

**MCILS**

**October 29, 2021  
Commissioner's Meeting  
Packet**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**OCTOBER 29, 2021  
COMMISSION MEETING  
AGENDA**

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- 1) Public Hearing on Chapter 301 Rulemaking
- 2) Approval of September 22, 2021 Commission Meeting Minutes
- 3) Child Protective
- 4) Report of the Executive Director
- 5) Staffing Update
- 6) Forum Update
- 7) Court Discussion Update
- 8) AOC Discussion Update
- 9) Jail Recording Issue Update
- 10) Legislative Update
- 11) Commissioner Alexander's Proposal
- 12) Supplemental Budget Discussion
- 13) Barbara Taylor Contract Renewal Update
- 14) New Attorney Training Proposal
- 15) Case Management Software RFP Update
- 16) Set Date, Time and Location of Next Regular Meeting of the Commission
- 17) Public Comment
- 18) Executive Session

## 94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES

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

**Summary:** This Chapter establishes a fee schedule and administrative procedures for payment of Court Assigned and Commission Assigned counsel. The Chapter sets a standard hourly rate and maximum fee amounts that trigger presumptive review 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 that all vouchers must be submitted using the MCILS- MCILS electronic case management system.

#### SECTION 1. DEFINITIONS

1. Court Assigned Attorney. "Court Assigned Attorney" means an attorney licensed to practice law in the State of Maine, designated eligible to receive an assignment to a particular case, and initially assigned by a Court to represent a particular client in a particular matter.
2. Commission Assigned Attorney. "Commission Assigned Attorney" means an attorney licensed to practice in Maine, designated eligible to be assigned to provide a particular service or to represent a particular client in a particular matter, and assigned by MCILS to provide that service or represent a client.
3. Attorney. As used in this Chapter "Attorney" means a Court Assigned Attorney or Commission Assigned Attorney, or both.
- 2.4. 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, 2021:

A rate of Eighty Dollars (\$80.00) per hour is authorized for time spent by an Attorney, and billed using MCILS electronic case management system, on an assigned case on or after July 1, 2021. A rate of Sixty Dollars (\$60.00) per hour remains authorized for time spent on an assigned case between July 1, 2015 and June 30, 2021. A rate of Fifty-five Dollars (\$55.00) per hour remains authorized for time spent on an assigned case between July 1, 2014 and June 30, 2015. A rate of Fifty Dollars (\$50.00) per hour remains authorized for time spent on an assigned case between the inception of the Commission and June 30, 2014.

### SECTION 3. EXPENSES

1. \_\_\_\_\_

1. **Routine Office Expenses.** Routine Office expenses ~~are considered to be included in the hourly rate will not be paid by MCILS.~~ Routine office expenses ~~include, i.e.,~~ but are not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities, secretarial services, routine copying (under 100 pages) the first 100 pages of any one print or copy job, local phone calls, parking (except as stated below), and office supplies, etc., will not be reimbursed. Paralegal time may be billed to MCILS only through the non-counsel cost procedures.

2. \_\_\_\_\_

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), copy costs for print or copy jobs in excess of 100 pages, beginning with the 101<sup>st</sup> page,~~ 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, may be paid by MCILS after review. Necessary parking fees associated with multi-day trials and hearings will be reimbursed, ~~but must be approved in advance by the Executive Director.~~

3. \_\_\_\_\_

3. **Travel Reimbursement.** Mileage reimbursement shall ~~not exceed the be made at the applicable~~ State rate applicable to confidential state employees on the date of the travel. 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~~ 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. \_\_\_\_\_

4. **Itemization of Claims.** Claims for all expenses must be itemized and include documentation. Claims for mileage shall be itemized and include the start and end points for the travel in question.

~~5.~~ **5. — Discovery Materials.** ~~The MCILS~~ **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~~ within one week of notice of new counsel's assignment. Counsel may retain a copy of a file transferred to new counsel, or to a client. Counsel shall perform any scanning or make any copies necessary to retain a copy of the file at counsel's expense. The client owns the file. The original file shall be tendered to new counsel, or to the client, as directed.

~~6.~~ **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~~ shall be approved in advance by MCILS. Funds for third-party services will be provided by ~~the MCILS~~ **MCILS** only upon written request and a sufficient demonstration of reasonableness, relevancy, and need in accordance with ~~the MCILS~~ **MCILS** rules and procedures governing requests for funds for experts and investigators. See Chapter 302 Procedures Regarding Funds for Experts and Investigators.

~~7.~~ **7. — Witness, Subpoena, and Service Fees.** ~~In criminal and juvenile cases,~~ witness **Witness**, subpoena, and service fees will be reimbursed only pursuant to ~~M.R. Crim. P. 17(b).~~ the Maine Rules of Court. It is unnecessary for counsel to advance these costs, and they shall not be included as a voucher expense without prior consent from the Executive Director or designee. 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 PRESUMPTIVE REVIEW**

Vouchers submitted for amounts ~~greater than~~ in excess of the applicable ~~maximum fees outlined in this section~~ trigger for presumptive review will ~~not be approved~~ be considered for payment, ~~except as approved after review~~ by the Executive Director ~~or designee.~~ Vouchers submitted in excess of the trigger for presumptive review must be accompanied by an explanation of the time spent on the matter. The explanation shall be set forth in the notes section of a voucher or invoice.

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

~~A.~~ **A. — Maximum fees** Triggers for presumptive review, 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~~ feet trigger limit.

B. The following triggers for presumptive review shall be in force on the date this rule becomes effective as amended. Thereafter, the trigger limits may be amended by memorandum from the Executive Director or designee. Amended trigger limits will become effective upon posting to the MCILS website.

Effective July 1, 2015:

~~1) **Murder.** Fee to be set by the Executive Director on a case by case basis.~~

1) ~~2) **Murder.** All murder cases shall trigger presumptive review.~~

2) ~~Class A. \$~~34,000~~~~

3) ~~3) **Class B and C (against person).** \$~~2,250~~3,500~~

4) ~~4) **Class B and C (against property).** \$~~1,2,500~~~~

5) ~~5) **Class D and E (Superior or Unified Criminal Court)E.**~~  
~~\$~~750~~1,500~~

6) ~~6) **Class D and E (District Court).** \$~~540~~Repealed~~

7) ~~7) **Post-Conviction Review.** \$~~1,200~~3,000~~

8) ~~8) **Probation Revocation.** \$~~540~~1,500~~

9) ~~9) **Miscellaneous (i.e. witness representation on 5<sup>th</sup> Amendment grounds, etc.).** \$~~540.~~ \$1,000~~

10) ~~10) **Juvenile.** \$~~540~~1,500~~

C. ~~B.~~ In cases involving multiple counts against a single defendant, the ~~maximum~~triggering fee shall be that which applies to the most serious count. In cases where a defendant is charged with a number of unrelated offenses, ~~c~~Counsel ~~is expected to~~shall coordinate and consolidate services as much as possible.

~~D.~~ ~~C.~~ Criminal and juvenile cases will include all proceedings through a terminal case event~~disposition~~ as defined in Section ~~65.1.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~~Repealed.

~~E.~~ ~~E.~~ Upon written request to MCILS, ~~assistant a second Attorney counsel,~~ may be ~~appointed~~assigned in a murder case or other complicated cases: to provide for mentorship, or for other good cause at the discretion of the Executive Director:

~~1)~~ ~~1)~~ the duties of each attorney must be clearly and specifically defined, and counsel must avoid unnecessary duplication of effort;

~~2)~~ ~~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.~~ ~~2.~~ **District Court Child Protection**

~~A.~~ ~~A.~~ Maximum Triggering 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~~1,500

~~2)~~ ~~2)~~ **Termination of Parental Rights** (with a hearing). ~~\$ 1,260~~2,500

~~B.~~ ~~B.~~ Counsel must provide MCILS with written justification for any voucher that exceeds the ~~maximum fee~~triggering limit. Each child protective stage ends

when a proceeding results in a ~~court order as defined in Section 5.1.B below~~ Preliminary Protective Order, Judicial Review Order, Jeopardy Order, Order on Petition for Termination of Parental Rights, or entry of a Family Matter or other dispositional order. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the ~~maximum triggering fee for that case. A separate voucher must be submitted at the end of each stage.~~ maximum triggering fee limit.

### ~~3.~~ 3. ~~Other District Court Civil~~

~~A.~~ A. ~~Maximum fees~~ Triggering fees in District Court civil actions, 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 triggering fee limit.~~

Effective ~~July 1, 2015:~~

~~1)~~ 1) ~~Application for Involuntary Commitment. \$420~~ 1,000

~~2)~~ 2) ~~Petition for Emancipation. \$420~~ 1,500

~~3)~~ 3) ~~Petition for Modified Release Treatment. \$420~~ 1,000

~~4)~~ 4) ~~Petition for Release or Discharge. \$420~~ 1,000

### ~~4.~~ 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, 2015:

~~1)~~ Appellate work following the grant of petition for certificate of probable cause. \$1,200

~~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.



A. All appeals shall trigger presumptive review.

## SECTION 5: MINIMUM FEES

Effective ~~July~~:

~~1, 2015:~~

~~1.~~ Attorneys may chargebill a minimum fee of ~~\$150.00~~ 2.5 hours for ~~appearance~~ appearances as Lawyer of the Day, ~~or in specialty or diversionary courts or programs. A single minimum fee may be charged for each appearance at which the attorney serves. If an attorney serves as Lawyer of the Day for a morning session that continues into the afternoon, that will be one appearance. If an attorney serves as Lawyer for the Day for a morning session and then a subsequent afternoon session with a second appearance time and list, that will be two appearances.~~ Vouchers seeking the minimum fee ~~shall~~ must 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 per appearance 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 of a terminal case, or completion of a stage of a child protection case resulting in an order. event. Lawyer of the Day and specialty courts shall be billed within 90 days of the service provided.~~ Vouchers not 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 ~~within 90-days of a terminal case event cannot be paid, except on a showing by counsel that a voucher could not have been timely submitted for reasons outside the actual or constructive control of counsel. Counsel are encouraged to submit interim vouchers not more often than once every 90 days per case. Counsel may request reconsideration of a voucher rejected between April 1, 2021 and the effective date of this rule,~~ "disposition" of a criminal or juvenile case shall be at the following times: if that voucher would be payable under this rule.

1) ~~entry of judgment (sentencing, acquittal, dismissal, or filing);~~

Terminal case events are:

1) The withdrawal of counsel

2) ~~upon The entry of a deferred disposition;~~

3) ~~upon issuance dismissal of a warrant of arrest for failure to appear; all charges or petitions~~

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~~3) Judgment in a case, or

4) Final resolution of post-judgment proceedings for which counsel is responsible

The 90 day," bail hearings, etc.); or

7) ~~specific authorization of the Executive Director to submit an interim period for submitting a voucher;~~

~~B. For purposes of this rule, "each stage" of a child protection case shall be:~~

1) ~~run from the date that an Order after Summary Preliminary hearing, Judgment, or Agreement-Dismissal is docketed.~~

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.~~ ~~2.~~ — Unless otherwise authorized in advance, ~~all~~ All vouchers must be submitted using the ~~MCILS- MCILS~~ electronic case management program and comply with all instructions for use of the system.
- ~~2.~~ ~~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.~~
- ~~3.~~ ~~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 ~~request.~~ supplied upon request. appended to the voucher.
- ~~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- MCILS at disposition of the case.~~

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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 ~~major substantive~~)

- June 10, 2016 – filing 2016-092 (~~Final adoption, major substantive~~)

- July 21, 2021 – filing 2021-149 (EMERGENCY ~~major substantive~~)

**From:** [Andrus, Justin](#)  
**To:** [Maciag, Eleanor](#)  
**Subject:** FW: proposed rule amendment Chapter 301, Fee Schedule  
**Date:** Wednesday, October 6, 2021 4:41:11 PM

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Comment.

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Justin W. Andrus  
Executive Director  
Maine Commission on Indigent Legal Services  
(207) 287-3254  
[Justin.andrus@maine.gov](mailto:Justin.andrus@maine.gov)

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**From:** dcd@sals-law.com <dcd@sals-law.com>  
**Sent:** Wednesday, October 6, 2021 10:56 AM  
**To:** Andrus, Justin <Justin.Andrus@maine.gov>  
**Subject:** proposed rule amendment Chapter 301, Fee Schedule

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Morning Justin,

I received an email about the public hearing for proposed rule amendment to Chapter 301 scheduled for October 29<sup>th</sup>.

The following should be added to proposed rule amendment Chapter 301, Fee Schedule for Maine Commission on Indigent Legal Services to properly reflect the change in fee from \$60 to \$80. All other fee schedules in the proposed order show update to reflect the rate increase except Child Protection. I propose the following:

## 2. District Court Child Protection

1. **Child protective cases** (each stage) ~~\$900~~ \$1200
2. **Termination of Parental Rights** (with a hearing) ~~\$1,260~~ \$1,680

I would also propose an additional fee category to more accurately reflect the amount of time required to adequately prepare for a Jeopardy hearing.

3. **Jeopardy** \$1,680

Thanks. Hope you are doing well!

Chris

D. Christopher Dawson  
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**Maine Commission on Indigent Legal Services – Commissioners Meeting  
September 22, 2021**

**Minutes**

**Commissioners Present:** Donald Alexander, Meegan Burbank, Michael Carey, Robert Cummins, Matthew Morgan, Ronald Schneider

**MCILS Staff Present:** Justin Andrus, Ellie Maciag

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Approval of the August 30, 2021 Commission meeting minutes	No discussion.	Commissioner Cummins moved to approve. Commissioner Katz seconded. All voted in favor. Approved.
Report of the Executive Director	Director Andrus relayed that the Commission has been able to staff cases but continues to lose attorneys from the rosters but now at a slower rate. Director Andrus has been supportive of co-counsel requests so inexperienced attorneys can gain experience and hopes to see more co-counsel requests in the future. Director Andrus briefed the Commission on the ongoing issue of unrepresented defendants being directed by the courts to the Commission seeking guidance about their cases. Director Andrus is developing a plan to address this issue. Commissioner Cummins renewed his request to set a special Commission meeting to discuss the contents of the recent attorney survey. Director Andrus reported that while none of the issues raised in the attorney survey have been resolved, there is the possibility of rostered attorneys being able to print to clerk’s office printers. Director Andrus said that both the Judicial Branch and District Attorneys are willing to report to the Commission when one of its rostered attorneys are charged with a crime. Director Andrus is still waiting on a	

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
	meeting with AOC officials and the Department of Corrections has not yet responded to requests to discuss jail issues.	
Staffing Update	Director Andrus gave a brief update on the six open staff positions. The positions have all been posted to the HR website and many qualified candidates have already applied. The job postings will close at the end of the month.	
GOC/OPEGA Update	Director Andrus did not have any updates on GOC/OPEGA since there was not much new to report to GOC due to HR delays in getting staff on board.	
Forum	A discussion ensued about Commissioner Cummins request to have a special Commission meeting to discuss and be proactive about addressing the issues raised in the attorney survey results and to hear from attorneys directly about these issues. Commission Cummins moved to direct staff to schedule a public hearing of the Commission to hear testimony on the survey and invite other constituencies to take part and receive information on the practice environment. Commissioner Katz seconded. All voted in favor.	
Legislative Update	Director Andrus relayed that Representative Harnett proposed a bill for the upcoming legislative session dealing with jails recording attorney-client phone conversations.	
Chapter 301 Rulemaking Discussion	A discussion ensued about the proposed revisions to Chapter 301 and whether the rule should define attorneys as being commission-assigned and court-assigned, with Commissioner Schneider advocating for attorneys being listed as being commission-assigned. The Commission voted 4-1 (Commissioner Schneider opposing) to approve the proposed rule and to put it out for public comment.	

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Training RFP	Director Andrus suggested postponing the 5-day new attorney training being developed by Attorney Drake until next year when it can be done in person and not held via Zoom this Fall. The Commissioners agreed that the training should be put on hold until it can be done in person.	
Case Management Software RFP	Director Andrus gave a brief status update on the case management software RFP, explaining that OIT is in the process of reviewing it and told Director Andrus that its review will last an additional 3 to 4 weeks.	
Public Comment	<p><u>Robert Ruffner, Esq.</u> Attorney Ruffner stated that the example Director Andrus gave of an Aroostook judge preferring to assign local counsel because of the zoom issue highlights why it is important for the Commission to have the authority to assign counsel. Attorney Ruffner cautioned the Commission about another wave of attorneys leaving the rosters since there is an increasing number of cases with a decreasing number of attorneys to handle those cases.</p> <p><u>Christopher Guillory, Esq.</u> Attorney Guillory stated that the proposed jail recording legislation was a good start and that there are a few things to take into consideration when constructing legislation like this, including the history of the county jails lack of compliance on issues of home confinement and the hesitancy to use the furlough statute.</p>	
Executive Session	Commissioner Katz moved to go into executive session pursuant to 1 MRS section 405(6)(a) to discuss an employment matter. Commissioner Alexander seconded. No votes taken.	
Adjournment of meeting	The next meeting will be held in person on Thursday, October 28, 2021 at 9:00 am.	



## Maine Commission on Indigent Legal Services

### Activity Report by Case Type

01/01/2021 to 10/27/2021

Case Type	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Paid	Average Amount	Median Amount
Appeal	123	157	\$234,910.55	162	\$242,960.30	\$1,499.75	\$729.11
Child Protection Petition	1,985	4,203	\$2,548,201.24	4,286	\$2,577,043.98	\$601.27	\$317.70
Drug Court	9	102	\$155,646.00	108	\$159,876.00	\$1,480.33	\$758.03
Emancipation	58	53	\$16,075.17	54	\$16,069.17	\$297.58	\$275.01
Felony	5,682	5,705	\$4,014,116.78	5,804	\$4,040,793.20	\$696.21	\$676.00
Involuntary Civil Commitment	980	972	\$206,420.57	970	\$198,927.62	\$205.08	\$180.00
Juvenile	497	651	\$313,280.81	651	\$309,787.03	\$475.86	\$282.00
Lawyer of the Day - Custody	2,369	2,239	\$578,588.16	2,269	\$585,689.76	\$258.13	\$222.00
Lawyer of the Day - Juvenile	236	204	\$44,324.51	207	\$45,108.51	\$217.92	\$160.00
Lawyer of the Day - Walk-in	1,443	1,355	\$368,561.24	1,365	\$369,504.14	\$270.70	\$240.00
Misdemeanor	8,434	8,286	\$2,963,770.58	8,385	\$2,961,605.87	\$353.20	\$260.36
Petition for Modified Release	3	48	\$23,600.85	45	\$22,534.85	\$500.77	\$334.17
Petition for Release or Discharge	1	7	\$4,671.75	8	\$4,833.75	\$604.22	\$349.12
Petition for Termination of Parental	309	747	\$525,161.82	766	\$524,965.68	\$685.33	\$344.46
Post-Conviction Review	57	70	\$93,227.15	69	\$91,989.65	\$1,333.18	\$547.50
Probate	31	21	\$32,853.40	20	\$32,499.40	\$1,624.97	\$998.00
Probation Violation	1,163	1,256	\$529,332.08	1,272	\$535,038.32	\$420.63	\$312.00
Represent Witness on Fifth	14	12	\$5,526.12	12	\$5,526.12	\$460.51	\$313.42
Resource Counsel Criminal	0	21	\$3,804.00	22	\$3,894.00	\$177.00	\$169.15
Resource Counsel Juvenile	0	3	\$118.00	4	\$136.00	\$34.00	\$77.39
Resource Counsel Protective Custody	2	5	\$794.00	5	\$794.00	\$158.80	\$151.60
Review of Child Protection Order	551	2,219	\$1,193,403.31	2,279	\$1,219,713.50	\$535.20	\$401.40
Revocation of Administrative Release	11	11	\$3,909.96	10	\$3,795.96	\$379.60	\$305.20
<b>Summary</b>	<b>23,958</b>	<b>28,347</b>	<b>\$13,860,298.05</b>	<b>28,773</b>	<b>\$13,953,086.81</b>	<b>\$484.94</b>	<b>\$365.37</b>

## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

**TO:** MCILS COMMISSIONERS

**FROM:** JUSTIN ANDRUS, EXECUTIVE DIRECTOR

**SUBJECT:** OPERATIONS REPORTS

**DATE:** October 27, 2021

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Attached you will find the September 2021, Operations Reports for your review and our discussion at the Commission meeting on October 29, 2021. A summary of the operations reports follows:

- 2,415 new cases were opened in the DefenderData system in September. This was a 228 case decrease from August. Year to date, new cases are basically flat from 7,825 at this time last year to 7,848 this year.
- The number of vouchers submitted electronically in September was 2,535, a decrease of 405 vouchers from August, totaling \$1,431,778, a decrease of \$66,260 from August. Year to date, the number of submitted vouchers is up by approximately 19.6%, from 6,742 at this time last year to 8,070 this year, with the total amount for submitted vouchers up approximately 40%, from \$3,017,218 at this time last year to \$4,235,682 this year.
- In September, we paid 3,002 electronic vouchers totaling \$1,654,913, representing an increase of 321 vouchers and an increase of \$313,250 compared to August. Year to date, the number of paid vouchers is up approximately 18.6%, from 6,649 at this time last year to 7,889 this year, and the total amount paid is up approximately 39%, from \$2,968,494 this time last year to \$4,130,328 this year.
- We paid no paper vouchers in September.
- The average price per voucher in September was \$551.27 up \$50.84 per voucher from August. Year to date, the average price per voucher is up approximately 17.2%, from \$446.46 at this time last year to \$523.56 this year.
- Drug Court and Probate cases had the highest average voucher in September. There were 13 vouchers exceeding \$5,000 paid in September. See attached addendum for details.
- In September, we issued 81 authorizations to expend funds: 47 for private investigators, 20 for experts, and 14 for miscellaneous services such as interpreters and transcriptionists. In September, we paid \$63,417 for experts and investigators, etc. No requests for funds were denied.
- In September, we opened no attorney investigations.

- In September, we approved no requests for co-counsel.

In our All Other Account, the total expenses for the month of September were \$1,282,898. During September, approximately \$22,223 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$55,046 in expenses for the month of September.

In the Revenue Account, the transfer from the Judicial Branch for September, reflecting July's and August's collections, totaled \$149,539.

During September, we had no financial activity related to training.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY22 FUND ACCOUNTING**  
AS OF 09/30/2021

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY22 Total
FY22 Professional Services Allotment		\$ 5,153,983.00		\$ 4,940,737.00		\$ 4,940,737.00		\$ 423,013.00	
FY22 General Operations Allotment		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00	
FY21 Encumbered Balance Forward		\$ 128,745.00		\$ -		\$ -		\$ -	
Budget Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Supplemental Budget Allotment		\$ -		\$ -		\$ -		\$ -	
Financial Order Unencumbered Balance Fwd		\$ -		\$ -		\$ -		\$ -	
FY21 Unobligated Carry Forward		\$ 495,733.30		\$ -		\$ -		\$ -	\$ 495,733.30
<b>Total Budget Allotments</b>		<b>\$ 5,201,983.00</b>		<b>\$ 4,988,737.00</b>		<b>\$ 4,988,737.00</b>		<b>\$ 471,013.00</b>	<b>\$ 16,146,203.30</b>
Total Expenses	1	\$ (1,188,459.32)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (1,479,685.13)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ (1,282,898.64)	6	\$ -	9	\$ -	12	\$ -	
Encumbrances (Justice Works)		\$ (70,052.50)		\$ -		\$ -		\$ -	\$ (70,052.50)
Encumbrances (B Taylor)		\$ (13,260.00)		\$ -		\$ -		\$ -	\$ (13,260.00)
Encumbrances (CTB for non attorney expenses)		\$ (676,875.82)		\$ -		\$ -		\$ -	\$ (676,875.82)
Encumbrance (Jamesa Drake training contract)		\$ (92,400.00)		\$ -		\$ -		\$ -	\$ (92,400.00)
<b>TOTAL REMAINING</b>		<b>\$ 398,351.59</b>		<b>\$ 4,988,737.00</b>		<b>\$ 4,988,737.00</b>		<b>\$ 471,013.00</b>	<b>\$ 11,342,571.89</b>

**Q1 Month 3**

**INDIGENT LEGAL SERVICES**

Counsel Payments	\$ (1,197,257.80)
Interpreters	\$ (112.50)
Private Investigators	\$ (9,541.24)
Mental Health Expert	\$ (21,762.50)
Misc Prof Fees & Serv	\$ -
Transcripts	\$ (14,619.34)
Other Expert	\$ (16,918.00)
Process Servers	\$ (463.76)
Subpoena Witness Fees	\$ -
Out of State Witness Travel	\$ -

**SUB-TOTAL ILS** \$ (1,260,675.14)

**OPERATING EXPENSES**

Service Center	
DefenderData	\$ (6,512.50)
Parking Permit Annual Fee	\$ -
Mileage/Tolls/Parking	\$ (508.50)
Mailing/Postage/Freight	\$ (467.12)
West Publishing Corp	\$ (211.96)
Risk Management Insurances	\$ (108.00)
Office Supplies/Equip.	\$ (83.56)
Cellular Phones	\$ -
OIT/TELCO	\$ (3,143.32)
Office Equipment Rental	\$ -
Barbara Taylor monthly fees	\$ (4,420.00)
Tuition for Justin's CLEs	\$ (295.00)
Dues	\$ (265.00)
AAG Legal Srvcs Quarterly Paym	\$ (6,208.54)

**SUB-TOTAL OE** \$ (22,223.50)

**TOTAL** \$ (1,282,898.64)

**INDIGENT LEGAL SERVICES**

Q1 Allotment	\$ 5,201,983.00
Q1 Encumbrances for Justice Works contract	\$ (70,052.50)
Barbara Taylor Contract	\$ (13,260.00)
CTB Encumbrance for non attorney expenses	\$ (676,875.82)
Q1 Jamesa Drake training contract	\$ (92,400.00)
Q1 Expenses to date	\$ (3,951,043.09)
Remaining Q1 Allotment	\$ 398,351.59

**Non-Counsel Indigent Legal Services**

Monthly Total	\$ (63,417.34)
Total Q1	\$ 223,124.18
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
Fiscal Year Total	\$ 223,124.18

**Conference Account Transactions**

NSF Charges	\$ -
Training Facilities & Meals	\$ -
Printing/Binding	\$ -
Overseers of the Bar CLE fee	\$ -
Collected Registration Fees	\$ -
Current Month Total	\$ -

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY22 FUND ACCOUNTING**  
AS OF 09/30/2021

<b>Account 010 95F Z112 01 (Personal Services)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY20 Total</b>
FY22 Allotment		\$ 285,846.00		\$ 223,990.00		\$ 254,914.00		\$ 162,917.00	\$ 927,667.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>		<b>\$ 285,846.00</b>		<b>\$ 223,990.00</b>		<b>\$ 254,914.00</b>		<b>\$ 162,917.00</b>	<b>\$ 927,667.00</b>
Total Expenses	1	\$ (74,728.63)	4	\$ -	7	\$ -	10	\$ -	
	2	\$ (103,991.70)	5	\$ -	8	\$ -	11	\$ -	
	3	\$ (55,046.83)	6	\$ -	9	\$ -	12	\$ -	
<b>TOTAL REMAINING</b>		<b>\$ 52,078.84</b>		<b>\$ 223,990.00</b>		<b>\$ 254,914.00</b>		<b>\$ 162,917.00</b>	<b>\$ 693,899.84</b>

<b>Q1 Month 3</b>	
Per Diem	\$ -
Salary	\$ (30,059.31)
Vacation Pay	\$ (3,395.89)
Holiday Pay	\$ (2,035.11)
Sick Pay	\$ (1,395.97)
Empl Hlth SVS/Worker Comp	\$ -
Health Insurance	\$ -
Dental Insurance	\$ (160.60)
Employer Retiree Health	\$ (3,681.51)
Employer Retirement	\$ (2,423.90)
Employer Group Life	\$ (344.40)
Employer Medicare	\$ (580.81)
Retiree Unfunded Liability	\$ (7,310.31)
Longevity Pay	\$ (160.00)
Perm Part Time Full Ben	\$ (3,499.02)
Premium & Standard OT	\$ -
Retro Lump Sum Pymt	\$ -
<b>TOTAL</b>	<b>\$ (55,046.83)</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**FY22 FUND ACCOUNTING**

As of 09/30/2021

<b>Account 014 95F Z112 01 (Revenue)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY20 Total</b>
<b>Original Total Budget Allotments</b>		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00		\$ 275,000.00	\$ 1,100,000.00
Financial Order Adjustment		\$ 5,294,080.00		\$ 3,276,305.00		\$ 7,324.00		\$ 7,324.00	\$ 8,585,033.00
Funds for new positions, etc		\$ 708,658.00		\$ -		\$ -		\$ -	\$ 708,658.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment		\$ -	6	\$ -	9	\$ -	12	\$ -	
Budget Order Adjustment	3	\$ -		\$ -		\$ -		\$ -	\$ -
<b>Total Budget Allotments</b>		\$ 6,277,738.00		\$ 3,551,305.00		\$ 282,324.00		\$ 282,324.00	\$ 10,393,691.00
Cash Carryover from Prior Quarter		\$ 884,522.69		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ 100,206.73	4	\$ -	7	\$ -	10	\$ -	
Collected from McIntosh Law		\$ 6,000.00		\$ -		\$ -		\$ -	
Collected for reimbursement of counsel fees		\$ 2,167.00	5	\$ -	8	\$ -		\$ -	
Asset Forfeiture		\$ 3,334.00		\$ -		\$ -		\$ -	
Victim Services Restitution		\$ 1,020.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	2	\$ -		\$ -		\$ -	11	\$ -	
Collected from McIntosh Law		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	3	\$ 149,539.64	6	\$ -	9	\$ -	12	\$ -	
Collected from McIntosh Law		\$ 2,142.00		\$ -		\$ -		\$ -	
Collected for reimbursement of counsel fees		\$ 286.00		\$ -		\$ -		\$ -	
Collected from ME Ctr Public Int Reporting		\$ -		\$ -		\$ -		\$ -	
Returned Checks-stopped payments		\$ -		\$ -		\$ -		\$ -	
<b>TOTAL CASH PLUS REVENUE COLLECTED</b>		\$ 1,149,218.06		\$ -		\$ -		\$ -	\$ 1,149,218.06
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ (457,655.45)	5	\$ -	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -		\$ -		\$ -	
Counsel Payments	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
State Cap for period 11 expenses	*	\$ -	**	\$ -	***	\$ -		\$ -	
<b>REMAINING ALLOTMENT</b>		\$ 5,820,082.55		\$ 3,551,305.00		\$ 282,324.00		\$ 282,324.00	\$ 9,936,035.55
Overpayment Reimbursements	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
<b>REMAINING CASH Year to Date</b>		\$ 691,562.61		\$ -		\$ -		\$ -	\$ 691,562.61

\*\* NO COLLECTED REVENUE IN AUGUST

<b>Collections versus Allotment</b>	
Monthly Total	\$ 151,967.64
Total Q1	\$ 264,695.37
Total Q2	\$ -
Total Q3	\$ -
Total Q4	\$ -
Expenses to Date	\$ (457,655.45)
Cash Carryover from Prior Year	\$ 884,522.69
<b>Fiscal Year Total</b>	<b>\$ 691,562.61</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

9/30/2021

DefenderData Case Type	Sep-21						Fiscal Year 2022			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	14	10	\$ 10,840.30	14	\$ 14,922.89	\$ 1,065.92	38	39	\$ 55,652.94	\$ 1,427.00
Child Protection Petition	211	440	\$ 295,039.08	480	\$ 311,105.62	\$ 648.14	648	1,168	\$ 768,706.31	\$ 658.14
Drug Court	0	8	\$ 14,844.00	8	\$ 12,976.00	\$ 1,622.00	3	23	\$ 38,864.00	\$ 1,689.74
Emancipation	9	5	\$ 2,124.00	5	\$ 2,124.00	\$ 424.80	21	8	\$ 3,034.00	\$ 379.25
Felony	584	497	\$ 445,551.37	585	\$ 511,516.55	\$ 874.39	1,907	1,654	\$ 1,323,189.51	\$ 799.99
Involuntary Civil Commitment	87	64	\$ 18,670.83	82	\$ 21,430.55	\$ 261.35	262	289	\$ 65,817.38	\$ 227.74
Juvenile	49	41	\$ 24,255.42	50	\$ 23,924.46	\$ 478.49	149	132	\$ 65,890.72	\$ 499.17
Lawyer of the Day - Custody	235	218	\$ 66,034.84	251	\$ 79,333.48	\$ 316.07	728	680	\$ 205,945.68	\$ 302.86
Lawyer of the Day - Juvenile	24	18	\$ 4,873.52	25	\$ 7,141.34	\$ 285.65	72	65	\$ 16,696.96	\$ 256.88
Lawyer of the Day - Walk-in	155	132	\$ 43,328.67	170	\$ 57,470.22	\$ 338.06	470	453	\$ 139,612.27	\$ 308.19
Misdemeanor	852	752	\$ 302,987.41	901	\$ 358,422.70	\$ 397.81	2,927	2,316	\$ 865,209.76	\$ 373.58
Petition, Modified Release Treatment	0	2	\$ 678.00	1	\$ 232.00	\$ 232.00	0	7	\$ 2,673.62	\$ 381.95
Petition, Release or Discharge	1	1	\$ 486.25	0			1	1	\$ 546.05	\$ 546.05
Petition, Termination of Parental Rights	22	61	\$ 52,015.34	76	\$ 58,237.24	\$ 766.28	73	169	\$ 125,051.12	\$ 739.95
Post Conviction Review	5	7	\$ 7,862.44	7	\$ 7,862.44	\$ 1,123.21	21	19	\$ 25,825.07	\$ 1,359.21
Probate	0	3	\$ 4,884.00	3	\$ 4,884.00	\$ 1,628.00	6	4	\$ 5,372.00	\$ 1,343.00
Probation Violation	126	112	\$ 41,151.50	132	\$ 55,366.99	\$ 419.45	389	347	\$ 136,212.26	\$ 392.54
Represent Witness on 5th Amendment	2	0		1	\$ 416.00	\$ 416.00	6	5	\$ 2,073.36	\$ 414.67
Resource Counsel Criminal	0	2	\$ 656.00	2	\$ 736.00	\$ 368.00	0	6	\$ 1,360.00	\$ 226.67
Resource Counsel Juvenile	0	0		0			0	2	\$ 106.00	\$ 53.00
Resource Counsel Protective Custody	0	1	\$ 110.00	1	\$ 110.00	\$ 110.00	0	1	\$ 110.00	\$ 110.00
Review of Child Protection Order	39	161	\$ 95,385.11	207	\$ 126,519.29	\$ 611.20	122	499	\$ 282,069.12	\$ 565.27
Revocation of Administrative Release	0	0		1	\$ 181.48	\$ 181.48	5	2	\$ 310.56	\$ 155.28
<b>DefenderData Sub-Total</b>	<b>2,415</b>	<b>2,535</b>	<b>\$ 1,431,778.08</b>	<b>3,002</b>	<b>\$ 1,654,913.25</b>	<b>\$ 551.27</b>	<b>7,848</b>	<b>7,889</b>	<b>\$ 4,130,328.69</b>	<b>\$ 523.56</b>
<b>Paper Voucher Sub-Total</b>										
<b>TOTAL</b>	<b>2,415</b>	<b>2,535</b>	<b>\$1,431,778.08</b>	<b>3,002</b>	<b>\$1,654,913.25</b>	<b>\$ 551.27</b>	<b>7,848</b>	<b>7,889</b>	<b>\$ 4,130,328.69</b>	<b>\$ 523.56</b>

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

9/30/2021

Court	Sep-21						Fiscal Year 2022			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	7	5	\$ 2,498.70	8	\$ 4,208.70	\$ 526.09	26	18	\$ 9,115.70	\$506.43
AUBSC	1	2	\$ 888.00	2	\$ 888.00	\$ 444.00	5	6	\$ 2,094.00	\$349.00
AUGDC	51	54	\$ 36,787.98	60	\$ 40,577.35	\$ 676.29	122	170	\$ 113,498.78	\$667.64
AUGSC	1	5	\$ 2,156.00	11	\$ 9,902.00	\$ 900.18	16	18	\$ 12,889.67	\$716.09
BANDC	66	109	\$ 38,356.00	124	\$ 46,935.60	\$ 378.51	169	286	\$ 94,967.40	\$332.05
BANSC	0	1	\$ 104.00	1	\$ 104.00	\$ 104.00	2	1	\$ 104.00	\$104.00
BATSC	0	1	\$ 1,018.00	1	\$ 1,018.00	\$ 1,018.00	0	2	\$ 1,532.00	\$766.00
BELDC	18	18	\$ 8,622.81	25	\$ 11,868.79	\$ 474.75	42	72	\$ 44,009.93	\$611.25
BELSC	1	1	\$ 1,017.00	1	\$ 1,017.00	\$ 1,017.00	1	1	\$ 1,017.00	\$1,017.00
BIDDC	38	69	\$ 54,004.05	81	\$ 53,309.23	\$ 658.14	134	209	\$ 114,926.49	\$549.89
BRIDC	11	7	\$ 3,358.00	14	\$ 5,424.86	\$ 387.49	42	45	\$ 17,949.98	\$398.89
CALDC	1	6	\$ 3,778.96	6	\$ 3,852.96	\$ 642.16	5	15	\$ 7,102.96	\$473.53
CARDC	10	24	\$ 13,738.00	28	\$ 14,618.00	\$ 522.07	25	81	\$ 47,228.41	\$583.07
CARSC	0	1	\$ 292.00	0			2	0		
DOVDC	3	10	\$ 5,552.72	10	\$ 5,552.72	\$ 555.27	16	25	\$ 12,352.96	\$494.12
DOVSC	0	0		0			0	0		
ELLDC	7	32	\$ 18,688.00	37	\$ 24,611.84	\$ 665.18	35	99	\$ 76,159.36	\$769.29
ELLSC	1	0		0			1	0		
FARDC	4	7	\$ 4,970.48	12	\$ 6,272.34	\$ 522.70	20	29	\$ 15,657.80	\$539.92
FARSC	0	0		0			0	1	\$ 212.00	\$212.00
FORDC	12	16	\$ 7,360.17	17	\$ 9,157.69	\$ 538.69	25	34	\$ 16,718.58	\$491.72
HOUDC	2	17	\$ 10,529.49	21	\$ 15,510.53	\$ 738.60	16	50	\$ 33,127.43	\$662.55
HOUSC	1	0		0			1	0		
LEWDC	61	102	\$ 73,134.71	108	\$ 63,580.85	\$ 588.71	171	258	\$ 146,101.45	\$566.28
LINDC	3	5	\$ 2,800.48	14	\$ 7,594.32	\$ 542.45	27	39	\$ 18,034.17	\$462.41
MACDC	2	5	\$ 4,657.80	4	\$ 3,467.80	\$ 866.95	3	10	\$ 9,313.80	\$931.38
MACSC	0	0		0			1	0		
MADDc	0	4	\$ 1,369.20	2	\$ 753.80	\$ 376.90	1	2	\$ 753.80	\$376.90
MILDC	5	7	\$ 2,305.76	8	\$ 2,101.20	\$ 262.65	14	18	\$ 5,671.20	\$315.07
NEWDC	11	19	\$ 9,285.52	19	\$ 9,035.52	\$ 475.55	32	66	\$ 25,643.99	\$388.55
PORDC	60	90	\$ 63,917.10	113	\$ 71,758.08	\$ 635.03	218	308	\$ 183,137.71	\$594.60
PORSC	3	6	\$ 2,800.00	7	\$ 3,480.00	\$ 497.14	20	22	\$ 9,010.00	\$409.55
PREDC	10	13	\$ 7,908.56	18	\$ 10,192.56	\$ 566.25	25	52	\$ 28,809.81	\$554.03
RODC	7	26	\$ 13,657.47	28	\$ 14,717.47	\$ 525.62	43	54	\$ 28,029.67	\$519.07
ROSC	1	1	\$ 496.00	1	\$ 496.00	\$ 496.00	6	2	\$ 762.56	\$381.28
RUMDC	10	17	\$ 19,513.58	18	\$ 19,777.58	\$ 1,098.75	30	56	\$ 50,538.86	\$902.48
SKODC	28	47	\$ 28,630.98	59	\$ 39,450.13	\$ 668.65	83	144	\$ 85,070.88	\$590.77
SKOSC	0	1	\$ 318.00	1	\$ 318.00	\$ 318.00	4	4	\$ 1,565.60	\$391.40
SOUDC	13	18	\$ 8,748.00	18	\$ 9,526.30	\$ 529.24	39	52	\$ 50,820.39	\$977.32
SOUSC	1	0		2	\$ 408.00	\$ 204.00	1	3	\$ 884.00	\$294.67
SPRDC	12	29	\$ 24,925.94	34	\$ 27,334.94	\$ 803.97	45	86	\$ 57,561.04	\$669.31
Law Ct	9	7	\$ 5,331.50	10	\$ 10,539.06	\$ 1,053.91	22	29	\$ 46,434.51	\$1,601.19
YORCD	290	269	\$ 151,319.85	317	\$ 175,468.80	\$ 553.53	1,022	746	\$ 416,844.89	\$558.77
ARODC	170	124	\$ 72,100.85	144	\$ 84,596.93	\$ 587.48	440	350	\$ 167,184.38	\$477.67
ANDCD	174	159	\$ 108,841.22	171	\$ 119,222.30	\$ 697.21	547	413	\$ 250,467.05	\$606.46
KENCD	197	130	\$ 76,833.68	154	\$ 86,758.85	\$ 563.37	599	457	\$ 236,916.65	\$518.42
PENCD	212	200	\$ 95,800.36	240	\$ 104,116.39	\$ 433.82	757	741	\$ 297,213.12	\$401.10
SAGCD	19	27	\$ 10,711.24	31	\$ 13,485.06	\$ 435.00	104	92	\$ 36,933.36	\$401.45
WALCD	44	50	\$ 18,419.50	68	\$ 27,460.82	\$ 403.84	173	160	\$ 59,234.04	\$370.21
PISCD	7	8	\$ 6,199.33	10	\$ 6,894.73	\$ 689.47	41	35	\$ 18,025.35	\$515.01
HANCD	54	30	\$ 18,346.20	33	\$ 23,114.60	\$ 700.44	143	116	\$ 62,568.70	\$539.39
FRACD	32	20	\$ 11,980.80	20	\$ 16,027.85	\$ 801.39	74	78	\$ 45,476.66	\$583.03
WASCD	24	14	\$ 3,069.20	26	\$ 6,783.20	\$ 260.89	99	111	\$ 47,278.64	\$425.93
CUMCD	443	365	\$ 188,498.35	452	\$ 232,490.61	\$ 514.36	1,426	1,201	\$ 657,558.26	\$547.51
KNOCD	68	81	\$ 46,592.89	112	\$ 60,364.49	\$ 538.97	218	244	\$ 108,372.06	\$444.15
SOMCD	66	120	\$ 48,166.15	129	\$ 50,587.51	\$ 392.15	216	274	\$ 100,781.56	\$367.82
OXFCD	74	62	\$ 29,711.32	64	\$ 33,277.72	\$ 519.96	236	206	\$ 110,981.23	\$538.74
LINCD	32	23	\$ 21,300.81	22	\$ 14,759.20	\$ 670.87	122	85	\$ 39,828.55	\$468.57
WATDC	16	44	\$ 25,036.77	56	\$ 34,244.37	\$ 611.51	60	112	\$ 60,191.32	\$537.42
WESDC	10	12	\$ 5,642.00	12	\$ 5,434.00	\$ 452.83	33	48	\$ 19,757.84	\$411.62
WISDC	5	10	\$ 5,146.60	12	\$ 5,546.60	\$ 462.22	17	32	\$ 15,900.84	\$496.90
WISSC	0	0		0			1	0		
YORDC	7	5	\$ 4,540.00	6	\$ 4,918.00	\$ 819.67	30	21	\$ 10,006.30	\$476.49
<b>TOTAL</b>	<b>2,415</b>	<b>2,535</b>	<b>\$ 1,431,778.08</b>	<b>3,002</b>	<b>\$ 1,654,913.25</b>	<b>\$ 551.27</b>	<b>7,848</b>	<b>7,889</b>	<b>\$4,130,328.69</b>	<b>\$523.56</b>



**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

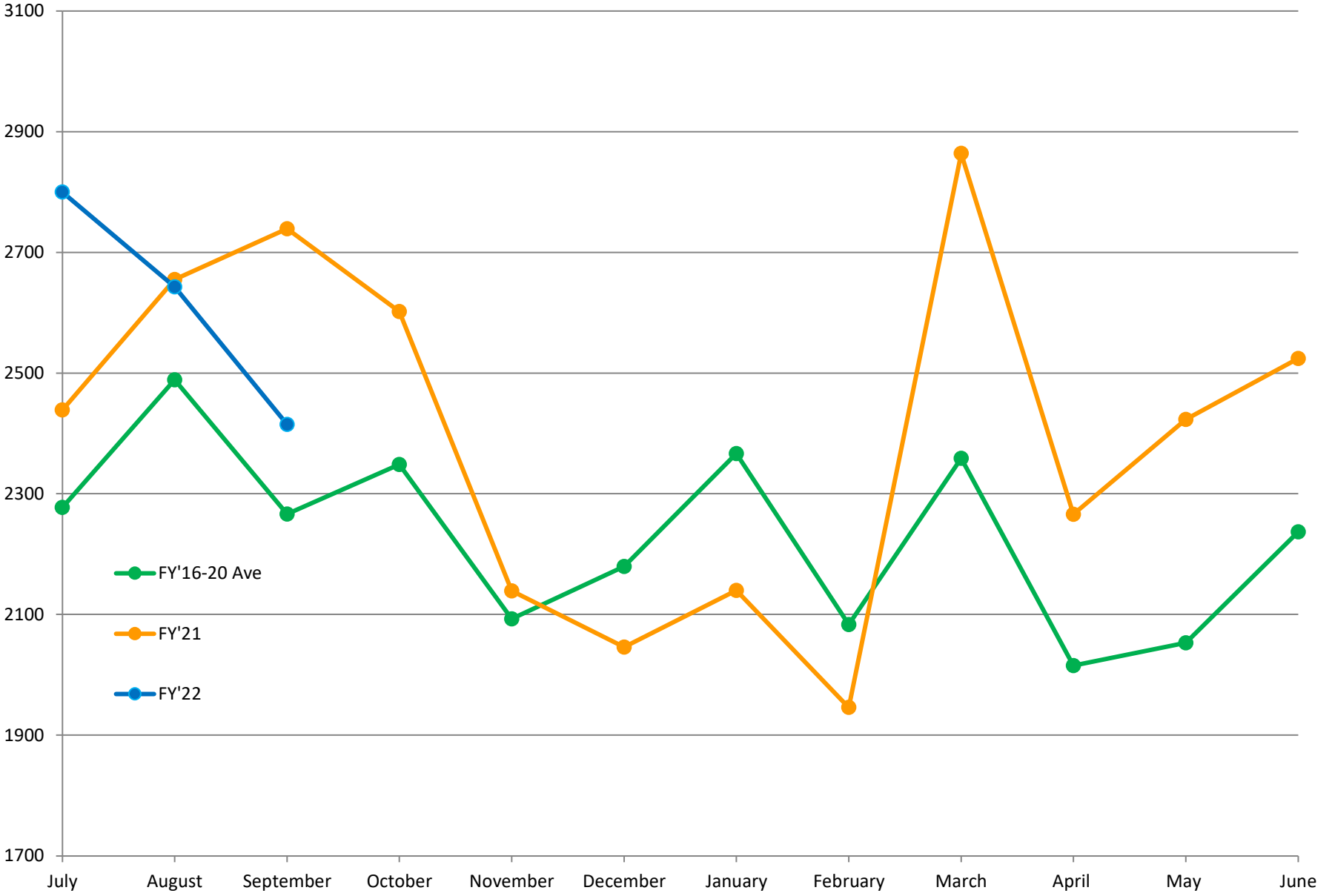
**Number of Attorneys Rostered by Court**

**9/6/2021**

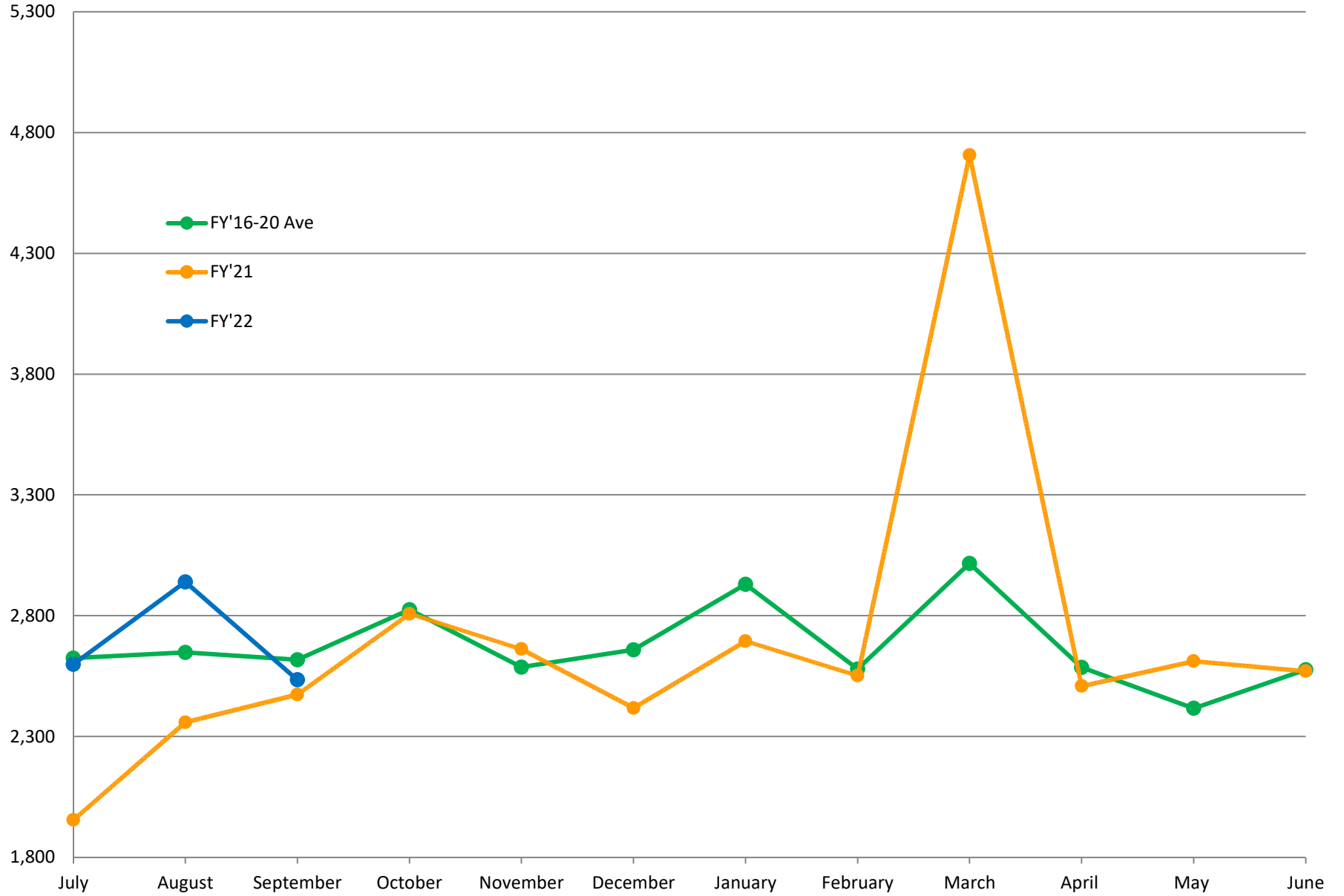
<b>Court</b>	<b>Rostered Attorneys</b>
Augusta District Court	73
Bangor District Court	38
Belfast District Court	36
Biddeford District Court	101
Bridgton District Court	64
Calais District Court	9
Caribou District Court	15
Dover-Foxcroft District Court	24
Ellsworth District Court	29
Farmington District Court	30
Fort Kent District Court	11
Houlton District Court	12
Lewiston District Court	100
Lincoln District Court	21
Machias District Court	14
Madawaska District Court	11
Millinocket District Court	15
Newport District Court	27
Portland District Court	121
Presque Isle District Court	13
Rockland District Court	28
Rumford District Court	21
Skowhegan District Court	21

<b>Court</b>	<b>Rostered Attorneys</b>
South Paris District Court	42
Springvale District Court	86
Unified Criminal Docket Alfred	84
Unified Criminal Docket Aroostook	22
Unified Criminal Docket Auburn	82
Unified Criminal Docket Augusta	69
Unified Criminal Docket Bangor	37
Unified Criminal Docket Bath	72
Unified Criminal Docket Belfast	33
Unified Criminal Docket Dover Foxcroft	21
Unified Criminal Docket Ellsworth	31
Unified Criminal Docket Farmington	34
Unified Criminal Docket Machias	15
Unified Criminal Docket Portland	118
Unified Criminal Docket Rockland	23
Unified Criminal Docket Skowhegan	23
Unified Criminal Docket South Paris	39
Unified Criminal Docket Wiscasset	44
Waterville District Court	35
West Bath District Court	84
Wiscasset District Court	49
York District Court	79

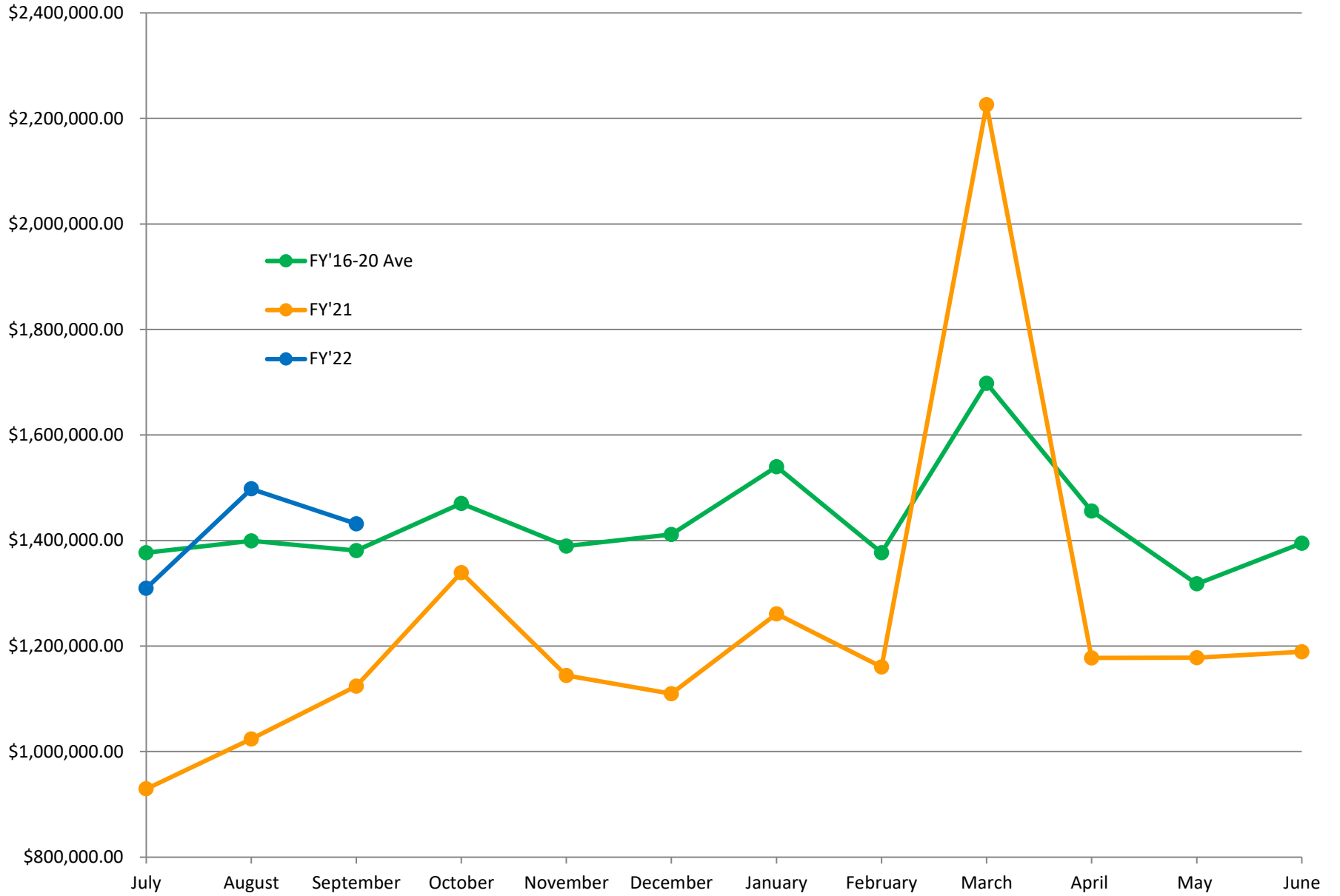
# NEW CASES



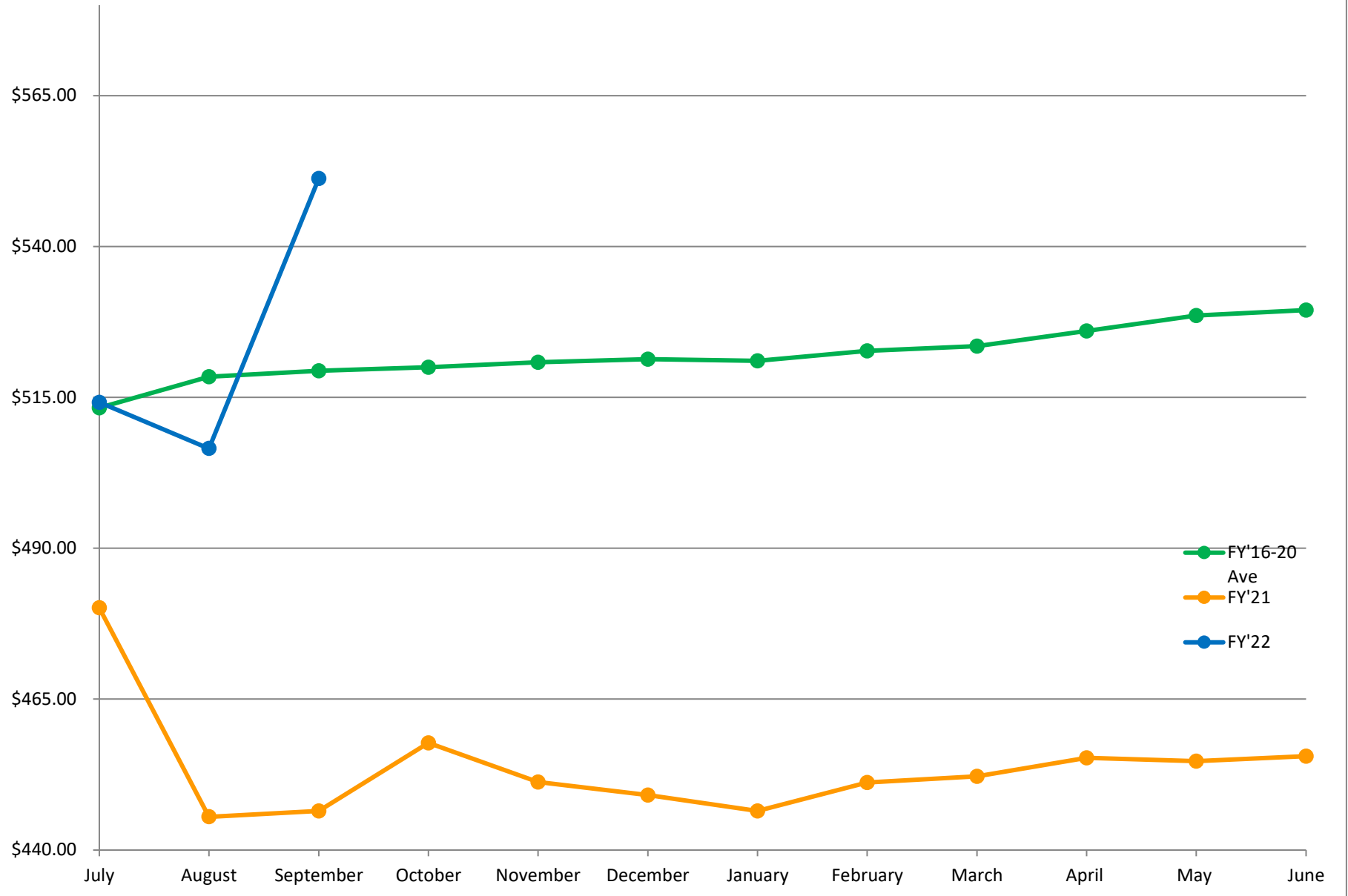
# Submitted Vouchers



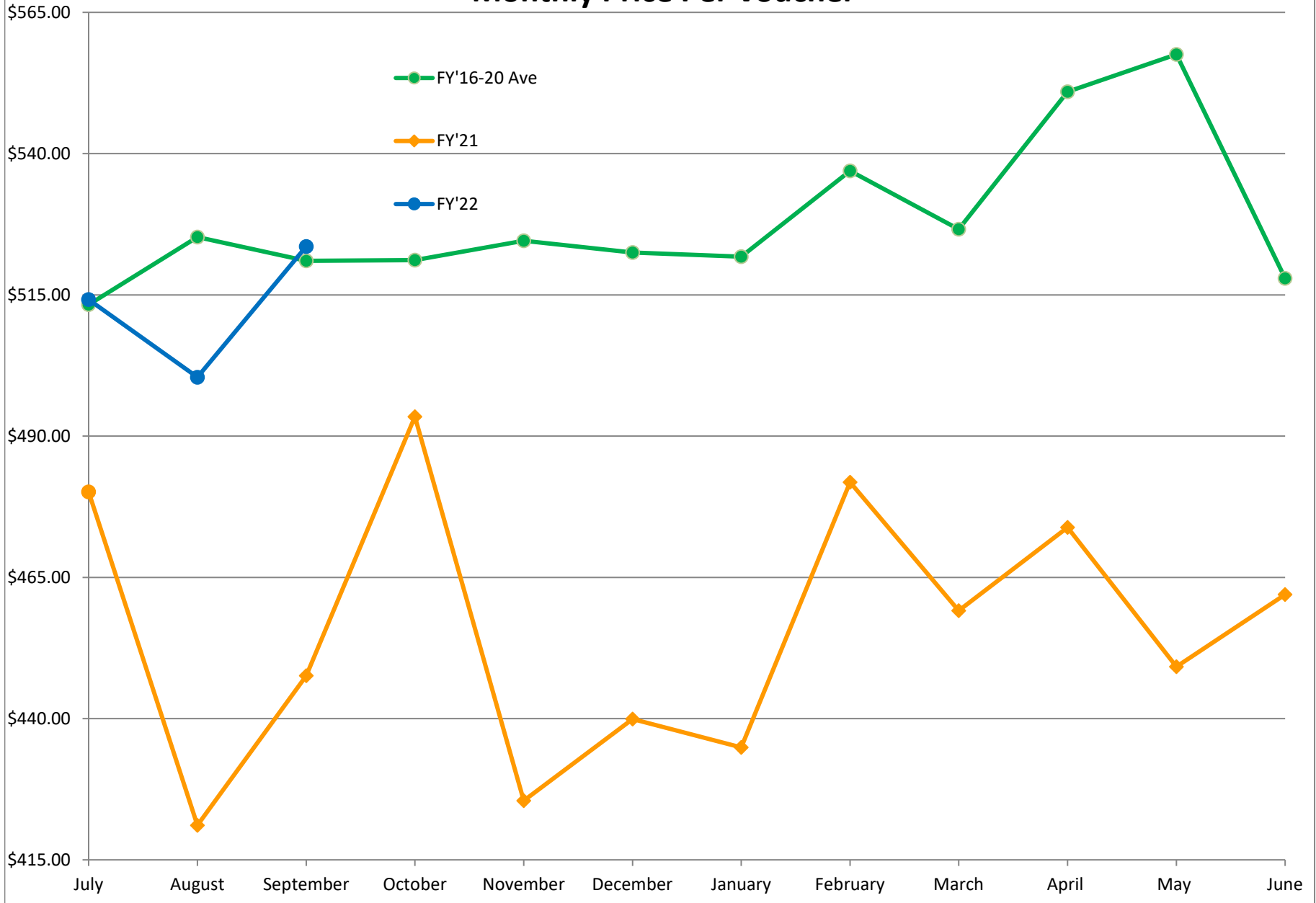
# Submitted Voucher Amount



### Average Voucher Price Fiscal Year to Date



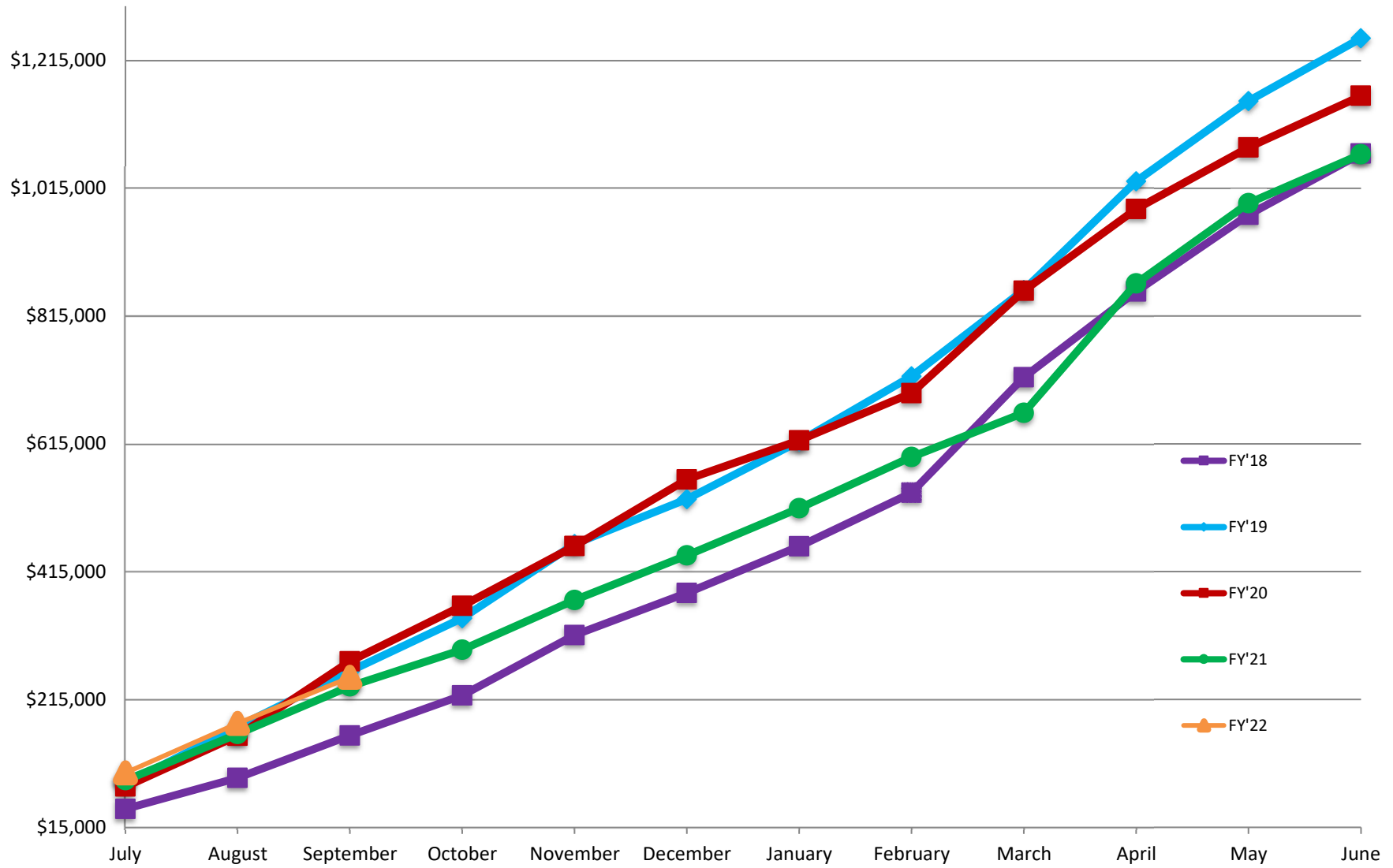
# Monthly Price Per Voucher



## Vouchers over \$5,000

<b>Comment</b>	<b>Voucher Total</b>	<b>Case Total</b>
Murder	\$ 19,659.74	\$ 27,252.74
Murder	\$ 15,704.00	\$ 51,716.00
Murder	\$ 8,938.00	\$ 19,496.32
Attempted Murder	\$ 8,852.00	\$ 8,852.00
Domestic Violence Assault/Crim Threatening	\$ 8,336.00	\$ 8,336.00
Murder	\$ 7,432.00	\$ 51,716.00
Aggravated Trafficking	\$ 6,444.00	\$ 6,444.00
Elevated Aggravated Assault	\$ 6,429.60	\$ 6,429.60
Theft	\$ 6,347.88	\$ 6,755.88
Domestic Violence Assault	\$ 5,895.22	\$ 5,895.22
Manslaughter	\$ 5,836.00	\$ 5,836.00
Unlawful Sexual Contact	\$ 5,334.00	\$ 5,334.00
Unlawful Sexual Contact	\$ 5,198.00	\$ 5,198.00

# COLLECTION TOTALS FY'18 to FY'22





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## PRIVACY AND SECURITY SANCTIONS POLICY

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TO: ALL MCILS EMPLOYEES

FROM: JUSTIN W. ANDRUS, EXECUTIVE DIRECTOR

SUBJECT: PRIVACY AND SECURITY SANCTIONS POLICY

DATE: 10/22/2021

CC: COMMISSION

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### I. SUBJECT

Privacy and Security Sanctions Policy

### II. POLICY STATEMENT

The Maine Commission on Indigent Legal Services (“MCILS”) recognizes the business, financial, and quality needs and obligations of the MCILS workforce to access, analyze, report on and work with a wide range of data, which may include information made confidential by statute or rule including, without limitation 4 M.R.S.A. §1806 and/or the Maine Rules of Professional Responsibility, in order to accomplish the MCILS mission and goals. In carrying out its work, MCILS and its workforce will act in good faith to comply with all laws and rules regarding the use, disclosure, maintenance or transmission of confidential information as defined below, or any other personally identifiable client or attorney information, or confidential business information of MCILS (collectively, "Protected Information" or "PI"), in any format. Any member of the MCILS workforce who intentionally, willfully, knowingly or repeatedly violates any policy, involving the privacy or security of Protected Information, will be subject to the application of this policy. This policy applies to MCILS's entire workforce.

### III. RATIONALE

MCILS will ensure that intentional or repeated actions taken in violation of MCILS's information privacy and security policies will be addressed by this policy, regardless of the professional status of the workforce member.

#### IV. PROCEDURE STATEMENT

##### A. Workforce Obligations

Members of MCILS's workforce are expected to maintain the privacy, security and integrity of Protected Information in any format and only access and/or use the minimum necessary Protected Information to perform his or her role within the organization. Workforce members, including, but not limited to all employees, permanent or temporary staff, students, volunteers, and contractors will comply with all privacy and security policies, and also agree to maintain the confidentiality of MCILS's business information to which they have access.

##### B. Prohibition on Unauthorized Access, Use or Disclosure

No member of MCILS's workforce may access, use, disclose or transmit PI unless it is necessary to fulfill that workforce member's role within MCILS. Additionally, workforce members agree that they will not share user names, passwords or other identification that permits unauthorized access to MCILS's PI; forward PI to a non-work related email address; reveal or independently suggest that an individual receives or provides services from or to MCILS; post PI relating to an individual receiving services from MCILS on social media or other websites; leave computers unsecured or unattended while logged into any State or MCILS information system, billing record, or other electronic system or document containing PI; leave PI in any format in view in a vehicle, in an unlocked vehicle, or any unsecure location; or fail to assist MCILS in complying with a privacy or security requirement or obligation.

##### C. Duty to Report

Members of MCILS's workforce are required to report known or suspected violations of privacy, security, and/or any actual or potential breach of PI in any format to the Executive Director. Workforce members who fail to report known or suspected breaches or violations of privacy or security policies may be subject to disciplinary action consistent with this policy.

##### D. No Retaliation for Good Faith Reports

MCILS will not retaliate against a workforce member who makes a good faith report of a violation of any law, regulation or policy regarding PI in any format to the Executive Director, whether or not a violation is found to have occurred.

#### E. Investigation and Enforcement of this Policy

MCILS will enforce this Privacy and Security Sanctions Policy consistently, regardless of the role or status of a MCILS workforce member. Alleged violations will be investigated by the Executive Director. The investigation may include, without limitation:

1. Development of documentation of the alleged violation;
2. Communication with the person who allegedly committed the violation;
3. Review of documentation to determine whether the person who allegedly committed the violation has been reviewed previously for a privacy or security violation;
4. Interviews with appropriate workforce members and other individuals as necessary;
5. Consultation with appropriate Department specialists (e.g., Human Resources, Audit) or consultants (legal, technology, forensic, etc.) as needed;
6. Review of all circumstances surrounding the violation, including, but not limited to:
  - a. Degree of seriousness and impact of the violation
  - b. Loss of or unlawful access to PI in any format
  - c. State and federal reporting requirements and potential regulatory investigations and business injury
  - d. Intentional or willful nature of the violation

#### F. Disciplinary Action – Sanctions

In collaboration with the Bureau of Human Resources, the Executive Director will determine disciplinary sanctions on a case-by-case basis, taking into account the circumstances of each alleged violation. Sanctions may include disciplinary actions up to, and including, termination of employment. The intention of, and degree of harm caused by, the workforce member to individual clients, employees, or contractors of MCILS, or to MCILS itself, may be considered when imposing disciplinary sanctions.

#### G. Confidentiality and Security Statement

Each member of MCILS's workforce shall sign a Workforce Confidentiality and Security Statement (Attachment A) certifying that the workforce member has read, understands and agrees to comply with this policy, and to policies and laws relating to the protection of MCILS's Protected Information. The signed statement will be maintained in the workforce member's employment file.

V. DEFINITION OF PROTECTED INFORMATION

Protected Information means:

1. Information made confidential by 4 M.R.S.A. §1806;
2. Confidential and/or secret information related to any person who is, was, or may become a party to any action that is, was, or may become pending before any court or tribunal, whether or not that person is, was, or may be represented by any MCILS related attorney. “Confidential” refers to information that would be protected by the attorney-client privilege under applicable law, and “secret” refers to other information that would relate to any representation if there is a reasonable prospect that revealing the information would adversely affect a material interest of the person;
3. Any information related to the financial or regulatory relationship between MCILS and any attorney or firm, and any contractor or vendor, except with respect to information that must be disclosed pursuant to applicable law where the release of that information has been authorized by the Executive Director;
4. Confidential business information in the possession of, or under the control of, MCILS. “Confidential business information,” means information which concerns or relates to the trade secrets, processes, or operations, or amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or other organization, or other information of commercial value, the disclosure of which is likely to have the effect of either impairing MCILS’s ability to obtain such information as is necessary to perform its statutory functions, or causing substantial harm to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained, unless MCILS is required by law to disclose such information, and where the release of that information has been authorized by the Executive Director; and
5. Information related to the performance of any member of the MCILS workforce, unless the release of that information has been authorized by the Executive Director.

VI. DISTRIBUTION: All MCILS workforce via e-mail.

VII. ATTACHMENT: Workforce Confidentiality Statement and Acknowledgement of Sanctions for Privacy and Security Violations.

MCILS / Workforce Confidentiality Statement and  
Acknowledgement of Sanctions For Privacy or Security Violations

I, \_\_\_\_\_ have read and understand the Privacy and Security Sanctions Policy of the Maine Commission on Indigent Legal Services (MCILS) referring to the protection of Protected Information and other identifiable or confidential client or attorney information (together, "Protected Information"). I understand that I must comply with this policy, as well as with federal and state laws, regulations and rules, and MCILS's other policies and procedures that protect such identifiable or confidential information, as a condition of my employment.

I agree to maintain the privacy, security, and integrity of Protected Information. I agree only to use, access, create, maintain, transmit or disclose the minimum necessary Protected Information for the purpose of performing my work for MCILS, and only access that Protected Information that I need to know to accomplish my required work-related tasks. I will comply with these policy requirements for the protection of Protected Information in any format whether working on site or off-site.

I will never a) reveal or independently suggest that a particular individual receives MCILS services; b) forward Protected Information to a non-work-related email address such as a personal email address; c) post Protected Information related to an individual client, employee, contractor or vendor of MCILS to a social media or other website.; d) leave Protected Information in any format in view in a vehicle; or e) use, disclose or leave Protected Information in any format in any unsecure location, including an unlocked vehicle.

I will use reasonable and appropriate safeguards to avoid impacting the integrity of Protected Information in any format, whether held in an electronic record system, on paper records, film, or other medium, including on portable devices. I will immediately report the loss of, or technical concern regarding portable media or mobile devices, or suspicion of unauthorized access, use or disclosure of Protected Information to the Executive Director.

I understand and agree that failing to comply with any of the policies or requirements mentioned in this statement, or violating a policy that relates to the protection of an individual's Protected Information or the confidential business information of MCILS could lead to disciplinary sanctions, up to and including termination of employment.

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

## Andrus, Justin

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**From:** Andrus, Justin  
**Sent:** Thursday, September 23, 2021 12:57 PM  
**To:** Mullen, Robert E; French, Jed; Lawrence, Rick E.  
**Cc:** Stanfill, Valerie; MCILS  
**Subject:** MCILS direct assignments  
**Attachments:** Assignment of Counsel Doc Form.09232021.pdf

Good afternoon. I have included CJ Stanfill on this with the trial chiefs because it will impact all of your courts.

We are seeing an increasing number instances in which it is appropriate for MCILS to assign counsel for clients directly, outside of the process described by Rule 44. I wanted to check in with you about how we are doing that and discuss the interplay to avoid confusion or conflict going forward.

As you all know, the Court's authority to assign counsel is set out at Crim. Rule 44 and Civil Rule 88. We do not purport to disturb anything about those rules, although we will shortly be changing how we designate counsel as eligible to receive assignments. MCILS holds the independent prerogative to assign counsel outside the Court's role. We have begun exercising that prerogative in cases we deem appropriate. From the Court's perspective, this should look no different from any other case in which counsel appears without having been first selected by the Court. Some of these assignments may be in instances in which no matter is pending, which shouldn't impact the court. Some will be as co-counsel in cases in which counsel has been assigned by the Court. In those instances the Court may wonder why there is new or additional counsel. Counsel should be prepared to explain, and the Court may ask for and receive a copy of my assignment order from counsel or, if preferred, from me. Some instances may be cases in which I have deemed an ancillary action relevant to an underlying case in which counsel is Court assigned. I could imagine declaratory judgment or injunctive actions, for example. Finally, there may be occasions in which the Court declines to assign counsel, but in which I decide to assign counsel. This came up most recently in a matter in which a jurist decided that where the District Court had entered an FM order as the resolution of a PC matter, the client was not entitled to counsel because no PC matter was pending. Without purporting to be able redirect that jurist, I disagreed, and would allow counsel to continue because the FM order was negative to the client, and flowed out of the contested PC case.

We will be accomplishing these appointments through a three step process, all papered. First, I sign a conditional appointment. Next, the attorney gets informed client consent. Finally, the attorney signs an acknowledgement and returns the documents to me. My form, if you're interested, is attached.

I would be happy to talk with any of you about this shift in process. In particular, if there is a standard by which you'd propose we communicate these assignments to you, I'm open to that idea.

JWA

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Justin W. Andrus  
Executive Director  
Maine Commission on Indigent Legal Services  
(207) 287-3254  
[Justin.andrus@maine.gov](mailto:Justin.andrus@maine.gov)



# MAINE COMMISSION ON INDIGENT LEGAL SERVICES

## Conditional Assignment of Counsel

Counsel Last:		Caption:	
Counsel First:		Docket No:	
Bar ID:		Client Last:	
Date:		Client First:	

Counsel is conditionally assigned by the Maine Commission on Indigent Legal Services (“MCILS”) to represent the person named above in the matter specified and, to the extent further authorized by MCILS in ancillary matters, subject to the following conditions:

1. MCILS agrees to compensate counsel consistent with the rules and standards applicable to Court assigned and MCILS approved counsel. Counsel shall open this matter in the MCILS case management system, and bill through that system. By accepting this assignment, counsel agrees to be bound by the MCILS rules and standards with respect to this matter.
2. This assignment will become effective after counsel obtains informed client consent to the representation and provides written confirmation of that consent to MCILS in .pdf form to [mcils@maine.gov](mailto:mcils@maine.gov). If the client does not consent, counsel may bill the time spent trying to obtain consent to MCILS, but may not represent the client as MCILS assigned counsel.
3. The client-attorney relationship that may develop as the result of this assignment is governed by the Maine Rules of Professional Conduct, the Maine Bar Rules, and the Maine Rules of Court. In making this assignment, MCILS does not purport to amend or modify any of those rules.
4. Counsel shall take such steps as are professionally appropriate to enter such appearances, limited or otherwise in the instance of civil matters, as may be necessary to the representation.
5. The scope of representation authorized for payment under this assignment is:

Full and unrestricted.

Co-counsel

Mentor / Mentee counsel

Limited as follows:

MCILS does not agree to be bound to guarantee fees for services not specified, except by further written agreement. Where more than one attorney is assigned to represent the same client, counsel shall develop a written allocation of responsibilities and provide it to MCILS with this agreement, and shall not duplicate tasks, except for appropriate appearances.

Authorized this \_\_\_ day of \_\_\_\_\_, 20\_\_:

\_\_\_\_\_  
Justin W. Andrus, Esq. (009321)  
Executive Director  
Maine Commission on Indigent Legal Services

**Attorney Certification**

I, the undersigned \_\_\_\_\_, have reviewed the forgoing assignment, and agree to be bound by its terms. I warrant that I have reasonably consulted with the client about the means by which the client's objectives are to be accomplished, and have explained my proposed representation and the conditions of that representation to the client to the extent reasonably necessary to permit the client to make an informed decision regarding the representation, in compliance with Maine Rule of Professional Conduct 1.4(a)(1,2 and 5).

I certify that I have satisfied the requirements of Maine Rule of Professional Conduct 1.8(f) with respect to third-party payors by obtaining informed client consent. I warrant that there is and will be no interference with my independent professional judgment or with the client-attorney relationship by virtue of this assignment, and that the confidences and secrets of the client will be protected as required by M.R.Prof.C. 1.6.

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:  
Bar ID:



**Client Consent**

I consent to be represented by \_\_\_\_\_, as specified in the assignment set out above. I understand that the Maine Commission on Indigent Legal Services will bear the cost of the authorized representation at the rate of \$80 per hour. I understand that while I have the right to direct my client relationship, MCILS does not guarantee that it will pay fees for services that it has not authorized.

I understand that my assigned counsel is an independent contractor and is not an employee of MCILS. I understand that while MCILS makes rules and sets standards related to the performance of assigned counsel, neither MCILS nor any person employed by MCILS supervises counsel as contemplated by the Maine Rules of Professional Conduct.

I understand that MCILS may in its discretion pay for experts, investigators, and other non-counsel fees on application from my counsel.

I understand that I have no claim to payment of any kind directly from MCILS, and that in the event that the Maine Board of Overseers of the Bar Fee Arbitration Commission enters an order calling for disgorgement of fees, those fees will be paid in reimbursement to MCILS.

I have had the opportunity to ask any questions I may have had about the assignment of counsel and have received satisfactory answers to those questions.

Date:

\_\_\_\_\_  
Name:

Agreement #: \_\_\_\_\_

Rev. Date: \_\_\_\_\_

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES/OFI  
And  
MAINE COMMISSION ON INDIGENT LEGAL SERVICES

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**Purpose**

This agreement is made between the Maine Department of Health and Human Services, Office for Family Independence (hereafter referred to as the "DHHS/OFI") and **Maine Commission on Indigent Legal Services** (hereafter referred to as "MCILS", and collectively the "Parties"). The purpose of this agreement is to allow DHHS/OFI to count expenditures reported by MCILS toward the state's Maintenance of Effort (MOE) requirement under the Temporary Assistance for Needy Families (TANF) grant funded through Titles IV-A of the Social Security Act. It is understood and agreed by the DHHS/OFI and MCILS that the funds reported as expended by MCILS pursuant to this agreement are to be counted toward the state's MOE requirements under the TANF federal block grant, and the same funds may not be used to meet MOE or match requirements of any other federal grant program.

**Period of Agreement**

This Memorandum of Understanding between the Parties is effective for the Federal fiscal year 2021 (October 1, 2020 to September 30, 2021). Please provide total expenditures for this period to Donna Wheeler via e-mail at [Donna.Wheeler@maine.gov](mailto:Donna.Wheeler@maine.gov) on or before October 29, 2021.

**Certifications**

Under this agreement, DHHS/OFI and MCILS certify that the following actions have been executed in order to claim third party Maintenance Of Effort (MOE) expenditures:

1. A written agreement is in place and in State records that affirms the organization has made cash or in-kind expenditures to share in the State's TANF MOE requirement for Federal fiscal year 2021 (October 1, 2020 to September 31, 2021).
2. Cash or in-kind expenditures have been spent on TANF eligible families.
3. All costs covered by the expenditures are supported by verifiable records.
4. Expenditures have been made for one or more of the benefits or services set forth in 45 CFR 263.2.
5. Cash or in-kind expenditures were not derived from Federal funds and were not used to satisfy the cost-sharing or matching requirement of any other Federal program.

**Contact Information for Each Party**

The designated Maine Commission of Indigent Legal Services Project Manager is:

Justin Andrus, Esq., Executive Director  
154 State House Station,  
Augusta, ME 04333  
(207) 287-3254  
[Justin.andrus@maine.gov](mailto:Justin.andrus@maine.gov)

The designated DHHS/OFI Project Manager is:

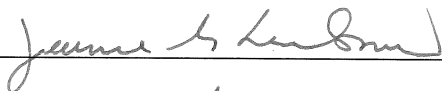
**Anthony Pelotte, Director**  
Maine Department of Health and Human Services  
Office for Family Independence  
109 Capitol Street  
August ME 04333  
207-624-4104  
[Anthony.Pelotte@maine.gov](mailto:Anthony.Pelotte@maine.gov)

**Termination & Amendments**

Either Party may terminate this MOU at any time by giving thirty (30) days prior written notice to the other Party. Both Parties understand they may have obligations that remain in effect beyond the termination of this agreement. To use one such obligation as an example, the commitment and obligation by DHHS/OFI and MCILS to use any reported expenditures toward the state's MOE requirement under the TANF grant is non-cancelable and will continue beyond the original agreement expiration date in the Period of Agreement section above. This MOU may be amended upon written approval of the Parties at any time.

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed or exist to bind any of the Parties.

**Jeanne M Lambrew, PhD, Commissioner  
Department of Health and Human Services**

By:   
Date: 10-8-21

**Maine Commission on Indigent Legal Services**

By: \_\_\_\_\_  
Date: \_\_\_\_\_

## **Andrus, Justin**

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**From:** Andrus, Justin  
**Sent:** Wednesday, September 22, 2021 2:51 PM  
**To:** Mullen, Robert E; French, Jed; Lawrence, Rick E.  
**Cc:** Stanfill, Valerie; MCILS  
**Subject:** MCILS Due Process

Good afternoon.

In my travels I have encountered the idea that MCILS may not provide due process to its contractor attorneys. I wanted to address that for you, because I believe we provide effective due process, to an extent greater than may even be required by law. As a preliminary, MCILS does not employ any attorneys who provide client services. Every attorney is a contractor. No attorney is promised any number of cases, or any total fee. I don't believe that the attorneys have a due process worthy interest in the next case, though each might have an interest in existing cases.

Notwithstanding that question, our attorneys in fact have due process in our investigative scheme. On receipt of a complaint, I investigate it to determine whether there is evidence to support any action on our part. If there is such evidence, I have discretion in my action. I may make a referral to our resource counsel for mentoring. I may make a confidential referral to MAP. If in my judgment a person cannot properly serve our clients, then I may suspend or remove them from eligibility, or I may condition continuing eligibility on certain requirements.

Any person who is aggrieved by my action may appeal to the Commission. A Commissioner will be appointed hearing officer, and a hearing consistent with the administrative procedures act will follow. If the person remains aggrieved, that person may bring an 80C appeal in the Superior Court, and then have recourse to the Law Court. In my view, this is substantial and useful process.

The exercise of my authority is governed at all times by the premise that the indigent client base is best served by having the most numerous and diverse attorney base possible, and that end is not served by removing people unnecessarily. Similarly, my view is that unless there is an imminent client threat, even counsel who are determined not eligible to receive additional cases should be permitted to retain existing cases to avoid interruptions in client services.

In eight months (only eight months!) I have evaluated 31 formal complaints. I have suspended five people when they were suspended by the Board of Overseers for CLE violations, and reinstated four of those people as they were reinstated by the Board. I have suspended two people for refusing to comply with a proper MCILS investigation. Both of those people were permitted to retain their current clients to avoid interruptions in client services. One chose not to do so. I have suspended one person for failing to report a criminal conviction that implicated ability to provide client services to us. I have suspended no other people.

I hope this information is helpful to you.

JWA

\_\_\_\_\_  
Justin W. Andrus  
Executive Director  
Maine Commission on Indigent Legal Services  
(207) 287-3254  
[Justin.andrus@maine.gov](mailto:Justin.andrus@maine.gov)

## **Andrus, Justin**

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**From:** Andrus, Justin  
**Sent:** Thursday, September 23, 2021 4:38 PM  
**To:** MCILS  
**Subject:** Access to Justice issues / Jails

Attorneys,

MCILS is seeking specific information from the bar about access to justice issues in the jails.

We've learned that at the Kennebec County Jail, overcrowding has become such a problem that they are housing people in the visit room and as a result in-person attorney visits are not happening. At Two Bridges, lockdowns have resulted in clients not being available to appear by video to participate in plea hearings where they would plea to time served. In Aroostook, the jail is refusing people who turn themselves in to start serving their jail sentences, requiring them to instead continue on conditions of release.

We need your help identifying specific instances that we can use to bring to the attention of the judiciary, the legislature, and potentially the press and the ACLU in order to get some traction on finding solutions to these serious access to justice issues. I know many of you have already given us some information, but as things evolve, please inform us. The more detail you can provide, the better, but every bit helps.

Thanks!

JWA

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Justin W. Andrus  
Executive Director  
Maine Commission on Indigent Legal Services  
(207) 287-3254  
[Justin.andrus@maine.gov](mailto:Justin.andrus@maine.gov)

## Andrus, Justin

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**From:** Andrus, Justin  
**Sent:** Friday, September 24, 2021 8:43 AM  
**To:** Mullen, Robert E; French, Jed; Lawrence, Rick E.  
**Cc:** MCILS  
**Subject:** York County Jail Memorandum to Courts about prisoner limitations

Good morning. I understand that the York County Jail or its administration issued a memorandum or other communication to the York County Court in which it sets limitations on the people it will accept into custody. I further understand that the presiding judges in York County are working from that memorandum in fashioning resolutions to cases, including by setting post-sentencing return dates for defendants to appear in the Court for instructions in the event that the jail will not accept a person into custody to serve a sentence. MCILS and the defense bar are deeply concerned about the situation, but I acknowledge that my information is not yet complete. This situation in York is mirrored in Aroostook County, and perhaps elsewhere. At a minimum, we need to ensure that every defendant who returns to the Court for instruction is fully represented by underlying counsel, and thus we need to ensure that counsel are noticed to be there.

In addition to the due process issue inherent in extending the period of restraint imposed on a defendant through prolonged bail in York and Androscoggin, we are also beginning to see jails preventing access to the courts for inmates. For example, in the last few days the Two Bridges Regional Jail has refused to provide even video access to the Courts for at least two defendants. In one instance, the defendant's Harnish hearing was cancelled, preventing the defendant from arguing bail and from obtaining important early case information. In another, a defendant who was and remains willing to plead guilty cannot do so, and thus is prevented from accessing the benefits of post-conviction status afforded to other inmates. Across the state attorneys are reporting issues accessing their clients.

I hope that we can convene a systemwide dialogue about how to address these issues. The risks attendant to extended periods under conditions of release fall disproportionately on the indigent population due to issue of housing and transportation, among others. Similarly, issues attendant to the jails fall disproportionately on the indigent population that cannot make cash bail.

As a starting point in preparation for that dialogue, may I please have the York County memorandum?

I look forward to working wit you on this.

JWA

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Justin W. Andrus  
Executive Director  
Maine Commission on Indigent Legal Services  
(207) 287-3254  
[Justin.andrus@maine.gov](mailto:Justin.andrus@maine.gov)

## Andrus, Justin

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**From:** Andrus, Justin  
**Sent:** Friday, October 22, 2021 1:02 PM  
**To:** Glessner, James T.; Maddaus, Elizabeth  
**Cc:** MCILS  
**Subject:** Follow up

Good morning.

Thank you for making time to speak with us yesterday. I appreciated that opportunity. I'm finding that I am not always communicating as effectively as I think I am, so I wanted to follow up with this email to ensure that I have successfully articulated my perspectives. To that end:

On the Odyssey integration issue, I am asking that the Judicial Branch make someone available to me to explain how the Odyssey database structure is organized, and to tell me what protocols Odyssey will use for external integrations or communications. I anticipate that this conversation will not exceed fifteen minutes, perhaps plus the time it takes for someone to provide the database specifications by email. The purpose of this request is to permit MCILS to specify a case management system for its own use that is compatible with Odyssey. I am not requesting any input into the design, build, or implementation of Odyssey. I am not requesting that the Judicial Branch make any commitment to integrate anything at this point. I simply want to preserve the options. The timing on my end is being driven by our need to produce and publish an RFP for our new system. The underlying goal served by our interest in integration is to automate the delivery of assignment information from the clerks' offices to MCILS and, through MCILS, counsel, so that the clerks need no longer write emails on every assignment. The RFP is under revision during the review phase. MCILS would certainly engage in a dialogue about integration in the future if the Judicial Branch cannot engage now, but I anticipate that MCILS will not be able to bear the cost of any redevelopment work that may be required for integration in the future.

I am working actively to finalize the RFP. I have time Monday, Wednesday, and Thursday next week to speak with someone who can provide the information I need to build into our system. I anticipate that I will have completed my redesign of the RFP specifications by the end of next week.

JWA

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# Low Pay A Deterrent To Would-Be Public Defenders

By **Matt Perez** | October 17, 2021, 8:02 PM EDT

The average starting salary attorneys can expect from public defender work remains low nationwide, according to new data, with experts noting that the lack of pay parity with competing law agencies and mounting law school student loan debt make the job a tough sell to new attorneys.

According to data released on Oct. 12 by Biglaw Investor, a company that provides financial advice to attorneys, public defenders see as little as \$45,000 in entry-level compensation in cities like Tulsa and Oklahoma City, Oklahoma, as well as Louisville, Kentucky. California boasts the highest starting salaries in the nation, with Los Angeles paying an average of \$89,707 and San Francisco paying \$131,000, while Miami sets entry-level salaries for public defenders at \$53,000, according to the data.

To collect the data, Biglaw Investor called multiple offices in the 50 largest cities in the U.S. and also attempted to include a city in each state, for a total of 72 cities. Both Manchester, New Hampshire, and Portland, Maine, were left out of the data set since they lack an average entry-level salary, with Biglaw Investor noting that in some jurisdictions, courts rely solely on an appointment system with no feasible way to calculate starting compensation.



Source: Biglaw Investor  
Some states and some courts rely on an appointment system where attorneys are paid a fee per case.

"Criminal defense salaries, the ones that are set by government, quasi-governmental and nonprofit institutions, they don't seem to be subject to market forces in the same way that private salaries are," Biglaw Investor founder Josh Holt told Law360.

The company said the average starting salary for public defenders in the U.S. was \$66,193, while the median sits at the \$63,638 paid in Austin, Texas.

But Rosalie Joy, vice president of Defender Legal Services at the National Legal Aid and [Defender Association](#), said the reality of what defenders are paid may be even lower, especially for attorneys working within an appointment system. In such jurisdictions, courts pay a flat fee for an appointed case, one that may not be enough to effectively represent the client.

"Some are so low that they can't attract anybody to take the jobs," Joy said.

In South Carolina, public defenders are unavailable for the majority of its 200 municipal courts and some fail to provide representation to indigent defendants, according to the [American Civil Liberties Union](#). The group sued the City of Beaufort and Town of Bluffton over this practice in 2017, leading

to a settlement two years later in which the municipalities must now contract with the 14th Circuit Office of the Public Defender.

States like Oklahoma and New Mexico, which sit on the lower end of the salary data set, must compete for attorneys with neighboring states like Texas as lawyers make paying their bills a priority, especially student loan debt.

"It pops up within not only the different states but within a state," said Steve Zeidman, at the [City University of New York School](#) of Law. "So a state like New York, for example, depending on where you are, there's either a public defender system, there's an individually assigned counsel system where you get paid an hourly rate, there are contract offices ... and they all have different salary ranges."

Zeidman said that as a professor, he feels a responsibility to encourage law students to consider the public defender route despite the inherent difficulties — "to say that you can make it, it will be a challenge, and hopefully there's loan forgiveness programs that will make it easier for you to do this work," he said.

Some [salaries] are so low that they can't attract anybody to take the jobs.



Rosalie Joy

National Legal Aid and Defender Association

A "silver lining" exists in which the public defenders who do stick it out are the most dedicated and committed to the work, Zeidman said, but he still sees students who enter law school gung-ho about

social justice lawyering and later change course.

"We're starting at law school to try to cultivate interest in public defense," said Joy, who previously spent eight years serving as interim director of the Atlanta Public Defender's Office. "And I can tell you nine times out of 10, the reason you get a no from a student or a potential public defender is that they won't be able to afford it."

"Most everybody goes to law school on a student loan, and they anticipate the ability to pay that student loan, and you can't do it at \$66,000 a year or less," Joy added.

In an [American Bar Association](#) survey published in 2020, three-quarters of respondents said they graduated from law school with more than \$100,000 in debt, and a quarter said they had more than \$200,000 in debt. The average debt owed by law students graduating between 2015 and 2016 was \$145,000, according to a study by AccessLex Institute.

Public defender offices also find themselves competing with BigLaw firms, which can reach entry-level salaries of \$200,000 per year. Some attorneys start out in private practice but end up taking a substantial pay cut to move [into public interest work](#), according to a recent study surveying 4,000 alumni of six California law schools who graduated between 2001 and 2010. However, the majority of those who left law firms ended up in government or at a nonprofit, rather than in a public defender's office.

While Zeidman said he believes there is a consistent pipeline of law students who want to pursue public defender work straight out of law school, those who do often feel the need to leave to deal with their debts.

"You see more and more of the die-hard, passionate people leave after two or three years, so to try and get a cadre of incredibly talented, experienced public defenders is another challenge," he said.

Public defender offices are also struggling against other government law departments. Average public defender salary slightly trails the average \$66,802 entry-level compensation of an assistant district attorney, according to [data previously released](#) by Biglaw Investor.

Zeidman and Joy noted that it's typical for average salaries for public defenders to be lower than for other legal department roles.

"Parity with city law departments [and] prosecutor agencies is largely nonexistent," Joy said.

Joy added that it makes little difference whether an attorney is in a traditional public defender's office, a court-appointed system or a contract system where the court has a standing agreement to have a local law firm provide public defense services.

"In none of those systems do you really ever see that the rate of pay for those lawyers is equal to or comparable to a prosecutor's office, even though they're all lawyers, they're all skilled at practicing criminal law," Joy said.

Public defender salaries also remain fairly stagnant as time goes on, Zeidman said.

In New York City, prosecutors and public defenders both requested pay raises in 2018, with Mayor Bill de Blasio [promising](#) in 2019 that salaries between prosecutors, public defenders and the city's Law Department would match within four years. The city has an average entry-level public defender salary of \$73,440, according to Biglaw Investor's data.

"New York is just as expensive if not more expensive than San Francisco, so for public defenders, why are New York public defenders making \$73,000, whereas San Francisco public defenders are making \$131,000?" Biglaw Investor's Holt said, noting a similar difference between Tulsa's nationwide-low \$45,000 compared to Tucson, Arizona's \$63,500 starting salary.

Joy noted that some public defender practitioners have independent wealth or have an additional source of income as they pursue their career out a "love of justice."

"But then, in large part, the majority of public defenders are just your average Joe trying to raise a family and pay the bills just like everybody else, and they're doing it at wages that in some places would be considered poverty-level," she said.

--Editing by Alanna Weissman.

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**Suggestions to Increase Attorney Participation and Improve Attorney  
Training for MCILS Cases**  
**[Offered for discussion at the October 29<sup>th</sup> meeting.]**

October 14, 2021

To: Maine Commission on Indigent Legal Services  
Fr: Donald Alexander

When we get to examining MCILS regulations and practices, following are some suggestions for promoting greater attorney participation in and improved training for MCILS criminal and child protective cases.

1. *A File Opening Fee:* This would be a flat fee of \$125 to cover the overhead cost of opening a file for a new case. In criminal cases, one fee would apply, whether the case involved one or several charges. The file opening fee would cover (i) opening the file for a newly assigned case; (ii) the first communication with the new client for up to 30 minutes (any time in excess of 30 min. would be billed the regular rate); and (iii) minor communications during the course of the case (phone calls, emails, texts, etc.) of less than 10 minutes each that unnecessarily complicate time-keeping and billing in current practice.

The file opening fee would be paid upon completion and closure of the case in the trial court. If the case was transferred to another attorney before closure, the file opening fee would only be paid to the attorney who closes the case. If a case is transferred to another attorney for an appeal, the new attorney on appeal would be paid a separate \$125 file opening fee upon completion of the appeal.

2. *A Higher Minimum Attorney-for-the-Day Fee:* The minimum attorney for the day fee would increase to \$250 for any morning or afternoon first appearance session at court. Incident to this arrangement, MCILS would work with the courts and prosecutors to change not in custody first appearance scheduling practice so that defendants would be required to appear 30 minutes before the judge's anticipated entry into the courtroom. In this time (1) court staff would play the first appearance video, (2) the attorney for the day would then speak to (i) explain to all present the process about to occur, (ii) invite those who might qualify for court appointed counsel to fill out the necessary forms, (iii) invite and respond to questions about the process from anyone in the

room, and (iv) consult with anyone who (a) desired to talk about their case and (b) appeared likely to qualify for court appointed counsel.

For those defendants not likely to qualify for court appointed counsel, the attorney for the day, any backup attorney for the day, or any other qualified attorney could make private representation arrangements with the defendant. The minimum fee for any attorney for the day at the jail, or any second (backup) attorney for the day in the courtroom, would increase to \$200. For any time in excess of 3 hours for the primary attorney for the day, or 2 hours for the jail or backup attorney for the day, the attorney would be compensated at the regular hourly rate.

3. *A Modified Contract with Counsel:* For counties or individual courts where there is difficulty getting local counsel to staff MCILS criminal or child protective cases, pay attorneys agreeing to provide regularly available MCILS representation an up front, annual fee of between \$12,000 and \$40,000. The fee would be negotiated and depend on the amount of service the attorney would be anticipated to provide. (400 hours a year would be \$32,000 @ \$80 an hour.).

These fees would be recovered by a set off of attorney for the day flat fees earned and file opening fees earned – if file opening fees are approved. Plus one half of the hourly rate earned would be set off, until the up front fee was covered. Thus, an attorney with an annual fee arrangement would retain \$40 an hour for work on each case until the up front fee was covered, and \$80 an hour thereafter. This system avoids the concern expressed about the current contract counsel program that it incentivizes doing as little work as possible on each case because there is no compensation for putting in extra hours. Based on my experience with the contract counsel program, I do not share that concern, but this proposal provides more compensation for more work. If counsel did not do enough work to set off the up front fee, the remaining fee might be paid back or carried over for the next year. But no new annual up front fee should be paid before any previously paid fees are covered by MCILS work performed.

4. *Inviting Return of Experienced Defense Attorneys:* The current rostering requirements should be simplified to no more than 6 separate rosters: A. for child protective, B. for juvenile, C. for homicide, D. for violence and drug felonies, E. for property felonies and DVA, and F. for “other” crimes (Title 17-A

misdemeanors, all Title 12 and Title 29-A non-violent crimes, and other crimes in the statutes).

Any attorney who maintains an active criminal practice representing retained cases and who, (1) in the past 22<sup>1</sup> years, has tried 10 jury trials as a criminal defense attorney, or 25 jury trials as either a prosecutor or a criminal defense attorney, and (2) can demonstrate having taken 12 hours of CLE related to criminal cases in the last 3 years, and (3) has represented criminal defendants in at least 25 separate cases in the last three or four years, should, upon application, automatically qualify to be placed on the rosters for the category (E) and (F) cases, and perhaps the category (D) cases, described above. The twelve hours of criminal CLE, if that has not been accomplished, could be replaced by taking a current MCILS, MACDL, MTLA, or ACLUME CLE course of at least 6 hours, focusing on criminal law.

Separately, any attorney who has brought and briefed to the Law Court at least 5 child protective appeals in the last 5 years, or 5 criminal appeals in the last 5 years, should qualify, at least provisionally, for the appeal rosters for E & F criminal cases or child protective cases. Any former AAG for child protective cases or former prosecutor for criminal cases who has defended 10 child protective or criminal appeals in the past 5 years should likewise qualify for the E & F criminal or child protective case appeal rosters.

5. *An Annual Training Day*: During the week in the Fall, when the courts take an administrative week to accommodate the annual prosecutors conference, MCILS, in cooperation with other bar organizations (and perhaps AG/DHHS for CP proceedings) should plan an annual training day (or days) that would include training sessions on:

For Criminal Cases: 1. Initial client contact and communication, explanation of rights, discussion of expectations, obtaining and review of discovery; 2. Consideration of early diversion programs; preparation for and participation in the Dispositional Conference; 3. Pretrial practice, suppression motions, limitation of issues; 4. Approaches to plea discussions (i) with the client; (ii) with the prosecutor; 5. Practice points for trials, jury or nonjury, etc.

For Child Protective Cases: 1. Initial client contact and communication, confidentiality of proceedings, explanation of rights, discussion of

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<sup>1</sup> The 22-year lookback assumes that any significant jury trial experience would have been gained before the start of 2020.

expectations, obtaining and review of discovery; 2. Difficulties in dealing with parent/client, lack of cooperation, reluctance to participate or openly communicate, evaluation of client's risk of exposure to criminal charges, relations with other parent and counsel, access to child; 3. Preliminary proceedings, jeopardy hearings, role of GALs, placement of child – relatives or foster parents, family reunification efforts; 4. Termination of parental rights proceedings, practice for such hearings.

6. *A Mentoring Program:* Attorneys with substantial criminal practice experience, including a specified number of jury trials, who MCILS recognizes to have substantial experience and a good reputation, should be invited to mentor new MCILS attorneys for: (1) strategy and planning for pretrial practice, including consideration of motions to suppress, and/or (2) strategy, preparation for, and conduct of jury and nonjury trials. A very experienced attorney could be a mentor even if not a rostered attorney.



PO Box 940  
Portland, ME 04104



Maine Commission on Indigent Legal Services  
Via email  
MCILS@maine.gov

October 27, 2021

Dear MCILS,

I am writing to inform you of two major rule changes that have occurred in the Portland Unified Criminal Docket that are troublesome for clients and court appointed attorneys.

First, all newly assigned cases/clients are being assigned only a “docket call” date after their initial appearance. Along with this docket call is a “scheduling order” stating that you have 30 days to file motions; that you may have a “status/case management conference” set the month before your docket call in certain unnamed case types and that no dispositional conference will be held unless a motion is brought setting forth good cause for scheduling such a conference.

This is problematic as the Maine Rules of Unified Criminal Procedure implicitly mandate dispositional conferences. These conferences are important, as they are most often where the rubber meets the road in terms of case resolution or setting up for trial. Important things are mandated by M.R.U.C.P. 18, such as 1) attendance of the defendant, counsel and the State; 2) that the State be represented by someone with full decision-making authority on all aspects of the case; 3) defendants and counsel must be prepared to engage in meaningful discussion regarding their case; 4) the court may facilitate a plea agreement.

Moreover, pursuant to M.R.U.C.P. 12, pretrial motions hinge on the dispositional conference date. Motions to dismiss, motions relating to joinder of offenses, motion seeking discovery, motions to suppress evidence, and other motions relating to admissibility of evidence must be served upon the opposing at least 7 days before the conference and must be filed with the court at or within one day after the date of the dispositional conference.

The timing in the scheduling order, giving 30 days to file motions, is a problematic as well. Appointments take time to get to attorneys, who then must open the file, send discovery requests, receive discovery, review discovery, analyze it for pretrial motion issues and if necessary, write the appropriate motions. To think that can be accomplished in 30 days flattering on the one hand and detached from reality on the other. Personally, I am inclined to think the former, but in all seriousness, it is not practicable. Moreover, as you will see below, court appointed attorneys are left wondering: When do we file motions when our dispositional conference has been cancelled?

Second, as of September 27, 2021 all dispositional conferences have been cancelled, notably ones previously scheduled. As of today, a previously scheduled dispositional conference for the month of November 2021 is being cancelled and the case is being set for a docket call in November 2022, with an exact date and time to be determined. This is problematic for the reasons stated above, plus some additional significant issues. One is that clients will be on bail for at least an additional year to make it to a docket call, if it happens at all on that 2022 date (soon to be 2023). This imposes a serious restraint on our clients’ liberty, as some of these cases have already been pending for quite a while already. It also significantly increases the chances that court appointed counsel will lose contact with their clients over

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the next year, as our clients are of limited means, move often or do not have a permanent address. In addition, it raises serious questions about the fairness of being held to a trial with evidence and witnesses that will be aged quite a bit when the actual time for trial comes around.

Taken as a whole, this presents serious difficulties for clients and court appointed attorneys. Other courts that I practice in hold their dispositional conferences as normal via Zoom. This has been effective and efficient from the standpoint of clients and court appointed attorneys. I respectfully ask that you work with the court to alleviate these issues for our clients and their court appointed attorneys.

Thank you for your consideration. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



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