

**Maine Commission on Indigent Legal Services – Commissioners Meeting
January 11, 2011**

Minutes

Commissioners Present: Ron Schneider, Ken Spierer, Kim Moody, Marvin Glazier, Sally Sutton

MCIL Staff Present: John Pelletier, Steve Carey, Jennifer Smith

| Agenda Item | Discussion | Outcome/Action Item/Responsible Party |
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| Approval of 12/14/10 Commission Meeting Minutes | Copy of minutes received by all Commissioners. | Kim moved approval of the December 14, 2010 minutes with modification for typo “relived vs. relieved”. Ken seconded. All present voted in favor. Approved. |
| MCILS Operations Report and Financial Reports | <p>Jennifer presented the Operations Report. The number of rostered attorneys rose again. The number of cases being opened in DefenderData was very stable from the month before. There was a large murder voucher paid. The average amount per voucher remains in the range of \$375.00 to \$400.00. There was 87% decrease in paper vouchers.</p> <p>Ron questioned if MCILS was still receiving “legacy cases.” Jennifer reported that most of the paper vouchers submitted were for older cases for attorneys that have not become rostered with MCILS. John seconded Jennifer’s point.</p> <p>Jennifer presented that quarter 2 saw a 24% increase in personnel expenses due to the hiring of staff. The next quarter will also show an increase since new staff’s benefits will start to show. There was also a 10% increase in operation expenses for additional OIT expenses and cell phone expenses.</p> <p>Jennifer outlined that MCILS paid \$2,371,387.12 in indigent services in quarter 2.</p> <p>John noted that the numbers of electronic vouchers paid were a little lower since the normal review time of 9 business days increased since MCILS ran out of our</p> | |

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| <p>MCILS Operations Report and Financial Reports (Continued)</p> | <p>quarterly allotment and had five days at the end of December in which MCILS was unable to pay vouchers. Steve and I began catching up on those vouchers on December 30, 2010 by paying multiple days each day to get back on the normal review schedule. This may have an impact on future quarters as well since we had a hold over when this quarter began. Even though there was brief delay in payment MCILS remained within the state's regulation on payment of services rendered.</p> <p>Ron asked if we are still finding that attorneys are not putting their cases in the system and if so how might that affect our budget forecast? John stated that some attorneys are still catching up and have a backlog. MCILS is trying our best to modify behaviors of some of the attorneys with the more serious backlog. There will be some discussion of DefenderData during lunch at the upcoming trainings. John explained that the ultimate solution to this backlog in entry of cases and approving appointments will be the electronic interface between MCILS and the Courts. Under the interface when assignments are docketed in MEJIS that information will automatically create that case in DefenderData.</p> <p>John expressed gratitude to Jennifer and Lynne for working on the budget and helping MCILS spend down as much as possible. He explained how he and Lynne balanced the quarter one way and Jennifer used a different method as a check and both came down to the penny.</p> <p>John explained that the curtailment order from Governor Baldacci's administration was included in Gov. Lapage's supplement budget. John explained that MCILS was never spoken to by Gov. Lapage's administration about the supplement budget.</p> <p>Ron stated that if the budget trend continues we need to keep an eye on it so we can project ahead and tell people not to wait to the last minute to submit vouchers.</p> <p>Sally asked how MCILS is doing on revenue collections? John stated revenue went down again but MCILS is hopeful with the new screeners in York and Cumberland County revenue will increase. One issue is how MCILS collect the revenue after July 1, 2011.</p> | |

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| Chapter 3: Specialized Case Type discussion | <p>Ron explained that MCILS staff reviewed all comments made during public comments both verbally and written. A summary of those comments was drafted along with draft responses.</p> <p>There was some discussion about the definition of “contested hearing.” Ron felt that witnesses have to be examined.</p> <p>Kim asked about giving credit in firms that do a lot of internal supervision. John stated that the majority of the rostered attorneys do not work in firms. He also noted an urban vs. rural issue with that concept.</p> <p>John noted that generalized changes of increasing the look back period from 7 years to 10 years; reduced the number of trials needed and removed the resume requirement. There was a discussion between Sally and John about numbers of trials and that since the Judicial Branch does not have those numbers MCILS should try to keep that data for future review of the rule.</p> <p>Homicide Panel – John explained that it has the number of trials and jury trials were maintained but the look back period was expanded. There was a discussion about having 2nd chairs and that the AAG’s office usually has two attorneys who are specialized at these types of cases.</p> <p>Ken stated that he continues to have doubts about the letters of reference and what additional information will be gathered by the letters. Ron stated that attorneys have an ethical obligation when writing the letters. He stated that if lawyers decide to just scratch each other’s back there is nothing we can do. Ken asked if the letters are important or just window dressing? Marvin expressed that he is not sure letters will help if we are trying to address attorneys getting cases they should not get. He believes that best thing to do would be to investigate any complaints MCILS receives. Ron stated he believes you can get one letter to cover all panels.</p> <p>Sex Offense Panel – John explained that it has the number of trials and jury trials were maintained but the types of trials allowed were expanded and the look back</p> | Kim moved that the Commission accept the drafts with noted recommendations. Marvin seconded. All present voted in favor. Approved. |

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| <p>Chapter 3: Specialized Case Type discussion (Continued)</p> | <p>period was expanded.</p> <p>Serious Violent Felonies Panel – John stated that MCILS suggests accepting comments that a Sex Offense is higher due to consequences and stigma. For this panel the years of practice were decreased and the numbers of trials were decreased. Kim also noted that the look back period was increased.</p> <p>OUI Panel – John stated that a lot of thought was put into the fact that may attorney’s first trial is an OUI trial but that the area has become highly technical. The years of experience were increased; the types of cases allowed were reduced; the numbers of contested hearings were decreased; the look back period was increased; and the period for CLE credits was expanded.</p> <p>Ron made a comment about the rules for the Lawyer Referral Service of the MSBA requires that an attorney practice in this state for 2 years before being able to be recommended.</p> <p>Sally asked about others states. Ron explained that in NH there is a public defender system made up of about 100 lawyers that must go through a competitive hiring process and a training program. The NH budget is 18 million dollars.</p> <p>Domestic Violence Panel – John outlined that the recommendation is to reduce the years of practice; reduce the number of trials; expand the look back period; and expand the period for CLE credits.</p> <p>Juvenile Defense Panel – Steve outlined the changes which included reducing the years of experience; reducing the number of cases to conclusion under the felony requirements; increasing the time period for CLE credits; and increasing the hours of CLE credits required for Competency and Bindover cases (which was asked for by supporters of the rule). Marvin expressed that he is worried about having the experience in rural areas that we are requiring.</p> <p>Child Protective Panel – Steve stated that recommended changes are that the number</p> | |

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| <p>Chapter 3: Specialized Case Type discussion (Continued)</p> | <p>of contested hearings be increased but that the trial requirement is taken out. The period of time for CLE credit was increased.</p> <p>Involuntary Commitment Panel – Steve outlined that the years of practice were decreased and like PC cases the number of contested hearings be increased but that the trial requirement be taken out. The period of time for CLE credit was increased.</p> <p>John stated that if voted on and passed by the Commissioners the next step is to submit the rule to the AG’s office for review then once passed that review then the rule will be submitted to the Secretary of State.</p> | |
| <p>Training Update</p> | <p>Steve and John updated the Commissioners on training.</p> <p>The first MCILS training is set for February 3rd and February 4th of 2011. It will be a two-day training covering the minimum standards in the areas of Criminal Defense, Juvenile Defense, and Protective Custody Matters. The first day will focus on Criminal Defense. The second day will consist of two half-day sessions in which Juvenile Defense will be covered in the morning and Protective Custody Defense will be covered in the afternoon. MCILS has arranged for a statewide group of very experienced defense attorneys to serve as presenters at the trainings.</p> <p>The training will take place at the Hilton Garden Inn in Auburn. MCILS will be providing a continental breakfast and lunch on each day for all attendees. MCILS will charge a minimal registration fee to attorneys who take the trainings of \$50 for a full-day training session and \$25 for each half-day session, with the total registration fee for the full two-day program being \$100. We anticipate 100 participants at each two-day program, totaling an estimated \$20,000 in revenue to offset the costs of MCILS conducting the training sessions.</p> <p>Additionally, MCILS is working with the Maine Board of Bar Overseers to have the trainings approved for Continuing Legal Education credits for both attendees and presenters.</p> | |

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| Regulatory and Legislative Report | <p>Jennifer notified the Commissioners that the Judiciary Committee members are now set.</p> <p>John outlined that MCILS has drafted two proposed bills. The first outlines and clarifies the appeal process. The second addresses confidentiality of information given to MCILS by our rostered attorneys. Senator Bliss has agreed to sponsor the bills.</p> <p>Sally requested a worksheet that would track bills. John stated that MCILS will be commenting on bills from a budget prospective of MCILS as to fines increase, sentencing increase and charge increases. Sally wanted to make sure that CMILS will be consulted as to fiscal impact of bills. John stated that MCILS is in the loop for that.</p> | |
| Public Comment | <p>Amanda Doherty from Strike, Goodwin & O'Brien spoke on behalf of herself and expressed concerns of the New Lawyer Section of the MSBA. She stated that the trial experience requirements are too cumbersome or not practical in a rural county. Aroostook County for example has not had a felony trial in the past 8 months. She worries about access to justice.</p> <p>Ron stated that trial experience is not irrelevant though. He stated again about the LRS 2 year requirement. Amanda stated that she felt that was not a proper use of the LRS rule since there are no further requirements under the LRS rule. Ron stated she should review it because there are further requirements in some areas.</p> <p>Amanda expressed concern about the definition of contested hearing. Does a Bail Hearing count? Does an open plea count? What if no witnesses?</p> <p>Amanda asked about how a firm mentoring rule could play a role but admitted it may not help enough attorneys.</p> | |
| Executive Session | N/A | Kim moved for the Commission to enter executive session for legal advice from AAG pursuant to 1 M.R.S.A §405-A(6)(E). Ken |

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| Executive Session (Continued) | | <p>seconded. All present voted in favor. Approved.</p> <p>No action taken.</p> <p>Kim moved to leave executive session. Ken seconded. All present voted in favor. Approved.</p> |
| Adjournment of Meeting | N/A | Kim moved to adjourn. Ken seconded. All present voted in favor. Approved. |

