2019

---

At its last meeting, several Commission members expressed interest in pursuing an amendment to the Fee Schedule rule, a project initially undertaken, but not completed, by the former Commissioners. A copy of their proposed amendments to the rule is attached, and a description of the proposed changes follows.

The amended rule touches on a number of areas. The current rule contains reference to “maximum fees.” In fact, under the rule these are not actual maximums, but instead, a written justification is required from any attorney seeking payment in excess of the maximum. To recognize this reality, the proposed rule changes the designation to “presumptive maximum.”

The proposed rule also changes the amounts of many of these maximums. To arrive at the new numbers, the Commissions reviewed three years of billing data reflecting the number and percentage of vouchers that were paid in excess of the cap, as well as a breakdown by percentile of all vouchers paid for each case type. The Commissioners agreed to set the maximum for each case type at an amount equal to the 90<sup>th</sup> percentile of vouchers paid. This resulted in increases for most voucher categories, but decreases for two types of criminal felony vouchers.

The draft amendment also introduces a presumptive maximum for murder cases, which formerly had no maximum, and creates separate maximums for juvenile felonies, post-conviction review cases involving a murder conviction, and appeal cases involving oral argument, whereas the current rule has one maximum in each category.

The last change with respect to maximums proposes to require that counsel obtain prior approval from the Commission before providing services that would exceed 125% of the applicable maximum.

Other proposed changes include a new restriction on co-counsel in Child Protective cases limiting co-counsel to Termination proceedings where lead counsel has not previously conducted a termination hearing, a change to the deadline for submitting vouchers from 90 days to 60 days post-disposition, and the addition of language encouraging the submission of interim vouchers in cases lasting over 12 months.

Finally, the proposed draft contains two changes in accordance with the recommendations of the Sixth Amendment Center: 1) vouchers must be submitted under penalty of perjury, and 2) lawyers

are required to maintain a daily timesheet reflecting all work done on assigned cases in a given day.

In addition to the attached draft, Commissioner Churchill has asked the Commission look at the portion of the fee schedule that prohibits reimbursement for postage expenses incurred by assigned counsel.

**94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES****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~~ **presumptive 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, 2015:

A rate of Sixty Dollars (\$60.00) 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, ~~such as 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. PRESUMPTIVE MAXIMUM FEES

Vouchers submitted for amounts greater than the applicable presumptive maximum fees outlined in this section will not be approved for payment, except as approved by the Executive Director ~~and/or the Commission.~~ Any voucher submitted that is in excess of the presumptive maximum but is less than or equal to 125% of the presumptive maximum fee will require written justification when submitting the voucher. Prior approval by the Executive Director is required for any voucher that is greater than 125% of the presumptive maximum fee.

##### 1. **Trial Court Criminal Fees**

- A. Presumptive 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, 2015:

- 1) **Murder.** \$15,000 or Fee to be as set by the Executive Director on a case by case basis after reviewing the complexity of the case, if requested by assigned counsel at the beginning of the case.
- 2) **Class A.** \$3,000



- 3) Class B and C (against person). ~~\$2,250~~ \$2,000
  - 4) Class B and C (against property). ~~\$1,500~~ \$1,250
  - 5) Class D and E, ~~(Superior or Unified Criminal Court)~~, \$750
  - 6) ~~Class D and E (District Court)~~, \$540
  - 7) Post-Conviction Review. ~~\$1,200~~
    - ~~a) Non-murder cases. \$3,500~~
    - ~~b) Murder cases. \$6,000 or as set by the Executive Director after reviewing the complexity of the case, if requested by assigned counsel at the beginning of the case.~~
  - 8) Probation Revocation. ~~\$540~~ \$750
  - 9) Miscellaneous (i.e. witness representation on 5<sup>th</sup> Amendment grounds, etc.) \$540
  - 10) Juvenile. ~~\$540~~
    - ~~a) Felony. \$1,000~~
    - ~~b) Misdemeanor. \$540~~
    - ~~c) Probation Violation. \$540~~
- B. In cases involving multiple counts against a single defendant, the presumptive 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. Presumptive ~~M~~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, 2015:

### ~~1) 1) — Child protective cases (each stage). \$900~~

- a. Child Protective Petition. \$1,200
- b. Judicial Review of Child Protective Order. \$1,000
- c. Termination of Parental Rights. \$1,400

### ~~2) — Termination of Parental Rights (with a hearing). \$1,260~~

- 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 56.1.B below. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the presumptive maximum fee. A separate voucher must be submitted at the end of each stage.
- C. Upon written request to MCILS, assistant counsel may be appointed in a child protective case only for the purpose of the termination of parental rights hearing and if counsel of record has not tried a termination of parental rights before.
- 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.

**Formatted:** Font: (Default) Times New

**Formatted:** List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Indent at: 2"

**Formatted:** List Paragraph, Indent: Left: 2", First line: 0"

**Formatted:** List Paragraph, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2" + Indent at: 2.25"

**Formatted:** Indent: Left: 0", First line: 0"

## 3. Other District Court Civil

- A. ~~Presumptive M~~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, 2015:

- 1) Application for Involuntary Commitment. \$420
- 2) Petition for Emancipation. \$420
- 3) Petition for Modified Release Treatment. \$420
- 4) Petition for Release or Discharge. \$420

#### 4. Law Court

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

Effective July 1, 2015:

- 1) ~~Appellate work (without Oral Argument). \$2,500~~
  - 2) ~~Appellate work (with Oral Argument) following the grant of petition for certificate of probable cause. \$1,200. \$3,500~~
- 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.

**Formatted:** Font: (Default) Times New

**Formatted:** Indent: Left: 1", First line: 0.5"

**Formatted:** Font: (Default) Times New  
Roman, Bold

**Formatted:** List Paragraph, Numbered +  
Level: 1 + Numbering Style: 1, 2, 3, ... + Start  
at: 1 + Alignment: Left + Aligned at: 1.5" +  
Indent at: 2"

**Formatted:** Font: (Default) Times New  
Roman, Bold

**Formatted:** Font: (Default) Times New

**Formatted:** Font: (Default) Times New

### SECTION 5: MINIMUM FEES

Effective July 1, 2015:

1. Attorneys may charge a minimum fee of \$150.00 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~~ sixty 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~~ sixty 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

- ~~1-A. An interim voucher may be submitted with prior authorization by the Executive Director. In cases lasting longer than 12 months, an interim voucher is recommended.~~

Formatted: Indent: Hanging: 0.5"

2. ~~Unless otherwise authorized in advance, a~~ All vouchers must be submitted using the MCILS electronic case management program and comply with all instructions for use of the system. Vouchers must be certified as true and accurate under penalty of perjury.



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~~ required if the time entry is not self-evident.
- 3-A. In addition to time listed on vouchers, lawyers must complete a daily timesheet showing all work performed on MCILS cases during a single day. Daily timesheets may be recorded in electronic or paper form and must be maintained for a period of three (3) years.
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:

August 21, 2011 – filing 2011-283

AMENDED:

March 19, 2013 – filing 2013-062

July 1, 2013 – filing 2013-150 (EMERGENCY)

October 5, 2013 – filing 2013-228

July 1, 2015 – filing 2015-121 (EMERGENCY)

June 10, 2016 – filing 2016-092

**(5.)**

**Enhanced Representation  
for Juveniles**

## Pelletier, John

---

**From:** Morales, Victoria <Victoria.Morales@legislature.maine.gov>  
**Sent:** Wednesday, September 04, 2019 5:14 PM  
**To:** Pelletier, John; Finn, Julia  
**Cc:** Tina Heather Nadeau  
**Subject:** RE: Representation of youth and judicial review portion of LD 1684 for MCILS

Dear John,

In early August, I spoke with the Chief Justice and others at her request about both representation of all youth charged with crimes as well as the judicial review portion of LD 1684. She suggested a few ways to immediately get started on those issues while we wait for the Legislature to resume. It is clear from our conversation, as well as other statements the Chief Justice has made, that time is of the essence when it comes to children.

The major take-aways from Chief Justice Saufley, and the ways for MCILS to get involved, are as follows:

- (1) As to representation, the specific proposal is for MCILS to enter into an 18-month memorandum of understanding (MOU) with the Judicial Branch to ensure legal representation for youth in the juvenile court system whose liberty interest is implicated in a continuing way, so that children at Long Creek have ongoing access to counsel even after adjudication (and that counsel would be paid for that continuing representation). This MOU would require MCILS to make a financial commitment to fund attorneys, but, because there are so few kids committed at Long Creek (approx. 30), the financial impact would be limited. The 18-month MOU is intended to bring us to the 130th Legislature where we can more fully discuss the budgeting issues after we've seen how it has played out and what lessons were learned.
- (2) As to judicial review, the Chief suggested a pilot project for youth from Cumberland County who are committed to (not detained at) Long Creek. As in LD 1684, this pilot program would require periodic judicial review to ensure that youth are in the least restrictive setting and that their continued commitment is consistent with the purposes of the Juvenile Code. LD 1684 requires both a report and allows counsel to call live witnesses. There initially was concern from some judges that such review might be resource-intensive, so the Chief proposes doing a pilot project in Cumberland County for children committed to Long Creek out of Cumberland County, to have 90-day reviews similar to those envisioned by LD 1684 done, to see how this might work in practice. At our meeting, we approximated that around 15 kids are committed to Long Creek from Cumberland County. This plan would require, of course, counsel to represent the kids in these 90-day reviews, and we'd need to work out all the details about what the review will look like with the court, but Chief Justice Saufley suggested that you might begin this as a point of conversation at MCILS.
- (3) For children who are detained and/or committed to Long Creek and who are not from York or Cumberland Counties: to have local co-counsel appointed from Cumberland County to advocate for the child and to meet with the child throughout the child's detention and/or commitment. This could be done via rule-making by MCILS. Again, due to the small number of children at Long Creek, the financial impact should not be significant.

I am very happy to work with the Commission on drafting the proposed rules and memoranda as needed.

My understanding is that Tina Nadeau has already highlighted these potential reforms to the Commission at their August meeting in anticipation of their discussion for the September MCILS meeting. Additionally, both Dr. Welch and Steve Carey, as former Commissioners, were very supportive of the Commission paying for continued representation for juveniles post-adjudication--as well as the appointment of local co-counsel--after a lengthy discussion at their May meeting following a presentation by Tina on LD 1684.

I unfortunately will not be in the State on September 10th but can make myself available at a later date. Tina will be available at the September meeting to answer questions as needed.

Thank you very much and please let me know if you need anything else from me at this time.

**Victoria Morales**

State Representative, Chair of the Young People's Caucus

South Portland, House District 33

*she/ her/ hers*

[www.facebook.com/Victoria-Morales-in-the-Maine-House-205846269978477/](https://www.facebook.com/Victoria-Morales-in-the-Maine-House-205846269978477/)

Twitter: **@Rep\_Morales**

*LEGAL NOTICE: Any and all communications sent to and from this email address are public records pursuant to the Maine Freedom of Access Act.*

**(6.)**

## **Budget Update**



---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

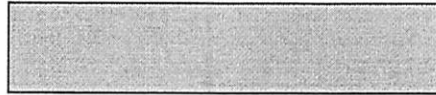
**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** BUDGET UPDATE  
**DATE:** SEPTEMBER 4, 2019

---

As discussed at the last meeting, the Commission ended the last fiscal year with a substantial unspent balance. This balance came in largest part from revenue collected as reimbursement of counsel fees that exceeded the Commission's allotment to spend that revenue. A smaller portion of the balance came from unspent funds appropriated by the Legislature. Because our entire operating budget was placed in an "Other Special Revenue" account, these funds did not lapse to the General Fund, but remain in our account as an unencumbered balance forward. The Governor has authority to provide agencies with the additional allotment needed to spend unencumbered balances through the issuance of a Financial Order.

Attached is a copy of a Financial Order that I have submitted to the Bureau of the Budget for presentation to the Governor for her consideration.

*State of Maine*  
*Executive Department*  
FINANCIAL ORDER



**ORDERED,**

That the State Controller increase allotment in account 014-95F-Z258-01, Reserve for Indigent Legal Services by \$768,774 in the All Other line category for the purpose of allotting the unencumbered balance forward to pay 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, 2020", for which this shall be our sufficient warrant.

**Statement of Fact**

The financial order will allot the unencumbered balance forward to cover the expected cost of indigent legal services in fiscal year 2019-20. The unencumbered balance forward arises mostly from an increase in collection of reimbursement of counsel fees from people required to reimburse the State for some or all of the cost of their representation. Allotment of these funds is necessary because for fiscal year 2019-20, the Legislature appropriated substantially less than amount required to cover the cost of indigent legal services. Allotment of the balance forward will reduce that shortfall, and hence, reduce the need for supplemental funding to fully cover the cost of indigent legal services in fiscal year 2019-20. Failure to allot these funds will leave the Commission unable to cover the cost of indigent legal services in fiscal year 2019-20.

A handwritten signature in dark ink, appearing to read "John Pelletier", written over a horizontal line.

*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

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: Z258

**RESERVE FOR INDIGENT LEGAL SERVICES**

		Object	Month	2020 1st Quarter	2020 2nd Quarter	2020 3rd Quarter	2020 4th Quarter	2020 Annual Total
All Other								
COURT APPOINTED ATTORNEYS		404000	1				768,774	768,774
Subtotal	All Other		1				768,774	768,774
Total							768,774	768,774
Total							768,774	768,774

**(7.)**

## **OPEGA Investigation**

---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE MACIAG, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** OPEGA INVESTIGATION  
**DATE:** SEPTEMBER 4, 2019

---

The OPEGA investigation continues in its early stages. The OPEGA team has conducted interviews with a number of staff, including the Deputy Director, the Accounting Technician, and several Financial Screeners. The team also requested the names of several attorneys who work on assigned cases that they might interview.

To date, we have not received any feedback from OPEGA regarding any initial findings or recommendations.