

MCILS

**March 20, 2023
Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

**MARCH 20, 2023
COMMISSION MEETING
AGENDA**

- 1) Approval of the February 22, 2023 Commission Meeting Minutes
- 2) Report of the Executive Director
 - a. Operations report
 - b. Case staffing status report
 - c. Recruiting and Training
 - d. Draft policy for reimbursement of certain legal fees
- 3) Budget Update
- 4) Chapter 4 caseload standards rulemaking discussion
- 5) Set Date, Time and Location of Next Regular Meeting of the Commission
- 6) Public Comment
- 7) Executive Session 1 MRSA §405(6)(E) to discuss pending or contemplated litigation (if needed)

**Maine Commission on Indigent Legal Services – Commissioners Meeting
February 22, 2023**

Minutes

Commissioners Present: Donald Alexander, Randall Bates, Meegan Burbank, Michael Cantara, Michael Carey, Roger Katz, Kimberly Monaghan, David Soucy, and Joshua Tardy

MCILS Staff Present: Justin Andrus and Ellie Maciag

Agenda Item	Discussion/Outcome
Public Hearing on Chapter 301 Fee Schedule	<p>Director Andrus explained that the legislature and the Governor have agreed that the hourly rate for rostered attorneys should be raised to \$150 per hour. The legislature voted to approve the rate increase as part of the supplemental budget. With the approval of this measure by the Commission, the new rate would take effect March 1, 2023.</p> <p>Chair Tardy opened the floor for public comment. No members of the public spoke for, against, or neither for nor or against the proposed rule. Chair Tardy noted that there is a detailed basis statement for the rule change as part of the staff provided materials. Commissioner Carey noted that former Commissioner LeBrasseur sent a detailed response to some of the commissioners regarding the rule change. Director Andrus noted that former Commissioner LeBrasseur’s comments were more related to aspects to be addressed as part of the formal rulemaking process.</p> <p>Commissioner Alexander moved to adopt the detailed basis statement and the revised Chapter 301; Commissioner Carey seconded. During discussion, Commissioner Bates commented that, although no public comment was made at the meeting, it did not mean that the defense bar was not appreciative or quiet during the lead up to this emergency rulemaking. All voted in favor. Approved.</p> <p>Commissioner Carey moved to proceed with the formal rulemaking, Commissioner Alexander seconded. All voted in favor. Approved.</p>
Approval of the January 17 & 25,	Commissioner Carey asked for clarification on the number of attorneys accepting cases that was noted in the previous minutes. Director Andrus indicated that the number included child protective and criminal cases, and that going forward, clarification will be given. Commissioner Carey moved to

Agenda Item	Discussion/Outcome
2023 Commission Meeting Minutes	approve January 17 & 25, 2023 minutes. Commissioner Alexander seconded. All voted in favor. Approved.
Report of the Executive Director	<p>Operations report: Director Andrus indicated there were 79 rostered attorneys accepting adult criminal cases, which was up from 59. There were 164 attorneys accepting all trial level cases, which included child protective and juvenile. Director Andrus pointed out that most cases have transitioned to the \$80 per hour rate and that there will be another period of transition with the new \$150 per hour rate. Commissioner Alexander asked whether MCILS should pursue the limited collection of counsel fees. Director Andrus responded that from a public defense perspective, MCILS should not charge for their services. However, the Commission is statutorily mandated to do some collections, so it does. Director Andrus indicated that he prefers the balance that the court has struck in collecting fees because now there are fewer people being charged for old fees they did not know about.</p> <p>Case staffing status report/Rural Defender Unit (RDU) update: Director Andrus reported that cases are being staffed. The RDU has gone through its third run of accepting cases, mostly from Aroostook County. The RDU has not yet taken cases from Washington County because there has been sufficient counsel there. The RDU has resolved some very intricate cases with favorable outcomes. While waiting for their licensure transfer to Maine, one of the RDU lawyers has been a great help in research and case support. Director Andrus also noted that Attorney Sarah Glenn has been meeting and offering support to the RDU in the Augusta office and across the state. Commissioner Soucy has also met with RDU staff when they have been in his area.</p> <p>Recruiting and training: There have been both Child Protective and Criminal Law Minimum Standards Trainings held since the last Commission meeting. Each of the minimum standards trainings are now two full days. In March there will be a several-day program hosted by NACDL in Bangor. MCILS is hosting a lot of trainings in the near future, including a mental health training and a CLE presented by expert nurses.</p> <p>The Commission and Director Andrus thanked the staff of MCILS for all the hard work they have done to further the program.</p>

Agenda Item	Discussion/Outcome
Legislative and Budget Update	<p>Director Andrus indicated that based on rolling hours, counts went from 52,000 hours in fiscal year 2022 to 65,000 hours in the last rolling year. The budget has been well controlled to account for the expected increase from the courts as they continue to ramp up.</p> <p>Director Andrus explained that he served on two legislative committees last summer. One of those committees has promulgated draft legislation to begin a pilot program that would promote early access to counsel in child protective cases. Director Andrus also indicated there is potential for MCILS' office to change name, allowing for more clear public communication.</p>
Rulemaking Discussion on Commission response to Public Comment – Chapter 4 Caseload Standards	<p>Discussion ensued about responding to the public comment that was made on caseload standards, as well as the standards generally.</p> <p>Commissioner Alexander expressed concern over the calculation of the standards. He does not think that the average appeal should take 74 hours and has questions about how the standards operate (current caseloads vs. annual standards). Commissioner Alexander does not think a caseload standard should be set now or in the next couple of months. He thinks the Commission should wait to vote on setting any standard until seeing how things play out with the increased payment rate to counsel and the new court initiatives for processing cases.</p> <p>Commissioner Carey responded to comment that had been made by a member of the public regarding whether the legislature required the Commission to implement a caseload standard. The Commissioner indicated that the statutory language is very clear that, “the Commission shall develop standards, including standards for assigned counsel and contract counsel caseloads.” Commissioner Carey referenced another comment that had been made about possible motivations of the Commission regarding the rule change and requested specific examples to be given for what motivations the commenter was referencing.</p> <p>The Chair entertained a motion to table the discussion to the next Commission meeting. Commissioner Cantara moved to table and Commissioner Alexander seconded. All voted in favor.</p>
Reimbursement Request for Civil	<p>Discussion was brought up previously regarding whether MCILS would pay for defense representation of a rostered attorney whose assigned client initiated a PFA against them. The Commission had</p>

Agenda Item	Discussion/Outcome
Matter Defense Representation	<p>determined that prepaying the matter was not ideal due to the potential of the court ruling against the attorney but would consider reimbursement once the matter was resolved. The case against the rostered attorney has since been dismissed and they are requesting reimbursement of the \$769.50 bill for their legal representation in the PFA matter.</p> <p>Commissioner Alexander moved to approve the reimbursement as recommended by Director Andrus, Commissioner Cantara seconded. Discussion ensued regarding setting a precedent that such fees would be reimbursed in future cases. It was suggested to table the matter and for Director Andrus to draft a policy for the Commission to review at the March meeting. The Chair entertained a motion to table the matter. Commissioner Cantara moved to table and Commissioner Soucy seconded. Commissioner Alexander voted not to table; all others voted in favor.</p>
Public Comment	<p>Jim Howaniec: Attorney Howaniec shared his praise of the Commission and MCILS staff in the success of raising the hourly rate to \$150. He noted that it was a very positive step in the right direction for the future of the program and the criminal court system.</p>
Adjournment of Meeting	<p>The next meeting will be held on March 20, 2023 at 1:00PM.</p>

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JUSTIN ANDRUS, EXECUTIVE DIRECTOR
SUBJECT: OPERATIONS REPORTS
DATE: March 17, 2023

Attached you will find the February 2022, Operations Reports for your review and our discussion at the Commission meeting on March 20, 2023. A summary of the operations reports follows:

- 2,309 new cases were opened in the DefenderData system in February. This was a 249 case decrease from January. Year to date, new cases are down 2.8% from last year from 20,238 at this time last year to 19,654 this year.
- The number of vouchers submitted electronically in February was 2,752, a decrease of 168 vouchers from January, totaling \$1,702,531, a decrease of \$92,503 from January. Year to date, the number of submitted vouchers is up by approximately 5.1%, from 21,487 at this time last year to 22,584 this year, with the total amount for submitted vouchers up approximately 13.9%, from \$11,866,180 at this time last year to \$13,527,050 this year.
- In February, we paid 2,522 electronic vouchers totaling \$1,617,623, representing a decrease of 679 vouchers and a decrease of \$271,161 compared to January. Year to date, the number of paid vouchers is up approximately 9.8%, from 20,347 at this time last year to 22,361 this year, and the total amount paid is up approximately 19%, from \$11,283,154 this time last year to \$13,428,756 this year.
- The average price per voucher in February was \$641.41, up \$51.35 per voucher from January. Year to date, the average price per voucher is up approximately 8.2%, from \$554.54 at this time last year to \$600.51 this year.
- Appeals and Post-Conviction Review cases had the highest average voucher in February. There were 21 vouchers exceeding \$5,000 paid in February. See attached addendum for details.
- In February, we issued 76 authorizations to expend funds: 50 for private investigators, 20 for experts, and 6 for miscellaneous services such as interpreters and transcriptionists. In February, we paid \$76,319 for experts and investigators, etc. No funds requests were denied.
- There were no attorney suspensions in February.

- In our All Other Account, the total expenses for the month of February were \$1,732,863. During February, approximately \$38,920 was devoted to the Commission's operating expenses.
- In the Personal Services Accounts, we had \$163,698 in expenses for the month of February.
- In the Revenue Account, we received no transfer of collected counsel fees from the Judicial Branch for January's collections.
- Exceptional results – see attached addendum.
- As of March 17, 2023, there are 217 rostered attorneys of which 176 are available for trial court level work.

Vouchers over \$5,000

Comment	Voucher Total	Case Total
Homicide	\$ 21,643.38	\$ 43,626.18
Post-Conviction Review	\$ 15,655.09	\$ 15,655.09
Homicide	\$ 14,849.62	\$ 23,956.90
Hindering Apprehension or Prosecution	\$ 14,263.52	\$ 14,263.52
Possess Sexual Explicit Material of Minor	\$ 10,184.00	\$ 10,184.00
Post-Conviction Review	\$ 9,712.00	\$ 9,712.00
Homicide	\$ 8,720.00	\$ 49,079.30
Gross Sexual Assault	\$ 8,536.03	\$ 10,364.30
Gross Sexual Assault	\$ 8,209.88	\$ 8,209.88
Homicide	\$ 7,900.98	\$ 7,900.98
Petition for Termination of Parental Rights	\$ 7,550.56	\$ 15,492.66
Review of Child Protection Petition	\$ 6,780.02	\$ 6,780.02
Burglary	\$ 6,777.00	\$ 6,777.00
Aggravated Forgery	\$ 6,230.97	\$ 9,417.73
Appeal	\$ 5,990.47	\$ 5,990.47
Domestic Violence Assault	\$ 5,566.00	\$ 5,566.00
Elevated Aggravated Assault	\$ 5,488.00	\$ 5,488.00
Criminal Restraint by Parent	\$ 5,346.12	\$ 5,346.12
Violating Conditions of Release	\$ 5,272.00	\$ 5,272.00
Hindering Apprehension or Prosecution	\$ 5,219.13	\$ 5,219.13
De Facto Parentage Petition	\$ 5,072.00	\$ 5,072.00

Good Outcomes

Review Date	Attorney	Charge	Disposition
2/9/2023	Ruffner, Rob	Petition For PCR	Petition Granted
2/9/2023	Juskewitch, Steven	GSA, USC	Not Guilty After Trial
2/10/2023	Everett, Benjamin / Swanson, Adam	GSA, USC	Trial--Judgment of Acquittal on USC / Mistrial on GSA
2/14/2023	Mekonis, Joseph	1 ct. Unlawful Possession of Fentanyl Powder, 1 ct. VCR	Dismissal
2/15/2023	Kenney, Michele	1 ct. Agg. Criminal Mischief, 1 ct. Theft by Unauthorized Taking or Transfer, 1 ct. VCR	Dismissal with Discovery Sanctions Motion
2/15/2023	Gale, Jon	1 ct. Unlawful Sexual Touching, 1 ct. Unlawful Sexual Contact	Dismissal
2/16/2023	Roberge, Mitchel	Fugitive From Justice	Dismissal
2/16/2023	Nielsen, Christopher	1 ct. DV Agg. Assault, 1 ct. DVA	Dismissal
2/17/2023	Davidson, Jeffrey	Unlawful Trafficking in Scheduled Drugs	Dismissal
2/17/2023	Crockett, Matthew	DVA (Priors DV)	Dismissal
2/17/2023	Crockett, Matthew	Misuse of E-911 System	DD GO = Dismissal
2/17/2023	Geller, David	Violating Protection from Abuse Order	DD GO = Dismissal
2/17/2023	Capponi, Randa	1 ct. Unlawful Possession of Scheduled Drug, 1 ct. Refusing to Submit to Arrest or Detention (physical force)	Dismissal
2/23/2023	Carey, Steven	Assault	DD GO = Dismissal
2/23/2023	Roberge, Mitchel	2 cts. Harassment	Not Guilty after Jury Trial
2/23/2023	Bristol, Erika	Child Protection Petition	Permancy Guardianship Terminated, Child Returned to Client, Dismissal
2/27/2023	Hewes, James	OAS	Dismissal
2/27/2023	Stuart, Eden	Child Protection Petition	Dismissal
2/28/2023	Gomes, Jacqueline	Child Protection Petition	Dismissal through PRR

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

2/28/2023

DefenderData Case Type	Feb-23						Fiscal Year 2023			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	16	25	\$38,146.43	19	\$ 40,167.30	\$2,114.07	100	125	\$ 245,777.62	\$1,966.22
Central Office Resource Counsel	0	0		0			2	0		
Child Protection Petition	207	351	\$245,844.15	336	\$ 236,387.95	\$703.54	1,494	2,553	\$ 1,999,802.01	\$783.31
Drug Court	3	13	\$15,681.48	9	\$ 13,769.48	\$1,529.94	21	92	\$ 143,061.98	\$1,555.02
Emancipation	4	3	\$1,158.04	3	\$ 1,614.04	\$538.01	38	26	\$ 11,502.80	\$442.42
Felony	555	598	\$556,541.07	579	\$ 567,443.45	\$980.04	4,647	5,035	\$ 4,430,697.03	\$879.98
Involuntary Civil Commitment	86	91	\$26,029.12	100	\$ 30,053.36	\$300.53	764	689	\$ 206,913.73	\$300.31
Juvenile	70	79	\$42,757.05	81	\$ 49,041.69	\$605.45	552	630	\$ 489,700.51	\$777.30
Lawyer of the Day - Custody	255	255	\$85,213.72	216	\$ 76,496.72	\$354.15	1,985	1,892	\$ 636,264.21	\$336.29
Lawyer of the Day - Juvenile	21	22	\$5,495.92	17	\$ 4,979.14	\$292.89	177	172	\$ 52,262.21	\$303.85
Lawyer of the Day - Walk-in	126	119	\$40,799.22	113	\$ 39,434.64	\$348.98	1,223	1,180	\$ 413,202.80	\$350.17
MCILS Provided Training	1	0		0			2	0		
Misdemeanor	800	890	\$380,170.97	767	\$ 331,565.08	\$432.29	7,268	7,442	\$ 2,983,936.21	\$400.96
Petition, Modified Release Treatment	0	6	\$2,793.45	6	\$ 2,793.45	\$465.58	6	35	\$ 31,771.67	\$907.76
Petition, Release or Discharge	0	1	\$472.00	1	\$ 472.00	\$472.00	1	9	\$ 10,235.35	\$1,137.26
Petition, Termination of Parental Rights	22	64	\$58,437.10	60	\$ 47,996.70	\$799.95	175	441	\$ 451,198.12	\$1,023.12
Post Conviction Review	7	10	\$47,752.53	8	\$ 35,129.93	\$4,391.24	35	47	\$ 126,979.57	\$2,701.69
Probate	3	6	\$10,908.18	4	\$ 6,984.00	\$1,746.00	24	22	\$ 24,770.35	\$1,125.93
Probation Violation	100	93	\$44,367.90	88	\$ 44,435.32	\$504.95	781	801	\$ 409,172.43	\$510.83
Represent Witness on 5th Amendment	4	1	\$ 368.00	1	\$ 368.00	\$ 368.00	13	8	\$ 3,946.80	\$493.35
Resource Counsel Criminal	2	2	\$584.00	4	\$ 744.00	\$186.00	5	20	\$ 3,772.00	\$188.60
Resource Counsel Juvenile	0	0		0			0	2	\$ 112.00	\$56.00
Resource Counsel Protective Custody	2	2	\$112.00	0			2	1	\$ 328.00	\$328.00
Review of Child Protection Order	24	120	\$98,722.71	110	\$ 87,747.48	\$797.70	332	1,130	\$ 751,108.82	\$664.70
Revocation of Administrative Release	1	1	\$176.00	0			7	9	\$ 2,240.75	\$248.97
DefenderData Sub-Total	2,309	2,752	\$1,702,531.04	2,522	\$1,617,623.73	\$641.41	19,654	22,361	\$13,428,756.97	\$600.54
TOTAL	2,309	2,752	\$1,702,531.04	2,522	\$1,617,623.73	\$ 641.41	19,654	22,361	\$ 13,428,756.97	\$ 600.54

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

2/28/2023

Court	Feb-23						Fiscal Year 2023			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	2	2	\$912.00	3	\$ 2,000.00	\$666.67	7	12	\$ 10,786.00	\$898.83
AUBSC	0	2	\$1,266.00	1	\$ 804.00	\$804.00	1	7	\$ 4,644.00	\$663.43
AUGDC	25	44	\$42,345.72	40	\$ 49,531.98	\$1,238.30	307	393	\$ 341,314.45	\$868.48
AUGSC	2	7	\$3,265.45	7	\$ 3,265.45	\$466.49	13	41	\$ 40,835.52	\$995.99
BANDC	57	117	\$49,472.55	110	\$ 42,389.42	\$385.36	397	677	\$ 325,731.73	\$481.14
BANSC	4	1	\$992.00	0			6	3	\$ 976.00	\$325.33
BATSC	1	1	\$352.00	1	\$ 352.00	\$352.00	4	4	\$ 1,832.00	\$458.00
BELDC	4	13	\$7,615.58	14	\$ 10,066.06	\$719.00	94	132	\$ 81,264.94	\$615.64
BELSC	0	0		0			3	1	\$ 3,625.02	\$3,625.02
BIDDC	33	48	\$26,869.56	41	\$ 25,956.66	\$633.09	249	373	\$ 243,101.22	\$651.75
BRIDC	13	19	\$10,905.69	17	\$ 8,014.64	\$471.45	66	95	\$ 49,982.84	\$526.14
CALDC	0	1	\$304.00	5	\$ 4,528.00	\$905.60	21	34	\$ 22,139.14	\$651.15
CARDC	10	12	\$5,772.40	14	\$ 9,135.98	\$652.57	40	109	\$ 86,981.15	\$797.99
CARSC	0	0		0			4	0		
DOVDC	4	6	\$3,345.12	2	\$ 1,600.00	\$800.00	16	51	\$ 29,523.54	\$578.89
DOVSC	0	0		0			0	0		
ELLDC	15	32	\$28,754.44	28	\$ 22,762.52	\$812.95	131	235	\$ 175,998.29	\$748.93
ELLSC	0	0		0			1	3	\$ 1,952.00	\$650.67
FARDC	9	17	\$13,621.36	17	\$ 13,610.70	\$800.63	96	114	\$ 87,598.11	\$768.40
FARSC	0	0		0			1	1	\$ 800.00	\$800.00
FORDC	5	8	\$5,430.86	9	\$ 6,606.60	\$734.07	28	66	\$ 49,439.62	\$749.09
HOUDC	7	25	\$11,914.08	26	\$ 12,758.04	\$490.69	68	166	\$ 108,614.79	\$654.31
HOUSC	0	0		0			1	1	\$ 1,396.00	\$1,396.00
LEWDC	58	79	\$54,862.56	62	\$ 41,750.69	\$673.40	407	693	\$ 481,068.58	\$694.18
LINDC	6	12	\$7,760.48	15	\$ 9,080.88	\$605.39	52	105	\$ 57,741.15	\$549.92
MACDC	1	5	\$3,446.20	7	\$ 5,773.95	\$824.85	14	23	\$ 22,152.20	\$963.14
MACSC	0	1	\$2,403.52	1	\$ 2,403.52	\$2,403.52	1	1	\$ 2,403.52	\$2,403.52
MADDC	1	0		0			7	5	\$ 2,228.50	\$445.70
MILDC	1	2	\$752.00	2	\$ 752.00	\$376.00	23	33	\$ 12,793.55	\$387.68
NEWDC	8	30	\$15,055.46	28	\$ 14,538.40	\$519.23	69	135	\$ 72,403.54	\$536.32
PORDC	68	97	\$62,063.55	108	\$ 66,514.51	\$615.88	548	684	\$ 507,316.76	\$741.69
PORSC	5	0		0			11	7	\$ 2,324.00	\$332.00
PREDC	12	18	\$14,599.48	13	\$ 10,146.24	\$780.48	70	128	\$ 103,186.96	\$806.15
RODC	13	17	\$6,166.40	18	\$ 8,166.71	\$453.71	92	109	\$ 63,132.15	\$579.19
RODC	2	2	\$384.00	3	\$ 672.00	\$224.00	18	16	\$ 3,904.00	\$244.00
RUMDC	16	20	\$15,676.00	19	\$ 14,768.00	\$777.26	123	187	\$ 168,586.38	\$901.53
SKODC	51	57	\$35,188.24	54	\$ 34,755.01	\$643.61	303	429	\$ 324,739.33	\$756.97
SKOSC	2	1	\$2,000.00	0			4	2	\$ 3,814.00	\$1,907.00
SOUDC	5	15	\$10,200.20	15	\$ 10,770.80	\$718.05	95	140	\$ 107,375.24	\$766.97
SOUSC	1	0		1	\$ 360.00	\$360.00	2	1	\$ 360.00	\$360.00
SPRDC	21	42	\$36,657.60	28	\$ 19,178.80	\$684.96	140	219	\$ 166,915.79	\$762.17
Law Ct	12	18	\$27,494.95	10	\$ 24,513.06	\$2,451.31	79	85	\$ 166,697.45	\$1,961.15
YORCD	220	269	\$178,215.19	262	\$ 187,802.15	\$716.80	2,230	2,607	\$ 1,624,129.37	\$622.99
ARODC	169	155	\$99,685.13	155	\$ 118,675.74	\$765.65	1,425	1,364	\$ 763,970.00	\$560.10
ANDCD	173	218	\$108,930.31	188	\$ 111,639.98	\$593.83	1,472	1,457	\$ 832,226.28	\$571.19
KENCD	173	166	\$109,187.21	155	\$ 99,850.53	\$644.20	1,440	1,398	\$ 752,018.36	\$537.92
PENCD	222	180	\$104,785.17	196	\$ 96,553.60	\$492.62	2,051	2,295	\$ 1,081,693.18	\$471.33
SAGCD	41	35	\$18,872.10	35	\$ 22,710.00	\$648.86	312	269	\$ 128,971.27	\$479.45
WALCD	55	56	\$40,501.26	64	\$ 39,871.05	\$622.99	469	439	\$ 281,412.68	\$641.03
PISCD	13	22	\$8,447.50	18	\$ 8,393.54	\$466.31	156	160	\$ 77,595.20	\$484.97
HANCD	78	72	\$38,619.88	46	\$ 35,191.64	\$765.04	553	471	\$ 267,468.19	\$567.87
FRACD	26	52	\$23,402.99	25	\$ 12,905.41	\$516.22	329	240	\$ 114,463.97	\$476.93
WASCD	74	50	\$28,382.51	18	\$ 15,040.20	\$835.57	312	313	\$ 229,919.66	\$734.57
CUMCD	318	354	\$244,082.58	333	\$ 222,701.79	\$668.77	2,795	3,060	\$ 1,849,396.86	\$604.38
KNOCD	54	53	\$38,281.81	51	\$ 34,294.81	\$672.45	438	422	\$ 242,934.58	\$575.67
SOMCD	78	73	\$30,152.28	68	\$ 24,655.75	\$362.58	669	685	\$ 309,096.70	\$451.24
OXFCD	64	140	\$65,869.45	94	\$ 51,183.44	\$544.50	711	748	\$ 355,960.47	\$475.88
LINCD	27	21	\$8,936.84	23	\$ 9,930.47	\$431.76	279	275	\$ 136,684.32	\$497.03
WATDC	17	34	\$19,660.92	35	\$ 20,179.90	\$576.57	185	327	\$ 198,438.04	\$606.84
WESDC	23	18	\$16,565.58	20	\$ 13,441.98	\$672.10	143	193	\$ 133,457.54	\$691.49
WISDC	2	7	\$8,614.88	8	\$ 8,104.89	\$1,013.11	36	60	\$ 59,130.05	\$985.50
WISSC	0	0		0			0	3	\$ 1,784.00	\$594.67
YORDC	6	5	\$3,480.00	9	\$ 6,970.24	\$774.47	31	54	\$ 49,766.79	\$921.61
TOTAL	2,309	2,752	\$1,702,531.04	2,522	\$1,617,623.73	\$641.41	19,653	22,361	\$13,428,756.97	\$600.54

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY23 FUND ACCOUNTING
AS OF 02/28/2023

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Professional Services Allotment		\$ 6,173,605.54		\$ 3,080,749.00		\$ 3,080,749.00		\$ 3,080,747.00	\$ 15,415,850.54
FY23 General Operations Allotment		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00		\$ 48,000.00	\$ 192,000.00
FY22 Encumbered Balance Carry Forward		\$ 506,889.06		\$ -		\$ -		\$ -	\$ 506,889.06
Budget Order Adjustment		\$ (221,628.00)		\$ 179,034.00		\$ 178,980.00		\$ 178,981.00	\$ 315,367.00
Budget Order Adjustment		\$ -		\$ (20,288.00)		\$ 241,916.00		\$ -	\$ -
Financial Order Unencumbered Balance Fwd		\$ -		\$ -		\$ -		\$ -	\$ -
Total Budget Allotments		\$ 5,999,977.54		\$ 3,287,495.00		\$ 3,549,645.00		\$ 3,307,728.00	\$ 16,430,106.60
Total Expenses	1	\$ (1,935,083.89)	4	\$ (1,843,734.81)	7	\$ (1,563,055.52)	10	\$ -	
	2	\$ (1,607,416.71)	5	\$ (1,433,680.09)	8	\$ (1,732,863.62)	11	\$ -	
	3	\$ (1,207,951.78)	6	\$ (151,089.78)	9	\$ -	12	\$ -	
Encumbrances (Justice Works)		\$ -		\$ (58,722.00)		\$ 14,601.00		\$ -	\$ (44,121.00)
Encumbrances (B Taylor)		\$ (13,260.00)		\$ 13,260.00		\$ (44,200.00)		\$ -	\$ (44,200.00)
Encumbrances (CTB for non attorney expenses)		\$ (1,150,139.32)		\$ 266,906.59		\$ 155,465.31		\$ -	\$ (727,767.42)
Encumbrances (business cards,batteries & address stamps)		\$ (17.14)		\$ -		\$ -		\$ -	\$ (17.14)
Encumbrances (RDU business cards & envelopes)		\$ -		\$ (184.70)		\$ 184.70		\$ -	\$ -
Online Legal Research Services		\$ -		\$ (80,250.00)		\$ 9,981.24		\$ -	\$ (70,268.76)
FY22 CTB Balance Carry Forward		\$ (86,108.40)		\$ -		\$ -		\$ -	\$ (86,108.40)
TOTAL REMAINING		\$ 0.30		\$ 0.21		\$ 389,758.11		\$ 3,307,728.00	\$ 4,204,375.68
Q3 Month 8									
INDIGENT LEGAL SERVICES									
Counsel Payments		\$ (1,617,623.73)				\$ 3,549,645.00			
Interpreters		\$ (1,795.55)				\$ 14,601.00			
Private Investigators		\$ (18,601.42)				\$ (44,200.00)			
Mental Health Expert		\$ (18,146.25)				\$ 155,465.31			
Misc Prof Fees & Serv		\$ (860.00)				\$ 184.70			
Transcripts		\$ (11,684.90)				\$ (3,295,919.14)			
Other Expert		\$ (23,113.50)				\$ 9,981.24			
Process Servers		\$ (2,118.22)				\$ 389,758.11			
SUB-TOTAL ILS		\$ (1,693,943.57)							
OPERATING EXPENSES									
Justice Works		\$ (7,620.00)							
Barbara Taylor monthly fees		\$ (4,420.00)							
Printing & Books		\$ (200.00)							
Mileage/Tolls/Parking		\$ (2,655.68)							
Mailing/Postage/Freight		\$ (72.33)							
West Publishing Corp		\$ (3,327.08)							
Office Equipment Rental		\$ (105.16)							
Office Supplies/Equip.		\$ (182.69)							
Cellular Phones		\$ (2,289.26)							
OIT/TELCO		\$ (14,428.12)							
Lodging for employees & attorney		\$ (708.00)							
Training refreshments		\$ (310.69)							
Employee Registration non-state & Dues		\$ (150.00)							
RDU offices door lock installation		\$ (100.98)							
Sales tax paid by state for refreshments		\$ (20.81)							
Service Center quarterly payment		\$ (1,829.25)							
Rental Booth from MSBA		\$ (500.00)							
SUB-TOTAL OE		\$ (38,920.05)							
TOTAL		\$ (1,732,863.62)							

INDIGENT LEGAL SERVICES	
Q3 Allotment	\$ 3,549,645.00
Q3 Encumbrances for Justice Works contract	\$ 14,601.00
Barbara Taylor Contract	\$ (44,200.00)
CTB Encumbrance for non attorney expenses	\$ 155,465.31
Q3 Encumbrances for RDU business cards & envelopes	\$ 184.70
Q3 Expenses to date	\$ (3,295,919.14)
Online Legal Research Services	\$ 9,981.24
Remaining Q3 Allotment	\$ 389,758.11

Non-Counsel Indigent Legal Services	
Monthly Total	\$ (76,319.84)
Total Q1	\$ 249,860.68
Total Q2	\$ 266,906.59
Total Q3	\$ 155,465.31
Total Q4	\$ -
Fiscal Year Total	\$ 672,232.58

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY23 FUND ACCOUNTING
AS OF 02/28/2023

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Allotment		\$ 285,269.00		\$ 263,599.00		\$ 285,269.00		\$ 115,478.00	\$ 949,615.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ 71,107.00		\$ 213,321.00		\$ 213,321.00		\$ 206,733.00	\$ 704,482.00
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 356,376.00		\$ 476,920.00		\$ 498,590.00		\$ 322,211.00	\$ 1,654,097.00
Total Expenses	1	\$ (65,524.90)	4	\$ (67,323.49)	7	\$ (178,162.57)	10	\$ -	
	2	\$ (96,169.15)	5	\$ (68,454.11)	8	\$ (113,507.82)	11	\$ -	
	3	\$ (66,680.15)	6	\$ (83,579.91)	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 128,001.80		\$ 257,562.49		\$ 206,919.61		\$ 322,211.00	\$ 914,694.90

Q3 Month 8	
Per Diem	\$ -
Permanent Regular	\$ (23,509.28)
Perm Vacation Pay	\$ (724.48)
Perm Holiday Pay	\$ -
Sick Pay	\$ (588.64)
Standard Overtime	\$ (93.28)
Health Insurance	\$ (13,381.70)
Dental Insurance	\$ (365.00)
Employer Retiree Health	\$ (6,604.12)
Employer Retirement	\$ (3,968.12)
Employer Group Life	\$ (679.56)
Employer Medicare	\$ (1,027.40)
Retiree Unfunded Liability	\$ (13,445.12)
Longevity Pay	\$ (112.00)
Lim Perm Part Time Full Ben	\$ (4,748.96)
Limited Period Regular	\$ (39,330.48)
Limited Per Vacation Pay	\$ (3,186.44)
Limited Per Holiday Pay	\$ -
Limit Per Sick Pay	\$ (1,743.24)
TOTAL	\$ (113,507.82)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23

FUND ACCOUNTING

AS OF 02/28/2023

Account 014 95F Z112 01 (OSR Personal Services Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Allotment		\$ 211,632.00		\$ 194,116.00		\$ 211,632.00		\$ 105,856.00	\$ 723,236.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 211,632.00		\$ 194,116.00		\$ 211,632.00		\$ 105,856.00	\$ 723,236.00
Total Expenses	1	\$ (49,018.85)	4	\$ (41,237.93)	7	\$ (75,403.13)	10	\$ -	
	2	\$ (61,002.05)	5	\$ (43,671.56)	8	\$ (50,190.62)	11	\$ -	
	3	\$ (41,197.00)	6	\$ (50,270.65)	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 60,414.10		\$ 58,935.86		\$ 86,038.25		\$ 105,856.00	\$ 311,244.21

Q3 Month 8 PERMANENT	
Per Diem	\$ -
Permanent Regular	\$ (24,356.10)
Perm Vacation Pay	\$ (288.56)
Perm Holiday Pay	\$ -
Perm Sick Pay	\$ (72.14)
Health Insurance	\$ (6,994.11)
Dental Insurance	\$ (146.00)
Employer Retiree Health	\$ (2,796.48)
Employer Retirement	\$ (2,465.48)
Employer Group Life	\$ (320.04)
Employer Medicare	\$ (424.87)
Retiree Unfunded Liability	\$ (5,693.24)
Longevity Pay	\$ -
Perm Part Time Full Ben	\$ -
Retro Pay Contract	\$ -
Retro Lump Sum Pymt	\$ -
TOTAL	\$ (43,557.02)

Q3 Month 8 LIMITED PERIOD	
Limited Period Regular	\$ (6,509.22)
Limit Per Holiday Pay	\$ -
Limit Per Vacation Pay	\$ (41.46)
Limit Per Sick Pay	\$ (82.92)
TOTAL	\$ (6,633.60)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23 FUND ACCOUNTING

As of 02/28/2023

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
Original Total Budget Allotments		\$ 3,221,844.00		\$ 2,147,897.00		\$ 2,147,896.00		\$ 2,147,896.00	\$ 9,665,533.00
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	\$ -
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Budget Order Adjustment	2	\$ -	5	\$ 2,623,940.00	8	\$ 2,593,461.00	11	\$ -	
Budget Order Adjustment		\$ (2,623,940.00)	6	\$ (2,593,461.00)	9	\$ -	12	\$ -	
Transfer from General Fund Surplus	3	\$ -		\$ -		\$ -		\$ -	\$ 9,288,769.00
Total Budget Allotments		\$ 597,904.00		\$ 2,178,376.00		\$ 4,741,357.00		\$ 2,147,896.00	\$ 9,665,533.00
Cash Carryover from Prior Quarter		\$ -		\$ -		\$ -		\$ -	
Collected Revenue from JB	1	\$ -	4	\$ 39,008.04	7	\$ 34,467.04	10	\$ -	
Collected Revenue from JB	2	\$ 33,135.69	5	\$ 26,946.30	8	\$ -	11	\$ -	
Collected Revenue from JB	3	\$ 36,358.81	6	\$ 28,171.25	9	\$ -	12	\$ -	
Collected for reimbursement of counsel fees		\$ -		\$ -		\$ -		\$ -	
Asset Forfeiture		\$ -		\$ -		\$ -		\$ -	
Victim Services Restitution		\$ -		\$ -		\$ -		\$ -	
Collected for reimbursement of counsel fees		\$ -		\$ 648.00		\$ -		\$ -	
Refund to KENCD for bail to be applied to fines		\$ -		\$ -		\$ -		\$ -	
TOTAL CASH PLUS REVENUE COLLECTED		\$ 69,494.50		\$ 94,773.59		\$ 34,467.04		\$ -	\$ 198,735.13
Counsel Payments	1	\$ -	4	\$ -	7	\$ (106,827.70)	10	\$ -	
Other Expenses		\$ -		\$ -		\$ -	***	\$ -	
Counsel Payments	2	\$ -	5	\$ (275,019.12)	8	\$ -	11	\$ -	
Other Expenses		\$ -		\$ -		\$ -		\$ -	
Counsel Payments	3	\$ (595,342.94)	6	\$ (1,895,447.88)	9	\$ -	12	\$ -	
State Cap for period 1	*	\$ (377.35)	**	\$ -	***	\$ -		\$ -	
State Cap for periods 4,5 & 6	*	\$ (2,183.35)	**	\$ (7,908.41)	***	\$ -		\$ -	
State Cap for period 8	*	\$ -	**	\$ -	***	\$ (625.06)		\$ -	
REMAINING ALLOTMENT		\$ 0.36		\$ 0.59		\$ 4,633,904.24		\$ 2,147,896.00	\$ 6,781,801.19
Overpayment Reimbursements	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ 384.00	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
REMAINING CASH Year to Date		\$ (528,409.14)		\$ (2,083,601.82)		\$ (72,985.72)		\$ -	\$ (2,684,996.68)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FY23

FUND ACCOUNTING

AS OF 02/28/2023

Account 014 95F Z112 02 (Conference Account)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY23 Total
FY23 Allotment		\$ -		\$ -		\$ 57,000.00		\$ -	\$ 57,000.00
Carry Forward		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ -		\$ -		\$ 57,000.00		\$ -	\$ 57,000.00
Total Expenses	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ -		\$ -		\$ 57,000.00		\$ -	\$ 57,000.00

Q3 Month 8	
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
TOTAL	\$ -

Statement of Revenue and Expenses for Maine Commission of Indigent Legal Services

As of February 28, 2023

<u>General Funds - 010-Z11201</u>		<u>QTR1</u>		<u>QTR2</u>		<u>QTR3</u>		<u>QTR4</u>		<u>TOTAL</u>
Personal Services Allotment	\$	356,376	\$	476,920	\$	498,590	\$	322,211	\$	1,654,097
Payroll to date		(228,374)		(219,358)		(291,670)		-		(739,402)
Estimated payroll remaining		-		-		(103,333)		(340,524)		(443,856)
Total Personal Services available	\$	128,002	\$	257,562	\$	103,587	\$	(18,313)	\$	470,839

All Other Allotment	\$	5,999,978	\$	3,287,495	\$	3,549,645	\$	3,307,728	\$	16,144,846
Expenditures to date		(4,750,452)		(3,428,505)		(3,295,919)		-		(11,474,876)
Encumbrances		(1,249,525)		141,010		136,032		-		(972,483)
Total All Other Available	\$	0	\$	0	\$	389,758	\$	3,307,728	\$	3,697,487

Unencumbered balance forward 506,889.06 Requires Financial Order to Allot Balance Forward

<u>Other Special Revenue Funds - 014-Z11201</u>		<u>QTR1</u>		<u>QTR2</u>		<u>QTR3</u>		<u>QTR4</u>		<u>TOTAL</u>
Personal Services Allotment	\$	211,632	\$	194,116	\$	211,632	\$	105,856	\$	723,236
Payroll to date		(151,218)		(135,180)		(125,594)		-		(411,992)
Estimated payroll remaining		-		-		(71,793)		(150,807)		(222,600)
Total Personal Services available	\$	60,414	\$	58,936	\$	14,245	\$	(44,951)	\$	88,645

All Other Allotment	\$	597,904	\$	2,178,376	\$	4,741,357	\$	2,147,896	\$	9,665,533
Expenditures to date		(597,904)		(2,178,375)		(107,453)		-		(2,883,732)
Encumbrances		-		-		-		-		-
Total All Other Available	\$	0	\$	1	\$	4,633,904	\$	2,147,896	\$	6,781,801

CASH ON HAND 3/1/2023 \$ 13,445,504.80

<u>Other Special Revenue Funds - 014-Z11202</u>		<u>QTR1</u>		<u>QTR2</u>		<u>QTR3</u>		<u>QTR4</u>		<u>TOTAL</u>
All Other Allotment	\$	-	\$	-	\$	57,000	\$	-	\$	57,000
Expenditures to date		-		-		-		-		-
Encumbrances		-		-		-		-		-
Total All Other Available	\$	-	\$	-	\$	57,000	\$	-	\$	57,000

CASH ON HAND 3/1/2023 \$ 16,232.70

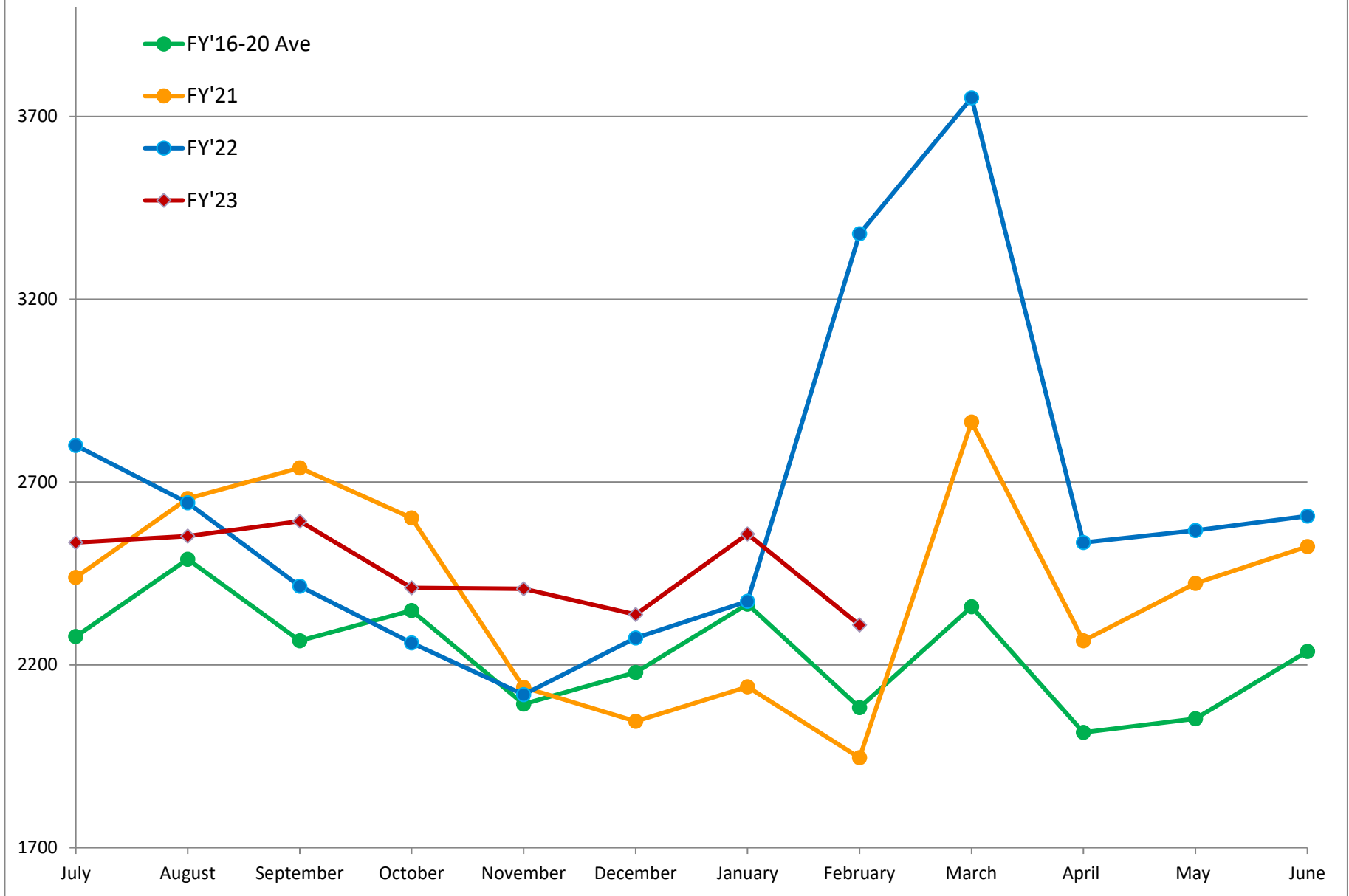
<u>ARPA Funds - 023-Z11201</u>		<u>QTR1</u>		<u>QTR2</u>		<u>QTR3</u>		<u>QTR4</u>		<u>TOTAL</u>
All Other Allotment	\$	-	\$	-	\$	4,000,000	\$	-	\$	4,000,000
Expenditures to date		-		-		-		-		-
Encumbrances		-		-		-		-		-
Total All Other Available	\$	-	\$	-	\$	4,000,000	\$	-	\$	4,000,000

CASH ON HAND 3/1/2023 \$ 250,000.00

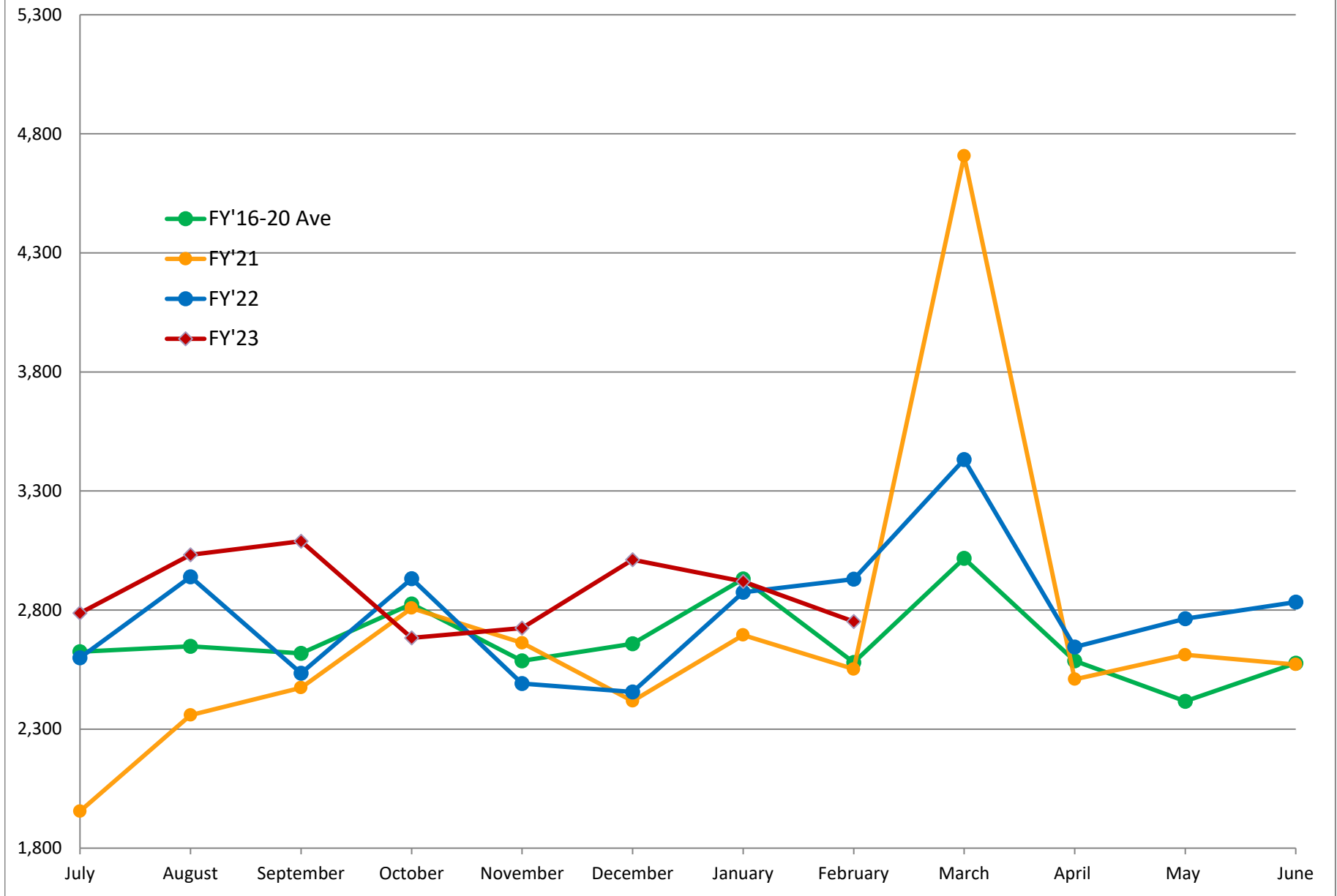
Other Special Revenue Funds - 014-Z25801

Reserve for ILS Cash on hand/UBF 3/1/2023 \$ 2,622,678.58 Approved in Supplemental. Allotment should be available after 4/1/23

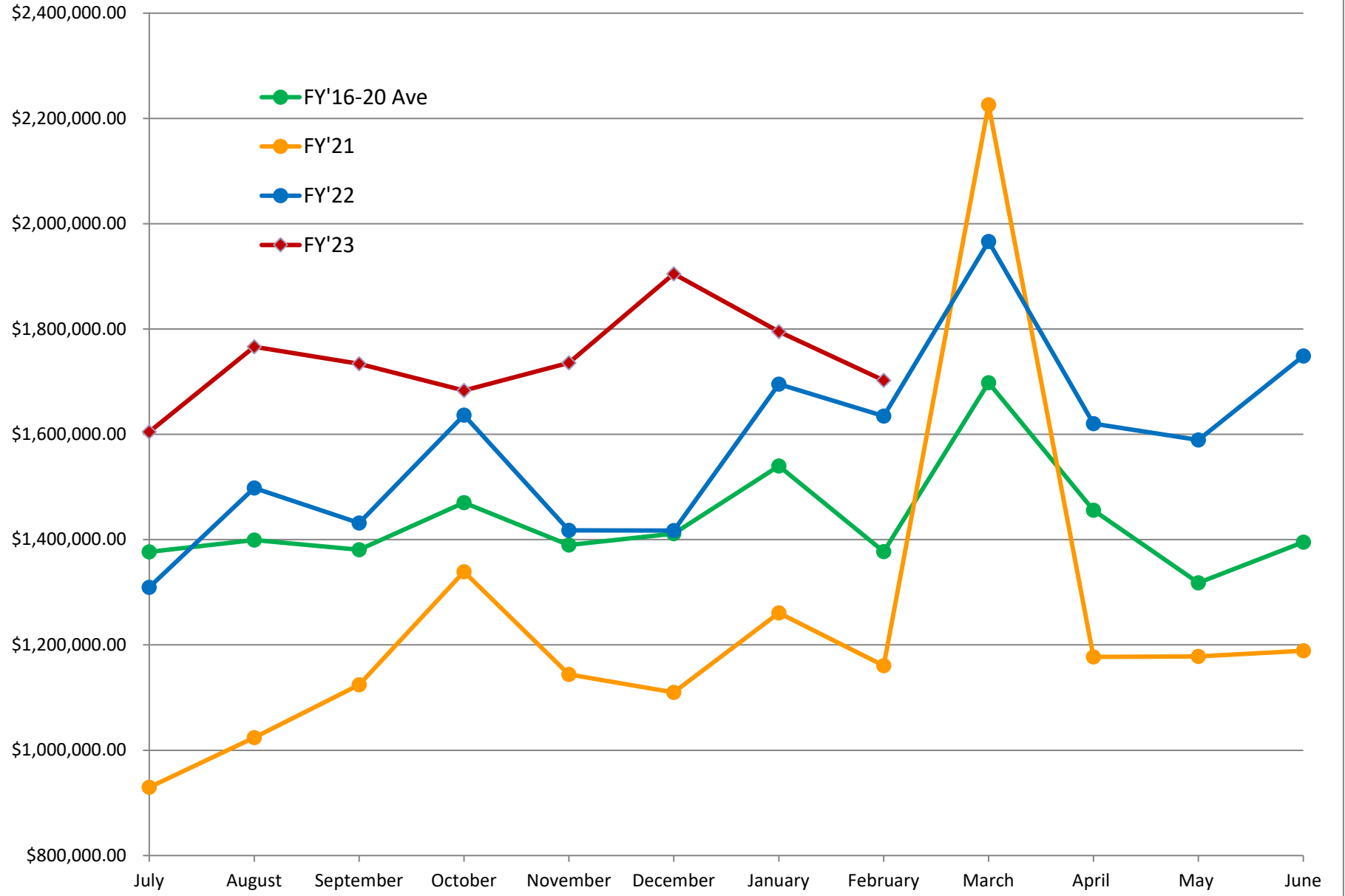
NEW CASES



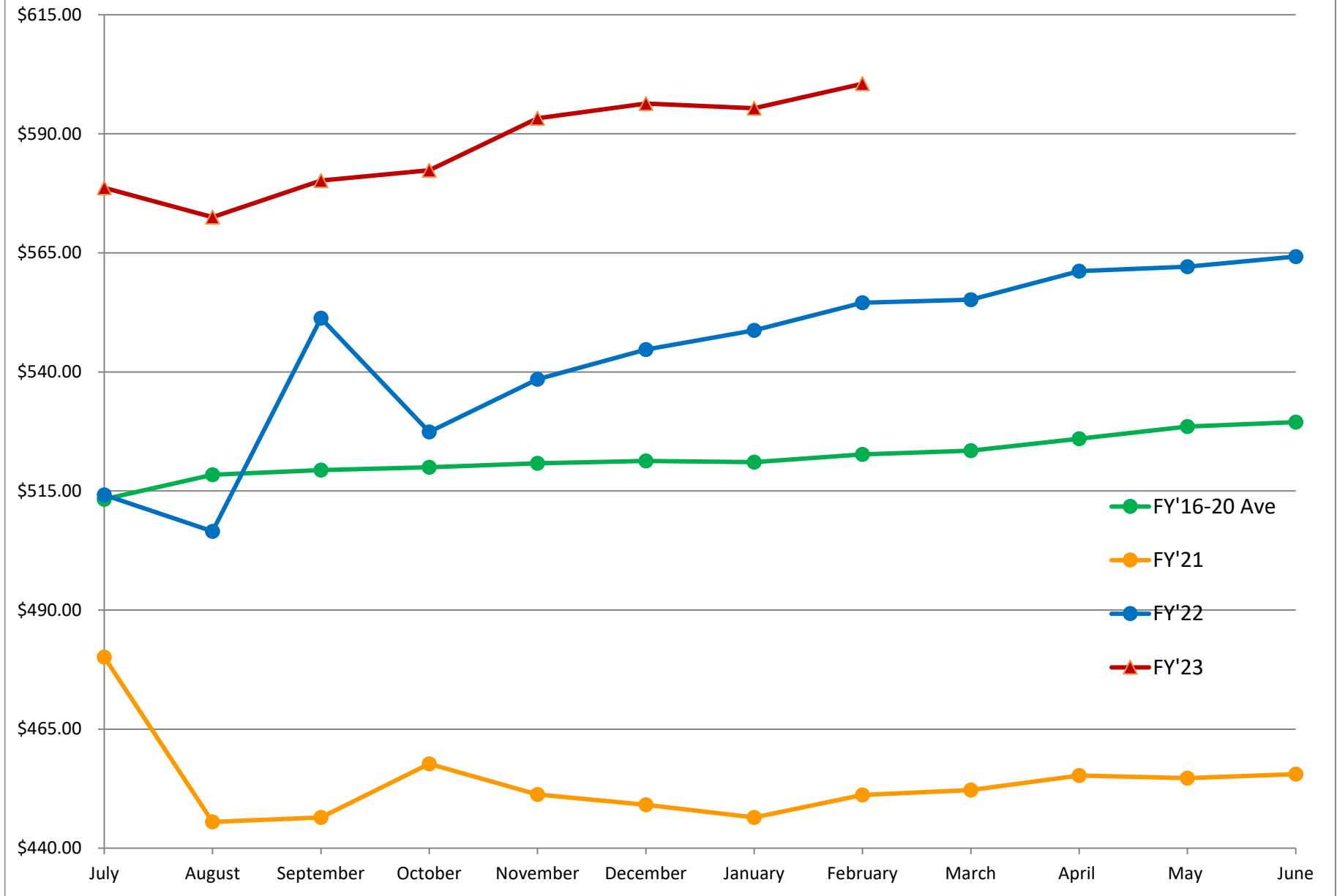
Submitted Vouchers



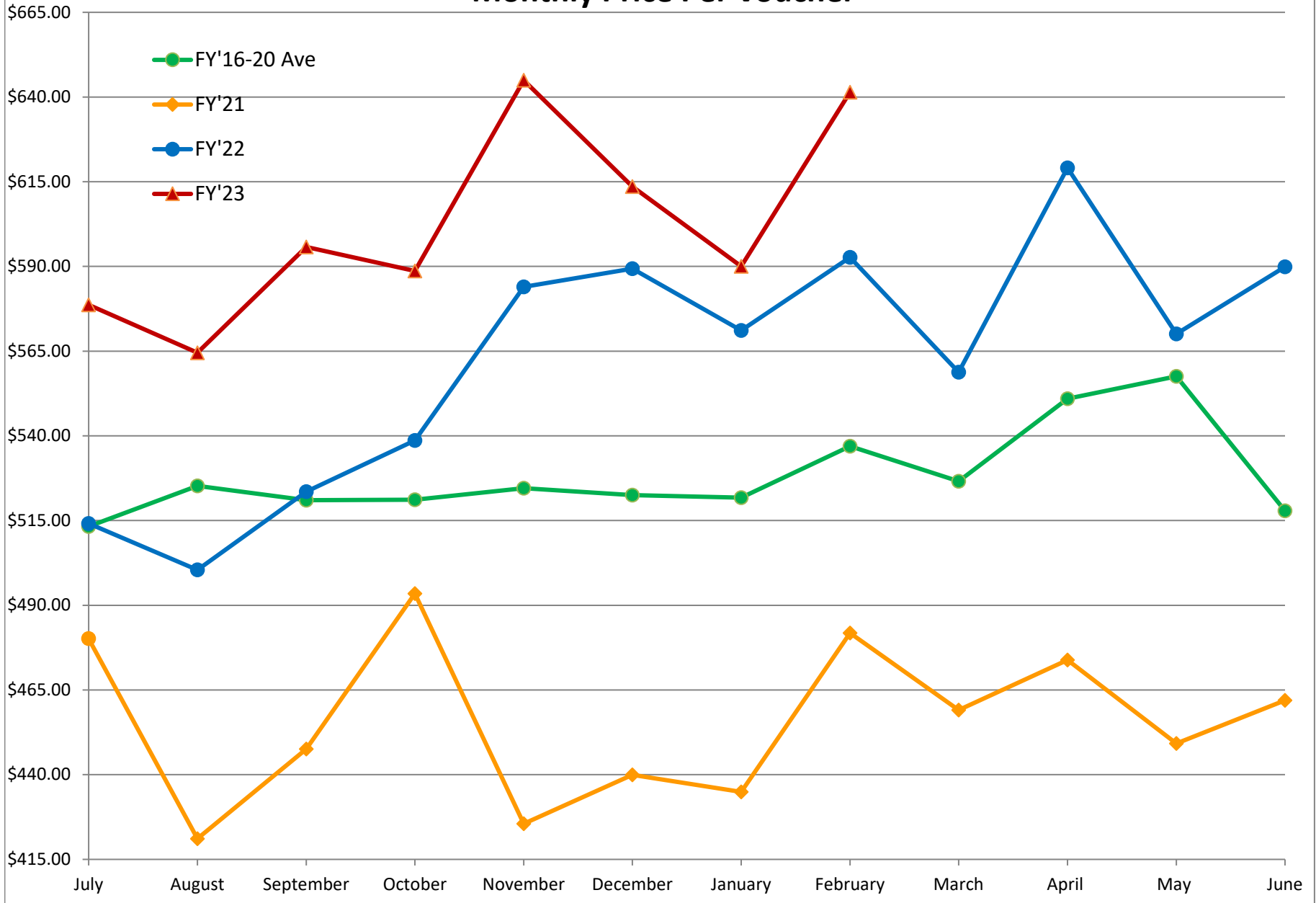
Submitted Voucher Amount



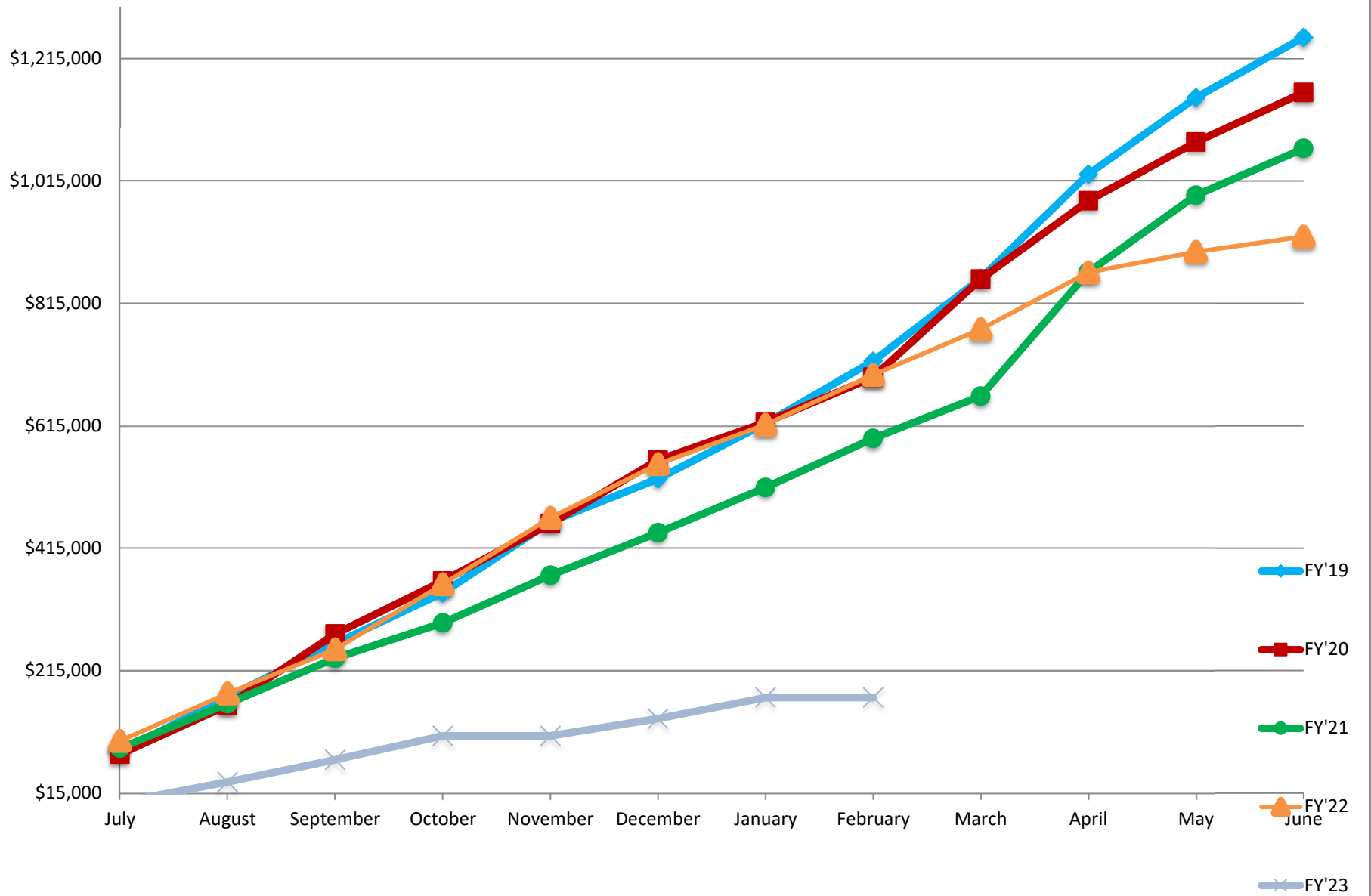
Average Voucher Price Fiscal Year to Date



Monthly Price Per Voucher



COLLECTION TOTALS FY'19 to FY'23



Pending UCD Cases as of March 10, 2023

UCD	FELONY				MISDEMEANOR				CIVIL VIOLATION			ALL CASES			
	Pending	On DD	No IA	% No IA	Pending	On DD	No IA	% No IA	Pending	No IA	% No IA	Pending	On DD	No IA	% No IA
Androscoggin	680	76	35	5.1%	2,127	236	254	11.9%	6	1	16.7%	2,813	312	290	10.3%
Aroostook	719	118	42	5.8%	975	253	166	17.0%	31	16	51.6%	1,725	371	224	13.0%
Caribou	173	22	9	5.2%	203	63	26	12.8%	8	5	62.5%	384	85	40	10.4%
Fort Kent	133	16	10	7.5%	173	53	21	12.1%	8	6	75.0%	314	69	37	11.8%
Houlton	203	30	8	3.9%	277	77	52	18.8%	10	5	50.0%	490	107	65	13.3%
Presque Isle	210	50	15	7.1%	322	60	67	20.8%	5	0	0.0%	537	110	82	15.3%
Cumberland	1,241	199	120	9.7%	3,698	497	717	19.4%	74	32	43.2%	5,013	696	869	17.3%
Bridgton	25	9	4	16.0%	298	50	53	17.8%	13	8	61.5%	336	59	65	19.3%
Portland	1,190	187	112	9.4%	2,882	361	537	18.6%	40	18	45.0%	4,112	548	667	16.2%
West Bath	26	3	4	15.4%	518	86	127	24.5%	21	6	28.6%	565	89	137	24.2%
Franklin	149	29	8	5.4%	455	117	89	19.6%	30	14	46.7%	634	146	111	17.5%
Hancock	410	37	27	6.6%	680	106	138	20.3%	57	34	59.6%	1,147	143	199	17.3%
Kennebec	629	74	42	6.7%	1,712	310	341	19.9%	21	9	42.9%	2,362	384	392	16.6%
Augusta	598	69	39	6.5%	1,045	183	195	18.7%	13	3	23.1%	1,656	252	237	14.3%
Waterville	31	5	3	9.7%	667	127	146	21.9%	8	6	75.0%	706	132	155	22.0%
Knox	236	52	20	8.5%	574	159	103	17.9%	21	3	14.3%	831	211	126	15.2%
Lincoln	138	38	9	6.5%	384	135	71	18.5%	9	2	22.2%	531	173	82	15.4%
Oxford	471	64	45	9.6%	1,125	154	253	22.5%	21	9	42.9%	1,617	218	307	19.0%
Bridgton	42	9	2	4.8%	123	28	16	13.0%	2	1	50.0%	167	37	19	11.4%
Rumford	170	27	25	14.7%	443	49	130	29.3%	9	2	22.2%	622	76	157	25.2%
South Paris	259	28	18	6.9%	559	77	107	19.1%	10	6	60.0%	828	105	131	15.8%
Penobscot	885	34	103	11.6%	1,731	45	566	32.7%	55	35	63.6%	2,671	79	704	26.4%
Bangor	853	33	94	11.0%	1,336	31	430	32.2%	33	20	60.6%	2,222	64	544	24.5%
Lincoln	8	1	3	37.5%	187	6	65	34.8%	9	6	66.7%	204	7	74	36.3%
Newport	24	0	6	25.0%	208	8	71	34.1%	13	9	69.2%	245	8	86	35.1%
Piscataquis	45	2	13	28.9%	95	4	23	24.2%	5	0	0.0%	145	6	36	24.8%
Sagadahoc	191	57	24	12.6%	509	183	79	15.5%	13	4	30.8%	713	240	107	15.0%
Somerset	235	38	13	5.5%	525	131	118	22.5%	16	6	37.5%	776	169	137	17.7%
Waldo	178	34	16	9.0%	320	84	62	19.4%	9	3	33.3%	507	118	81	16.0%
Washington	171	21	6	3.5%	277	47	37	13.4%	18	5	27.8%	466	68	48	10.3%
Calais	74	3	4	5.4%	116	16	19	16.4%	6	1	16.7%	196	19	24	12.2%
Machias	97	18	2	2.1%	161	31	18	11.2%	12	4	33.3%	270	49	24	8.9%
York	1,175	124	236	20.1%	3,876	783	739	19.1%	102	35	34.3%	5,153	907	1,010	19.6%
Alfred	1,122	120	224	20.0%	85	22	24	28.2%	1	1	--	1,208	142	249	20.6%
Biddeford	26	1	7	26.9%	2,035	432	317	15.6%	63	18	28.6%	2,124	433	342	16.1%
Springvale	16	0	4	25.0%	1,233	204	302	24.5%	31	12	38.7%	1,280	204	318	24.8%
York	11	3	1	9.1%	523	125	96	18.4%	7	4	57.1%	541	128	101	18.7%
TOTAL	7,553	997	759	10.0%	19,063	3,244	3,756	19.7%	488	208	42.6%	27,104	4,241	4,723	17.4%

Columns

- Pending** Number of cases having at least one charge without a disposition, and without a currently active warrant.
- On DD** Number of pending cases with an Order of Deferred Disposition entered.
- No IA** Number of pending cases with a complaint filed, but not having an initial appearance or arraignment held or waived.
- % No IA** Percent of pending cases without an initial appearance/arraignment.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the court are not included in the reported counts.

Change in Pending UCD Cases, March 2022 to March 2023

Pending cases as of March 10 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2022	2023	% Diff	2022	2023	% Diff	2022	2023	% Diff	2022	2023	% Diff
Androscoggin	636	680	6.9%	2,109	2,127	0.9%	22	6	-72.7%	2,767	2,813	1.7%
Aroostook	745	719	-3.5%	1,111	975	-12.2%	29	31	6.9%	1,885	1,725	-8.5%
Caribou	169	173	2.4%	239	203	-15.1%	5	8	60.0%	413	384	-7.0%
Fort Kent	90	133	47.8%	197	173	-12.2%	2	8	300.0%	289	314	8.7%
Houlton	240	203	-15.4%	355	277	-22.0%	9	10	11.1%	604	490	-18.9%
Presque Isle	246	210	-14.6%	320	322	0.6%	13	5	-61.5%	579	537	-7.3%
Cumberland	1,286	1,241	-3.5%	3,705	3,698	-0.2%	101	74	-26.7%	5,092	5,013	-1.6%
Bridgton	22	25	13.6%	325	298	-8.3%	27	13	-51.9%	374	336	-10.2%
Portland	1,238	1,190	-3.9%	2,985	2,882	-3.5%	55	40	-27.3%	4,278	4,112	-3.9%
West Bath	26	26	0.0%	395	518	31.1%	19	21	10.5%	440	565	28.4%
Franklin	100	149	49.0%	270	455	68.5%	5	30	500.0%	375	634	69.1%
Hancock	275	410	49.1%	548	680	24.1%	49	57	16.3%	872	1,147	31.5%
Kennebec	574	629	9.6%	1,705	1,712	0.4%	38	21	-44.7%	2,317	2,362	1.9%
Augusta	553	598	8.1%	1,113	1,045	-6.1%	26	13	-50.0%	1,692	1,656	-2.1%
Waterville	21	31	47.6%	592	667	12.7%	12	8	-33.3%	625	706	13.0%
Knox	198	236	19.2%	453	574	26.7%	16	21	31.3%	667	831	24.6%
Lincoln	136	138	1.5%	286	384	34.3%	13	9	-30.8%	435	531	22.1%
Oxford	396	471	18.9%	905	1,125	24.3%	19	21	10.5%	1,320	1,617	22.5%
Bridgton	35	42	20.0%	115	123	7.0%	3	2	-33.3%	153	167	9.2%
Rumford	156	170	9.0%	381	443	16.3%	5	9	80.0%	542	622	14.8%
South Paris	205	259	26.3%	409	559	36.7%	11	10	-9.1%	625	828	32.5%
Penobscot	889	885	-0.4%	2,172	1,731	-20.3%	101	55	-45.5%	3,162	2,671	-15.5%
Bangor	864	853	-1.3%	1,680	1,336	-20.5%	36	33	-8.3%	2,580	2,222	-13.9%
Lincoln	6	8	33.3%	269	187	-30.5%	25	9	-64.0%	300	204	-32.0%
Newport	19	24	26.3%	223	208	-6.7%	40	13	-67.5%	282	245	-13.1%
Piscataquis	45	45	0.0%	96	95	-1.0%	27	5	-81.5%	168	145	-13.7%
Sagadahoc	151	191	26.5%	432	509	17.8%	18	13	-27.8%	601	713	18.6%
Somerset	187	235	25.7%	432	525	21.5%	14	16	14.3%	633	776	22.6%
Waldo	184	178	-3.3%	287	320	11.5%	23	9	-60.9%	494	507	2.6%
Washington	164	171	4.3%	305	277	-9.2%	19	18	-5.3%	488	466	-4.5%
Calais	71	74	4.2%	113	116	2.7%	5	6	20.0%	189	196	3.7%
Machias	93	97	4.3%	192	161	-16.1%	14	12	-14.3%	299	270	-9.7%
York	1,097	1,175	7.1%	4,330	3,876	-10.5%	151	102	-32.5%	5,578	5,153	-7.6%
Alfred	1,048	1,122	7.1%	117	85	-27.4%	0	1	0.0%	1,165	1,208	3.7%
Biddeford	26	26	0.0%	2,396	2,035	-15.1%	121	63	-47.9%	2,543	2,124	-16.5%
Springvale	12	16	33.3%	1,198	1,233	2.9%	22	31	40.9%	1,232	1,280	3.9%
York	11	11	0.0%	619	523	-15.5%	8	7	-12.5%	638	541	-15.2%
TOTAL	7,063	7,553	6.9%	19,146	19,063	-0.4%	645	488	-24.3%	26,854	27,104	0.9%

Columns

2022	Number of cases having at least one charge without a disposition, and without a currently active warrant as of March 10, 2022
2023	Number of cases having at least one charge without a disposition, and without a currently active warrant as of March 10, 2023
% Diff	Percent change in pending cases from 2022 to 2023. Red percentages represent an increase, green percentages a decrease.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the courts are not included in the reported counts.

Change in Pending UCD Cases, March 2019 to March 2023

Pending cases as of March 10 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2019	2023	% Diff	2019	2023	% Diff	2019	2023	% Diff	2019	2023	% Diff
Androscoggin	364	680	86.8%	1,300	2,127	63.6%	19	6	-68.4%	1,683	2,813	67.1%
Aroostook	319	719	125.4%	578	975	68.7%	47	31	-34.0%	944	1,725	82.7%
Caribou	58	173	198.3%	130	203	56.2%	3	8	166.7%	191	384	101.0%
Fort Kent	33	133	303.0%	102	173	69.6%	7	8	14.3%	142	314	121.1%
Houlton	100	203	103.0%	128	277	116.4%	6	10	66.7%	234	490	109.4%
Presque Isle	128	210	64.1%	218	322	47.7%	31	5	-83.9%	377	537	42.4%
Cumberland	779	1,241	59.3%	2,399	3,698	54.1%	116	74	-36.2%	3,294	5,013	52.2%
Bridgton	10	25	150.0%	195	298	52.8%	24	13	-45.8%	229	336	46.7%
Portland	751	1,190	58.5%	1,894	2,882	52.2%	69	40	-42.0%	2,714	4,112	51.5%
West Bath	18	26	44.4%	310	518	67.1%	23	21	-8.7%	351	565	61.0%
Franklin	88	149	69.3%	263	455	73.0%	6	30	400.0%	357	634	77.6%
Hancock	210	410	95.2%	426	680	59.6%	43	57	32.6%	679	1,147	68.9%
Kennebec	312	629	101.6%	1,037	1,712	65.1%	59	21	-64.4%	1,408	2,362	67.8%
Augusta	300	598	99.3%	594	1,045	75.9%	35	13	-62.9%	929	1,656	78.3%
Waterville	12	31	158.3%	443	667	50.6%	24	8	-66.7%	479	706	47.4%
Knox	133	236	77.4%	297	574	93.3%	1	21	2000.0%	431	831	92.8%
Lincoln	99	138	39.4%	212	384	81.1%	4	9	125.0%	315	531	68.6%
Oxford	204	471	130.9%	444	1,125	153.4%	24	21	-12.5%	672	1,617	140.6%
Bridgton	25	42	68.0%	74	123	66.2%	7	2	-71.4%	106	167	57.5%
Rumford	92	170	84.8%	175	443	153.1%	8	9	12.5%	275	622	126.2%
South Paris	87	259	197.7%	195	559	186.7%	9	10	11.1%	291	828	184.5%
Penobscot	341	885	159.5%	1,002	1,731	72.8%	133	55	-58.6%	1,476	2,671	81.0%
Bangor	332	853	156.9%	786	1,336	70.0%	88	33	-62.5%	1,206	2,222	84.2%
Lincoln	5	8	60.0%	49	187	281.6%	21	9	-57.1%	75	204	172.0%
Newport	4	24	500.0%	167	208	24.6%	24	13	-45.8%	195	245	25.6%
Piscataquis	16	45	181.3%	40	95	137.5%	25	5	-80.0%	81	145	79.0%
Sagadahoc	75	191	154.7%	212	509	140.1%	26	13	-50.0%	313	713	127.8%
Somerset	131	235	79.4%	469	525	11.9%	73	16	-78.1%	673	776	15.3%
Waldo	102	178	74.5%	225	320	42.2%	2	9	350.0%	329	507	54.1%
Washington	101	171	69.3%	177	277	56.5%	39	18	-53.8%	317	466	47.0%
Calais	29	74	155.2%	75	116	54.7%	7	6	-14.3%	111	196	76.6%
Machias	72	97	34.7%	102	161	57.8%	32	12	-62.5%	206	270	31.1%
York	762	1,175	54.2%	2,455	3,876	57.9%	95	102	7.4%	3,312	5,153	55.6%
Alfred	709	1,122	58.3%	75	85	13.3%	0	1	0.0%	784	1,208	54.1%
Biddeford	27	26	-3.7%	1,160	2,035	75.4%	48	63	31.3%	1,235	2,124	72.0%
Springvale	18	16	-11.1%	741	1,233	66.4%	31	31	0.0%	790	1,280	62.0%
York	8	11	37.5%	479	523	9.2%	16	7	-56.3%	503	541	7.6%
TOTAL	4,036	7,553	87.1%	11,536	19,063	65.2%	712	488	-31.5%	16,284	27,104	66.4%

Columns

2019	Number of cases having at least one charge without a disposition, and without a currently active warrant as of March 10, 2019
2023	Number of cases having at least one charge without a disposition, and without a currently active warrant as of March 10, 2023
% Diff	Percent change in pending cases from 2019 to 2023. Red percentages represent an increase, green percentages a decrease.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the courts are not included in the reported counts.

**POLICY FOR REIMBURSEMENT OF CERTAIN LEGAL FEES INCURRED
BY COUNSEL**

TO: MCILS STAFF

FROM: EXECUTIVE DIRECTOR JUSTIN ANDRUS

SUBJECT: POLICY FOR REIMBURSEMENT OF CERTAIN LEGAL FEES INCURRED
BY COUNSEL

DATE: MARCH 15, 2023

CC: COMMISSION

MCILS hereby adopts the following policy with respect to reimbursing assigned and contract counsel for legal fees incurred by counsel in defending claims brought by current or former assigned clients:

1. **Purpose:** this policy is designed to reimburse counsel for attorney's fees incurred by them in the event that a current or former assigned client pursues legal action against them based on an alleged claim arising out of their representation.
2. **Definitions:**
 - a. Executive Director: the Executive Director of the Maine Commission on Indigent Legal Services.
 - b. Eligible legal action: a civil or criminal claim in a state or federal court initiated by or on behalf of a current or former client against their assigned counsel.
 - c. In good standing: authorized to practice law in Maine, eligible to receive case MCILS assignments, and not under suspension with the Commission or the Maine Board of Overseers of the Bar.
 - d. Assigned client: a person to whom counsel was appointed by a court or assigned by the Commission to represent.
 - e. Legal fees: money charged by an attorney for their services and costs related to the defense, including postage, filing fees, subpoenas, expert fees, and the like.
3. **Applicability:** counsel may apply to the Commission for reimbursement of legal fees expended in defending against legal actions by a current or former assigned client if all the following criteria are satisfied:
 - a. Counsel satisfies the Commission that the legal action was frivolous, harassing, or based on false claims or allegations.
 - b. The legal action arises out of or would not have been brought but for the attorney's assignment to represent the client.

- c. Counsel must have been in good standing with MCILS and the Board of Overseers of the Bar:
 - i. At all times during counsel's representation of the client;
 - ii. At the time of the alleged conduct which formed the basis of the legal action; and
 - iii. At the time counsel requested reimbursement of legal fees.
- d. Counsel paid another attorney to represent them in the defense of the legal action.
- e. The case against counsel was dismissed, with or without evidence having been heard.

4. Exclusions and Limitations:

- a. Counsel will not be reimbursed for legal fees expended to defend:
 - i. Malpractice claims;
 - ii. Board of Bar Overseers complaints;
 - iii. Cases in which counsel settled the matter out of court in exchange for dismissal; or
 - iv. Cases in which a criminal charge or civil violation was dismissed pursuant to a filing, formal or informal deferred disposition, or plea to another offense.
- b. Counsel will not be reimbursed for legal fees for self-representation.
- c. Counsel will not be reimbursed for their time, lost wages, or anything other than legal fees as defined herein.
- d. Counsel will not be reimbursed for legal fees paid by a third party, including but not limited to, a malpractice insurance company.

5. Procedure for Requesting Reimbursement:

- a. If counsel is seeking reimbursement of legal fees, they must submit a written request to the Executive Director. That request shall include, at a minimum:
 - i. The order appointing counsel to represent the client;
 - ii. A summary of the allegations the client made against the attorney that formed the basis for the legal action and how the case was disposed;
 - iii. The docket record;
 - iv. The dispositional order; and
 - v. The itemized bill for legal fees and receipt for payment of the same.
- b. Counsel must submit any additional information or documentation requested by the Commission.
- c. Counsel must submit the request for reimbursement after the client's deadline to appeal has lapsed and not later than 90 days of the dismissal of the case.
 - i. Requests submitted more than 90 days after the dismissal of the case shall be denied by the Executive Director, regardless of the amount of the legal fees. Such denials constitute final agency action.

6. Authorization:

- a. Requests for legal fees totaling less than \$1,000.00:

- i. The Executive Director—in their discretion—may approve the request, deny the request, or forward the request to the Commissioners for consideration at the next regularly scheduled Commission meeting.
 - ii. Denial of a request pursuant to subsection 6(a)(i), above, constitutes final agency action.
 - iii. Requests which are forwarded to the Commissioners under subsection 6(a)(i), above, require a vote of the Commissioners.
 - 1. Denial of a request by the Commission constitutes final agency action.
- b. Requests for legal fees totaling \$1,000.00 or more:
- i. Once counsel has submitted a complete written request, the Executive Director will forward the same to the Commissioners for consideration at the next regularly scheduled Commission meeting.
 - ii. Requests for legal fees totaling \$1,000.00 or more require a vote of the Commissioners.
 - 1. Denial of a request by the Commission constitutes final agency action.

94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES**Chapter 4: CASELOAD STANDARDS FOR ASSIGNED COUNSEL AND CONTRACT COUNSEL**

Summary: The purpose of this rule is to implement 4 M.R.S. § 1804(2)(C) by prescribing “[s]tandards for assigned counsel and contract counsel case loads” for attorneys accepting assignments to represent consumers of indigent legal services. The objective is to ensure that attorneys are not overscheduled or overworked and are able to provide effective, high quality, representation to each client.

SECTION 1. DEFINITIONS

- A. **Points:** the weight assigned to each case type.
- B. **Case type:** the type of matter to which the attorney is assigned.
- C. **Maximum case type:** represents the maximum number of cases of a particular case type that an attorney could carry at one time, if the attorney only accepted cases of that one type.
- D. **Average hours per case:** the anticipated average ~~amount~~ number of hours that would be spent on a case of a particular type.
- E. **Maximum active caseload limit:** the maximum total points across all case types that an attorney may carry on their caseload at any given time and remain qualified to be on a roster of attorneys eligible to receive assignments, based on the percentage of an attorney’s work hours which are dedicated to assigned cases.
- F. **Maximum annual hours limit:** the presumptive maximum number of hours that MCILS holds an attorney ~~may bill to MCILS~~ should work for consumers of indigent legal services over a rolling 12-month period, ~~based on~~ modified by the percentage of an attorney’s work hours which are dedicated to assigned cases.
 - i. The maximum annual hours limit is only used for purposes of applying the caseload limits. If an attorney’s vouchers exceed the maximum annual hours, the attorney will still be paid in accordance with Commission rules.

SECTION 2. CASE TYPE CALCULATION

- A. Criminal & Juvenile Cases:

- i. In each docket, the charge assigned the highest points—at the time of appointment—determines the case type.
- ii. Other offenses contained within a single charging instrument are not assigned a point value.
- iii. If an attorney represents a client on multiple dockets, each docket is considered ~~a new case type a separate case. Each case type is assigned cumulative points. That case is valued according to the charge with the highest point value. Each separate case is assigned cumulative points.~~
- iv. The point value assigned is applicable to each case from assignment through disposition of the matter. Post-conviction reviews and probation violations are considered new case types, regardless of whether the attorney represented the client in the original case.

B. Child Protective Cases:

- i. The point value assigned is applicable to the entire case, from assignment through final resolution of the matter at the district court level. Points are not assigned to each distinct phase (*e.g.*, jeopardy, termination of parental rights).
- ii. If a client has multiple pending PC docket numbers because the client has multiple children, only one docket number is assigned a point value at any one time.

C. Appeals to the Supreme Court of Maine:

- i. Appeals to the Supreme Court of Maine are considered new case types, regardless of whether the attorney represented the client in the trial court.

D. Lawyer of the Day:

- i. The point value associated with lawyer for the day duties is assigned per appearance.
 1. If counsel serves as lawyer of the day for a morning session that continues into the afternoon, that will be one appearance. If counsel serves as lawyer of the day for a morning session and then a subsequent afternoon session with a second appearance time and list, that will be two appearances.

E. Specialty Courts and Projects:

- i. The point value assigned to specialty courts only applies to the attorney who is the defense representative for that specialty court, or who performs an administrative function for MCILS with respect to that specialty court or

project, not to every attorney who has a client sentenced to the specialty court or otherwise engaged in a project.

- ii. The point value assigned to specialty courts and projects applies per court appearance, regardless of duration.
 1. Court appearance is defined by an instance in which the specialty court is in session, not by the number of participants who appear in court at a particular session.

SECTION 3. POINTS

A. MCILS has established the following point values for each respective case type:

Case Type:	Point Value:	Maximum Case Type:	Average Hours Per Case:
Class A Crime	4	67	29.6
Class B & C Person Crime	3	90	22.2
Class B & C Property Crime	2	135	14.8
Class D & E Crime	1	270	7.4
Probation Violation	1.25	216	9.25
Post-Conviction Review	6	45	44.4
Appeal	10	27	74
Juvenile	2	135	14.8
Lawyer of the Day (per appearance)	0.5	540	3.7
Protective Custody	5	54	37
Involuntary Commitment	1.25	270 216	9.25 7.4
Inv. Commit. Appeal to Superior Court	2	135	14.8
Emancipation	0.75	357	5.6
Probate	3	90	22.2
Specialty Courts (per appearance)	0.5	540	3.7
Pet. for Mod. of Release or Treatment	3	90	22.2
Petition for Release	3	90	22.2

~~B. MCILS will reevaluate and update the point values as appropriate.~~

SECTION 4. LIMITS

A. MCILS has established a maximum active caseload limit of 270 points, based on a presumptive maximum annual hours limit of 2,000. An attorney ~~may not maintain~~

~~whose~~ caseload ~~exceeding~~ ~~exceeds~~ 270 points at any one time ~~and remain on a roster(s) of attorneys eligible to receive assignments is ineligible to receive additional assignments to represent consumers of indigent legal services,~~ unless granted a waiver pursuant to Section 7 below.

~~B. For purposes of the maximum annual hours limit, the hours are calculated based on vouchers submitted for work performed within the preceding 12 months.~~

~~C.B.~~ The applicable maximum caseload and hours limits are reduced proportionately, based upon the percentage of the attorney’s work hours that are dedicated to MCILS cases. The following chart reflects this calculation, based on an active caseload limit of ~~270~~~~250~~ points and an annual limit of 2,000 billed hours:

% of Attorney’s Work Hours Spent on MCILS Cases:	Caseload Limit:	Hours Limit:
100%	270 250	2,000
75%	202 188	1500
50%	135 125	1000
25%	67 63	500
10%	27 25	200

~~D.C.~~ Case Closed:

- i. When a case is closed in the MCILS case management system defenderData, the points assigned to that case are deducted from the attorney’s active caseload points total.

~~E.D.~~ Deferred Disposition:

- i. When the disposition of a case in defenderData the MCILS case management system is changed to reflect a deferment, the points assigned to that case are deducted from the attorney’s active caseload points total.

~~F.E.~~ Other events that toll cases:

- i. When a case enters a status that effectively tolls its progress, the points assigned to that case may be deducted from the attorney’s active caseload points total at the discretion of the Executive Director or designee. Events that ~~effectively~~~~effectively~~ toll the progress of a case may include a filing; long-term continuance; client in absent~~or~~ fugitive status; or, similar events.

SECTION 5. APPLICATION

A. Applicable Caseload Limit:

i. All attorneys accepting assignments to represent consumers of indigent legal services are required to annually certify to MCILS approximately what portion of their annual working hours are dedicated to assigned cases.

~~ii. All attorneys who are seeking, or will seek, assignments are required to submit their certification 30 days prior to the effective date of this rule.~~

ii. All attorneys who are eligible to accept case assignments on the effective date of this rule must submit their first certification not later than 30 calendar days after the effective date of this rule and by July 15th of that year and every year thereafter, as outlined below.

iii. Attorneys who apply to accept MCILS cases will be required to submit this certification prior to receiving ~~any additional~~ case assignments.

~~iii.iv.~~ Attorneys who renew their eligibility to accept MCILS cases must, at the time of the submission of their renewal application, submit a new certification of approximately what portion of their annual working hours are dedicated to assigned cases. This certification must be submitted to MCILS no later than July 15th of each year.

~~iv.v.~~ After a certification is submitted, the attorney's maximum active caseload limit will be set in the MCILS information management system.

~~v.vi.~~ If an attorney's workload percentages change significantly prior to the annual certification, the attorney can request that MCILS adjust their maximum caseload and/or hours limits.

1. Attorneys will always have the ability to opt out of case types and courts to reduce the number of new assignments they receive.

~~vi.vii.~~ This certification must be completed on the form provided by MCILS. ~~The form may be a webform. If so, the certification must be provided through that webform.~~

~~vii.viii.~~ Failure to complete the certification as required will result in suspension from all rosters until the certification has been completed to the satisfaction of the Executive Director or their designee.

~~viii.ix.~~ Suspected falsification of a certification will result in the initiation of an MCILS assessment and/or investigation.

B. Case Entry & Closing:

- i. Counsel are responsible for ensuring that all cases are opened in ~~Defender Data~~defenderData the MCILS case management system within 7 calendar days of the receipt of notice of assignment in any form, and that cases are closed in ~~Defender Data~~defenderData the MCILS case management system within 7 days of the completion of work in the file.

SECTION 6. EXCEPTIONS

- A. If an attorney has reached the active caseload and/or annual hours limit, the attorney may exceed those limits to accept new assigned cases for a client the attorney then presently represents. The points and hours associated with the new cases will be calculated and added to the attorney's total in accordance with this rule.

SECTION 7. WAIVER

- A. An attorney may apply for a temporary waiver of the active caseload limit ~~or the annual hours limit, but not both.~~
- B. A temporary waiver may be granted for a period of up to 6 months.
- C. Application must be made to the Executive Director or their designee in the manner designated by MCILS.
- D. Waivers are discretionary and will only be granted for good cause.
- E. In determining whether to grant a waiver, the Executive Director or their designee may consider some or all the following factors:
 - i. The attorney's representation about their current capacity to accept additional cases;
 - ii. The reason the waiver is being requested;
 - iii. The attorney's experience level;
 - iv. Whether the attorney has support staff;
 - v. Whether the attorney represents a client in multiple, related dockets which require less time to resolve;
 - vi. To the extent that data is available to MCILS, whether the attorney practices primarily in courts experiencing longer average times to resolution of cases than the 12 months indicated in Section 4(B) as the basis for calculating annual workload and caseload limits; and/or

- vii. Any other factors relevant to whether in the discretion of the Executive Director or designee the waiver should be granted.
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STATUTORY AUTHORITY:

4 M.R.S. §§ 1804(2)(C), (2)(GA) and (4)(D)

EFFECTIVE DATE:

Maine Commission on Indigent Legal Services

Response to Public Comments

Proposed Rule: Chapter 4- Caseload Standards for Assigned Counsel and Contract Counsel

Comment #1:

The proposed standards are insufficiently granular because they are organized around overbroad categories of cases.

- a. There are many different types of offenses which fall into the categories of cases set forth in the proposed rule. Those offenses require varying amounts of time to provide constitutionally adequate counsel.**
- b. MCILS should undertake a Delphi process.**

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

There are hundreds of criminal offenses in the Maine Criminal Code. It would not be feasible to set caseload standards for each offense. Even within narrow categories of offenses (*e.g.*, OUIs), the amount of time it takes to provide constitutionally adequate counsel varies based on many factors. Those factors—among others—can include: the nature of the allegations, the volume and type of discovery, the jurisdiction, geography, the number of witnesses, and client-specific factors. In arriving at these proposed standards, one of the steps MCILS staff undertook was to calculate averages of voucher submissions for the various case types. Those averages take into consideration all the various factors which can affect the appropriate amount of time which should be spent on a given case. Undertaking a Delphi process in Maine would be less effective than in other states due to attributes that are unique to Maine. Excepting the five employed defenders in the Rural Defender Unit, Maine relies entirely on contract counsel. Those contract counsel have varying levels of experience, staff, and portion of their caseloads that are dedicated to case types that fall within the purview of MCILS.

Comment #2:

Caseload standards must not be tailored to the needs of police and prosecutors.

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

In imposing caseload standards, the Commission's primary objective is to ensure that all clients receive high quality representation from attorneys who have the time to dedicate to their cases. The needs of police and prosecutors are not a consideration involved in the proposed standards.

Comment #3:

MCILS should reevaluate the number of hours it expects criminal defense attorneys to work.

- a. **“Attorney attrition has plagued MCILS for the past three years, and MCILS’s proposed caseload standards will only make this worse: 2,000 annual billable hours is unsustainable for attorneys who are doing some of the most intellectually challenging, emotionally draining work.”**
- b. **“Those hours [2,000 annual hours] do not include time spent on study or training...”**

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

The caseload standard was drafted and revised based on feedback from practicing contract counsel. The 2,000 annual hours limit is a maximum, not a minimum, or an expectation. The proposed annual hours limit includes all training hours which are eligible for payment by the Commission.

Comment #4:

MCILS should not attempt to adopt an “open” caseload standard; it should instead adopt an annual caseload standard.

Zachary L. Heiden, Chief Counsel, American Civil Liberties Union Maine

MCILS Response:

The proposed rule includes both an open standard (*i.e.*, the maximum active caseload limit) and an annual standard (*i.e.*, the maximum annual hours limit).

Comment #5:

When developing standards, MCILS should afford due consideration to attorneys’ ancillary obligations that may contribute to their workload.

Bonnie Hoffman, Director of Public Defense, National Association of Criminal Defense Lawyers

MCILS Response:

Case-related tasks are reimbursable in accordance with Commission Rules. Attending eligible trainings is reimbursable in accordance with Commission policy and is, therefore, included in the proposed annual hours limit. The proposed standards contemplate time to complete nonbillable tasks. Additionally, the proposed standards set forth maximums—not minimums—by which attorneys will be required to abide if the standards are adopted. Attorneys are encouraged to manage their caseloads in a way that appropriately accounts for their ancillary obligations.

Comment # 6:

7.4 hours for civil commitment cases and 22 hours for probate cases is too low.

Beth Berry

MCILS Response:

The estimated hours for each case type are not themselves caseload standards pursuant to this proposal. The hours were used as a basis upon which the point values were calculated. Based on the analysis Commission staff undertook in drafting the standards and feedback from interested parties, it is the Commission's position that the proposed point values are appropriate. The standard does not limit attorneys to spending any number of hours on a given case. Attorneys should spend as much time on each case as is required to provide the highest quality representation.

Comment #7:

MCILS does not need to establish caseload standards. Attorneys' ethical obligations pursuant to the Rules of Professional Responsibility are sufficient. Imposing caseload standards will result in cases going from very capable attorneys to no one.

Seth Berner, Esq.

MCILS Response:

4 M.R.S. § 1804(2)(C) unequivocally requires that the Commission develop caseload standards.

Comment 8:

How do the proposed standards affect current caseloads?

James Howaniec, Esq.

MCILS Response:

The proposed standards do not have retroactive applicability.

Comment 9:

The current crisis with attorney availability may have subconsciously seeped into the development of these standards. The standards, though flawed, need to be adopted and implemented.

Robert Ruffner, Esq.

MCILS Response:

The proposed caseload standards are based on what the Commission believes are appropriate. Attorney availability was not a factor in drafting the standards.

Detailed Basis Statement for Chapter 4

The Commission is charged with providing "...high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations." 4 M.R.S. § 1801. MCILS is statutorily obligated to develop standards for the caseloads of assigned and contract counsel. 4 M.R.S. § 1804(2)(C). The right to effective counsel is protected by the United States Constitution and the Constitution of Maine. For counsel to provide high-quality, effective representation, their caseloads must be at a level that allows them to dedicate sufficient time and resources to every case. Chapter 4 is promulgated to ensure that the Commission fulfills its statutory and constitutional obligations by setting maximum caseload standards to ensure the delivery of high-quality representation to indigent persons.

DRAFT

94-649 MAINE COMMISSION ON INDIGENT LEGAL SERVICES Chapter 4: CASELOAD STANDARDS FOR ASSIGNED COUNSEL AND CONTRACT COUNSEL

To the Honorable Members of the Maine Commission on Indigent Legal Services, Executive Director Justin Andrus, Esq. and MCILS staff:

I am writing to express my opposition to the proposed Caseload Standards for Assigned Counsel and Contract Counsel. While I understand the goal of ensuring assigned counsel is providing high-quality representation to each client, I oppose this standard for achieving that goal.

The use of a point system to measure the weight given to each case type and the maximum case type to represent the maximum number of cases of a particular case type that assigned counsel can handle is overly simplistic. It does not take into account the specifics of each case and client or the time-consuming nature of some cases. Criminal defense and protective custody cases are complex matters, and each case has its own unique demands, complexities, and nuances. Therefore, a one-size-fits-all-approach is not appropriate. In addition, the use of a point system does not accurately reflect the time and resources required to handle a case nor does it take into account the experience and skill of assigned counsel.

The proposal does not detail how the active caseload will be determined. Requiring assigned counsel to track their assigned points and limits imposes a non-income generating requirement and micromangement of assigned counsel. This type of micromangement and requirement is one of the reasons formerly assigned counsel have left the rosters.

Instead, I would suggest that MCILS already has standards in place to ensure assigned counsel is not overworked, do not have excessive caseloads, and are providing effective quality representation. MCILS can conduct audits of assigned counsel's work to ensure that effective quality representation is being done. MCILS also has access to DefenderData, which should be able to identify the number of open cases each assigned counsel has. Triggers can be built into DefenderData to determine if the number of open cases is excessive. MCILS could use this trigger to contact assigned counsel to get a better understanding how their caseload is affecting them and the quality of their representation. The CASE ENTRY AND BILLING GUIDANCE FOR MCILS ATTORNEYS policy, section VI HIGH DAILY ALERTS requires assigned counsel to respond to an email alert if they have exceeded 12 billing hours in a single day. Repeated 12-hour daily alerts should be a trigger to MCILS that assigned counsel might have a high caseload and further follow up is required.

I believe the current checks available to MCILS and reliance on attorneys to be professional and uphold their oath are sufficient to meet the goals of this proposal. I urge the Commission not to adopt the proposed Chapter 4: CASELOAD STANDARDS FOR ASSIGNED COUNSEL AND CONTRACT COUNSEL.

Thank you for your consideration.

Respectfully submitted,

Robert C. LeBrasseur