

MCILS

**February 10, 2015
Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

FEBRUARY 10, 2015

COMMISSION MEETING

CRIMINAL JUSTICE COMMITTEE ROOM, STATEHOUSE, AUGUSTA

AGENDA

- 1) Approval of January 13, 2015 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Legislative Update
- 4) Discussion of Contract Proposal Heard in January and Possible RFP
- 5) Public Comment
- 6) Set Date, Time and Location of Next Regular Meeting of the Commission
- 7) Executive Session, if needed (Closed to Public)

(1.)
January 13, 2015
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
January 13, 2015**

Minutes

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

MCILS Staff Present: John Pelletier, Ellie Brogan

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the December 29, 2014 Commission Meeting Minutes	Copy of minutes received by all Commissioners.	Commissioner Glazier moved for the approval of the minutes. Commissioner Logan seconded. All voted in favor. Approved.
Operations Reports Review	<p>Director Pelletier presented the <u>December 2014 Operations Reports</u>. The number of new cases opened in DefenderData totaled 1,999 – a 23 case increase from November. 2,355 vouchers were submitted, totaling \$1,069,392. This was a 471 voucher decrease and \$308,000 decrease from November. In December, the Commission paid 1,370 vouchers, totaling \$673,674, a 1,256 voucher and \$492,000 decrease from November. The end of quarter shortfall affected these numbers. The average price per voucher in December was \$491.73, an increase of \$47.70 per voucher from November. The average price per voucher for the first half of the fiscal year was \$469.14, a 10.4% increase over the average price at the same point last year. The hourly rate increase was 10% and accounts for most of this increase. However, staff is still seeing a small number of vouchers being submitted with time events at the \$50/hr. rate, so there has been a relatively small increase in the average voucher price. Appeal and Post-Conviction Review cases were the highest average vouchers. Two vouchers exceeding \$5,000 were paid in December. The December transfer of counsel fees, which reflected November’s collections, totaled \$47,640, down \$18,600 from the previous month.</p> <p>Chair Carey asked if there was any concern that Appeal and Post-Conviction Review cases were consistently the highest average vouchers. Director Pelletier noted that these cases usually involve lengthy transcript review and that writing is a time-intensive process. Commissioner Logan added that printing/binding costs alone cost around \$100 per case, and that additional time/travel costs are incurred when oral argument is</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>scheduled. He also echoed Director Pelletier's comment that writing is a time-intensive process. For PCR cases, Commission Glazier noted that travel to the prison in Warren to meet with the client is required and is a great distance for some attorneys.</p>	
Budget Update	<p>Director Pelletier gave an update on the status of the current quarter budget shortfall. The preliminary shortfall estimate at the end of this quarter is \$433,900, roughly the same amount as last year. Director Pelletier anticipated that costs in the second half of the fiscal year would continue to run high. He explained that the Commission has seen double digit increases in all our primary case types – felony (robbery, gross sexual assault, aggravated trafficking, trafficking), misdemeanor, juvenile, and child protective cases. As a result, the Commission will need supplemental funding, roughly \$860,000 in addition to the \$818,000 already included in the supplemental budget request, for a total of \$1.7 million. Without this supplemental funding, Director Pelletier thought that the Commission would run out of money around mid-May. Chair Carey and Commissioner Glazier asked Director Pelletier to send the rostered attorneys an update about the status of the budget. Director Pelletier also gave an update on the status of the three financial orders that were submitted in late 2014.</p>	
Legislative Update	<p>Director Pelletier reviewed the status of the Commission's rulemaking as well as the proposed statute amendment related to Chapter 2. The Fee Schedule rule has been submitted and was referred to the Judiciary Committee. Due to concerns regarding confidentiality issues that may arise during an investigation by the Executive Director as proposed in Chapter 2, Director Pelletier drafted a statute amendment to deem materials gathered during an investigation as confidential. Representative Sherman, a member of the Judiciary Committee, agreed to sponsor the measure. The rules for Chapters 2 and 3, currently being reviewed by an assistant attorney general, were not ready for timely submission and will be submitted later this week.</p>	
Presentation Re: Contract Proposal for Kennebec County	<p>Attorney Kevin Sullivan presented a concept proposal for a potential Kennebec County Contract, which would include criminal, child protection and mental health cases. He told the Commissioners about several problems/issues he sees with the current system and how a contract would address and alleviate those problems. Commissioner Glazier noted that there were close to 100 lawyers on the Augusta rosters and about 60 on the Waterville roster and expressed concern about the number of attorneys that would be shut</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>out if a contract system was put in place. Chair Carey believes that the Commission should consider all options due to the budget concerns and asked that this be kept on the agenda for the next Commissioners' meeting.</p>	
New Business	<p>Chair Carey alerted the Commissioners that there had been recent press coverage of one of our rostered attorneys involving his personal criminal case. He indicated that he has received a lot of feedback from people, including DA's, defense attorneys, and judges, questioning why the Commission has not removed this attorney from the rosters. Commissioner Logan reminded the Commissioners that the Board of Bar Overseers has not acted yet about this attorney's ability to practice and that the Commission has no rule in place that would allow for this attorney's removal at this point in time. The Commissioners agreed about the importance of the proposed rule that would grant the Executive Director authority to suspend or remove an attorney facing criminal charges.</p>	
Public Comment	<p>Robert Ruffner, Esq., submitted a public comment:</p> <ul style="list-style-type: none"> • Commission can issue an RFP but is under no obligation to accept any proposal; • Issuing an RFP for Kennebec County could provide a potential cost-saving measure, which would help with the current budget shortfall; • Should not model a Kennebec County contract after the Somerset County contract since that is a terrible model; could include a contract term that would guarantee a specific amount of cases handled so the Commission would know what it is paying for; • Maine is the only state without a Public Defender office. Even in states that do have a PD office, the private bar is included in providing indigent defense; • There is no attorney that handles a significant amount of Kennebec County cases that doesn't also appear on other county rosters. • Supports Attorney Sullivan's concept proposal for Kennebec County and echoes his concerns about the current system, including issues with lawyer of the day program and timely appointment of counsel. • Asked the Commissioners to advance the conversation about different ways of providing indigent legal services in Maine. 	
Executive Session	<p>The Commissioners entered into executive session to discuss personnel matters. No votes were taken.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Adjournment of meeting	The Commission then voted to adjourn with the next meeting to be on February 10, 2015 at 9:30 am.	Commissioner Logan made a motion to adjourn. Commissioner Spierer seconded. All present voted in favor.

**(2.)
Operations Reports
Review**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
SUBJECT: JANUARY 2015 OPERATIONS REPORTS
DATE: FEBRUARY 3, 2015

Attached you will find the January, 2015 Operations Reports for your review and our discussion at the upcoming Commission meeting on February 10, 2015. A summary of the operations reports follows:

- 2,051 new cases were opened in the DefenderData system in January. This was a 52 case increase over December.
- The number of vouchers submitted electronically in January was 2,721, an increase of 366 vouchers over December, totaling \$1,320,778.57, an increase of \$251,000 over December. In January, we paid 3,735 electronic vouchers totaling \$1,732,801.45. This was a 2,365 voucher and \$1,060,000 increase over December.
- There were two paper vouchers submitted and paid in January totaling \$450.12.
- The average price per voucher in January was \$463.94, down \$27.79 per voucher from December.
- Appeal and Post-Conviction Review cases had the highest average vouchers in January. There were 4 vouchers exceeding \$5,000 paid in January. These cases involved: 1) a murder case in which the defendant was convicted after a 12 day trial; 2) two murder cases in which the defendant pled guilty, with one case involving a plea to a reduced charge; and 3) a trafficking case where the attorney was forced to withdraw on the eve of trial.

In our All Other Account, the total expenses for the month of January were \$1,850,113.66. Of the amount, approximately \$8,700 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$52,802.70 in expenses for the month of January.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of January, which reflects December's collections, totaled \$53,070.41, up \$4,400 from the previous month, roughly equal to the budgeted average monthly collection.

In our Conference Account, we paid the last of the expenses for the advanced criminal training presented in October, leaving the account balance at \$11,698.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

1/31/2015

DefenderData Case Type	Jan-15						Fiscal Year 2015			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	10	15	\$ 22,087.21	19	\$ 23,564.14	\$ 1,240.22	70	90	\$ 123,190.81	\$ 1,368.79
Child Protection Petition	198	383	\$ 222,406.29	508	\$ 270,976.37	\$ 533.42	1,137	2,398	\$ 1,278,850.69	\$ 533.30
Drug Court	0	6	\$ 3,487.00	5	\$ 3,168.00	\$ 633.60	1	40	\$ 18,768.50	\$ 469.21
Emancipation	10	11	\$ 3,130.79	21	\$ 6,260.59	\$ 298.12	78	67	\$ 20,103.52	\$ 300.05
Felony	502	688	\$ 489,159.49	915	\$ 653,893.93	\$ 714.64	3,640	4,042	\$ 2,963,148.45	\$ 733.09
Involuntary Civil Commitment	85	73	\$ 18,327.06	85	\$ 19,083.50	\$ 224.51	514	478	\$ 103,138.85	\$ 215.77
Juvenile	106	117	\$ 44,534.74	115	\$ 39,671.19	\$ 344.97	687	779	\$ 271,349.27	\$ 348.33
Lawyer of the Day - Custody	205	211	\$ 44,691.03	317	\$ 67,044.50	\$ 211.50	1,485	1,415	\$ 296,003.47	\$ 209.19
Lawyer of the Day - Juvenile	27	32	\$ 6,978.22	59	\$ 11,040.52	\$ 187.13	282	286	\$ 53,909.31	\$ 188.49
Lawyer of the Day - Walk-in	90	108	\$ 23,060.30	193	\$ 41,452.39	\$ 214.78	791	801	\$ 170,305.54	\$ 212.62
Misdemeanor	602	723	\$ 289,421.22	982	\$ 365,052.95	\$ 371.74	4,398	4,565	\$ 1,688,251.53	\$ 369.83
Petition, Modified Release Treatment	0	1	\$ 517.40	3	\$ 1,273.57	\$ 424.52	9	34	\$ 10,912.33	\$ 320.95
Petition, Release or Discharge	0	0		1	\$ 165.00	\$ 165.00	0	4	\$ 4,032.88	\$ 1,008.22
Petition, Termination of Parental Rights	19	38	\$ 25,578.27	53	\$ 41,039.65	\$ 774.33	117	350	\$ 236,204.03	\$ 674.87
Post Conviction Review	6	5	\$ 3,230.55	10	\$ 8,474.26	\$ 847.43	33	48	\$ 49,265.75	\$ 1,026.37
Probation Violation	157	179	\$ 66,055.46	239	\$ 83,479.14	\$ 349.29	1,119	1,114	\$ 404,064.69	\$ 362.72
Represent Witness on 5th Amendment	0	1	\$ 137.50	2	\$ 562.50	\$ 281.25	9	10	\$ 1,725.50	\$ 172.55
Review of Child Protection Order	33	129	\$ 57,661.79	206	\$ 95,980.77	\$ 465.93	236	1,194	\$ 599,945.17	\$ 502.47
Revocation of Administrative Release	1	1	\$ 314.25	2	\$ 618.48	\$ 309.24	15	18	\$ 6,650.18	\$ 369.45
DefenderData Sub-Total	2,051	2,721	\$ 1,320,778.57	3,735	\$ 1,732,801.45	\$ 463.94	14,621	17,733	\$ 8,299,820.47	\$ 468.04
Paper Voucher Sub-Total	2	2	\$ 450.12	2	\$ 450.12	\$ 225.06	5	5	\$ 962.24	\$ 192.45
TOTAL	2,053	2,723	\$1,321,228.69	3,737	\$1,733,251.57	\$ 463.81	14,626	17,738	\$ 8,300,782.71	\$ 467.97

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
 FY15 FUND ACCOUNTING
 AS OF 01/31/2015

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Professional Services Allotment		\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	
FY15 General Operations Allotment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment		\$ -		\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	\$ 13,949,052.00
Total Expenses	1	\$ (1,141,359.56)	4	\$ (1,567,153.86)	7	\$ (1,850,113.66)	10	\$ -	\$ (4,558,627.08)
	2	\$ (1,199,265.91)	5	\$ (1,261,558.07)	8	\$ -	11	\$ -	\$ (2,460,823.98)
	3	\$ (1,114,175.03)	6	\$ (557,133.57)	9	\$ -	12	\$ -	\$ (1,671,308.60)
Encumbrances		\$ (213,312.50)		\$ 71,187.50		\$ 23,687.50		\$ -	\$ (118,437.50)
TOTAL REMAINING		\$ -		\$ (0.00)		\$ 1,911,117.84		\$ 3,228,737.00	\$ 5,139,854.84

Q3 Month 7 (as of 01/31/15)	
INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (1,733,251.57)
Somerset County	\$ (23,572.50)
Subpoena Witness Fees	\$ (55.20)
Private Investigators	\$ (31,813.83)
Mental Health Expert	\$ (13,750.52)
Transcripts	\$ (15,475.07)
Other Expert	\$ (21,113.34)
Expert Witness Lodging	\$ -
Process Servers	\$ (803.31)
Interpreters	\$ (1,253.74)
Misc Prof Fees & Serv	\$ (2,366.23)
SUB-TOTAL ILS	\$ (1,843,455.31)
OPERATING EXPENSES	
Service Center	\$ -
DefenderData	\$ (4,479.00)
Risk Management	\$ -
Mileage/Tolls/Parking	\$ (1,286.39)
Mailing/Postage/Freight	\$ (540.12)
Legal Ad	\$ -
Maine State Bar Dues	\$ -
Office Supplies/Equip.	\$ (82.71)
Cellular Phones	\$ (116.65)
Annual Book Printing Fee	\$ (8.35)
Office Equipment Rental	\$ (145.13)
OIT/TELCO	\$ -
SUB-TOTAL OE	\$ (6,658.35)
TOTAL	\$ (1,850,113.66)

Q3 Month 7 (as of 01/31/15)	
INDIGENT LEGAL SERVICES	
Q3 Allotment	\$ 3,737,544.00
Q3 Encumbrance Expenditures	\$ 23,687.50
Q3 Expenses as of 01/31/15	\$ (1,850,113.66)
Remaining Q3 Allotment as of 01/31/15	\$ 1,911,117.84

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 01/31/15

Account 014 95F Z112 01 (Revenue)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
Total Budget Allotments		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Financial Order Adjustment		\$ 970.00		\$ 50,000.00		\$ 35,000.00		\$ 35,000.00	
Total Budget Allotments		\$ 150,094.00		\$ 199,124.00		\$ 184,124.00		\$ 184,124.00	\$ 717,466.00
Collected Revenue from JB	1	\$ 51,555.85	4	\$ 61,901.40	7	\$ 53,070.41	10	\$ -	
Promissory Note Payments		\$ 200.00		\$ -		\$ 50.00		\$ -	
Collected Revenue from JB	2	\$ 68,324.36	5	\$ 66,316.39	8	\$ -	11	\$ -	
Promissory Note Payments		\$ 200.00		\$ -		\$ -		\$ -	
Donation		\$ 1,500.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	3	\$ 47,842.05	6	\$ 47,640.77	9	\$ -	12	\$ -	
Promissory Note Payments		\$ -		\$ 50.00		\$ -		\$ -	
Returned Check		\$ 45.00		\$ 60.00		\$ 43.00		\$ -	
TOTAL REVENUE COLLECTED		\$ 169,667.26		\$ 175,968.56		\$ 53,163.41		\$ -	\$ 398,799.23
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ (149,124.00)	6	\$ (190,337.31)	9	\$ -	12	\$ -	
REMAINING ALLOTMENT		\$ 970.00		\$ 8,786.69		\$ 184,124.00		\$ 184,124.00	\$ 378,004.69
Total Expenses	1	\$ -	4	\$ (2,119.11)	7	\$ (1,237.19)	10	\$ -	
	2	\$ (1,344.65)	5	\$ (415.75)	8	\$ -	11	\$ -	
	3	\$ (495.00)	6	\$ (558.00)	9	\$ -	12	\$ -	
REMAINING CASH		\$ 18,703.61		\$ (17,461.61)		\$ 51,926.22		\$ -	\$ 53,168.22

Q3 Month 7 (as of 01/31/15)	
DEFENDER DATA COUNSEL PAYMENTS	\$ -
SUB-TOTAL ILS	
OVERPAYMENT REIMBURSEMENTS	\$ -
State Cap Expense Q1	\$ (1,237.19)
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
Process Servers	\$ -
SUB-TOTAL OE	\$ (1,237.19)
TOTAL	\$ (1,237.19)

INDIGENT LEGAL SERVICES	
FY15 Allotment	\$ 717,466.00
YTD Collected Revenue	\$ 398,799.23
YTD Expenses	\$ (6,169.70)
YTD Counsel Payments	\$ (339,461.31)
Q3 Remaining Unexpended Cash	\$ 53,168.22

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
 FY15 FUND ACCOUNTING
 AS OF 01/31/2015

Account 010 95F Z112 01 (Personal Services)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Allotment		\$ 186,226.00		\$ 181,742.00		\$ 169,447.00		\$ 139,222.00	\$ 676,637.00
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments				\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 186,226.00		\$ 181,742.00		\$ 169,447.00		\$ 139,222.00	\$ 676,637.00
Total Expenses	1	\$ (66,591.80)	4	\$ (49,740.31)	7	\$ (52,802.70)	10	\$ -	
	2	\$ (49,475.54)	5	\$ (50,117.29)	8	\$ -	11	\$ -	
	3	\$ (50,108.08)	6	\$ (70,109.34)	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 20,050.58		\$ 11,775.06		\$ 116,644.30		\$ 139,222.00	\$ 287,691.94

Q3 Month 7 (as of 01/31/15)	
Per Diem Payments	\$ (275.00)
Salary	\$ (23,313.82)
Vacation Pay	\$ (3,082.58)
Holiday Pay	\$ (2,955.84)
Sick Pay	\$ (397.07)
Premium Overtime Pay	\$ -
Health Insurance	\$ (9,628.70)
Dental Insurance	\$ (249.48)
Employer Retiree Health	\$ (4,046.31)
Employer Retirement	\$ (1,611.83)
Employer Group Life	\$ (201.26)
Employer Medicare	\$ (417.40)
Retiree Unfunded Liability	\$ (4,760.77)
Retro Pymt	\$ (84.80)
Perm Part Time Full Ben	\$ (1,777.84)
TOTAL	\$ (52,802.70)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 01/31/15

Account 014 95F Z112 02 (Conference Account)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY14 Carry Over		\$ 20,144.41							\$ -
Total Budget Allotments		\$ 4,000.00		\$ 20,000.00		\$ 4,000.00		\$ 4,000.00	\$ 32,000.00
Budget Order Adjustment						\$ 3,000.00		\$ (3,000.00)	
Total Budget Allotments		\$ 4,000.00		\$ 20,000.00		\$ 7,000.00		\$ 1,000.00	\$ 32,000.00
Total Revenue	1	\$ 1,850.00	4	\$ 8,000.00	7	\$ 20.00	10	\$ -	
Billed Earned Revenue	1	\$ (150.00)		\$ -	8	\$ -	11	\$ -	
	2	\$ 975.00	5	\$ 2,700.00	9	\$ -	12	\$ -	
	3	\$ 7,575.00	6	\$ -	9	\$ -	12	\$ -	
ACTUAL CASH BALANCE		\$ 30,394.41		\$ 41,094.41		\$ 41,114.41		\$ -	\$ 41,114.41
Total Expenses	1	\$ (76.04)	4	\$ (3,116.49)	7	\$ (4,856.96)	10	\$ -	
	2	\$ (3,293.26)	5	\$ (1,866.51)	8	\$ -	11	\$ -	
	3	\$ (402.99)	6	\$ (15,805.12)	9	\$ -	12	\$ -	
TOTAL REMAINING		\$ 26,772.12		\$ 20,306.29		\$ 2,143.04		\$ 1,000.00	\$ 11,697.04

Q3 Month 7 (as of 01/31/15)

Collected Revenue	\$ -
State Cap Cost Allocation	\$ (102.37)
Training Manuals Printing	\$ (523.64)
Refreshments/Meals/Room	\$ (4,333.32)
Films/Materials	\$ -
Supplies	\$ -
Refund for non-attendance	\$ -
Board of Overseers Trainer Fees	\$ -
TOTAL EXPENSES	\$ (4,856.96)

FY15 Allotment	\$ 32,000.00
FY14 Carry Over	\$ 20,144.41
FY15 Collected Revenue	\$ 21,070.00
FY15 Expenses	\$ (29,469.74)
Unexpended Cash	\$ 11,744.67

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

1/31/2015

Court	Jan-15						Fiscal Year 2014			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	120	231	\$ 136,344.08	331	\$ 190,280.15	\$ 574.86	960	1,395	\$ 864,376.03	\$ 619.62
AUBSC	91	100	\$ 55,836.66	120	\$ 99,328.44	\$ 827.74	675	717	\$ 463,901.54	\$ 647.00
AUGDC	76	78	\$ 32,092.48	112	\$ 45,673.31	\$ 407.80	512	630	\$ 245,864.41	\$ 390.26
AUGSC	71	118	\$ 77,029.17	188	\$ 120,582.19	\$ 641.39	666	755	\$ 481,832.74	\$ 638.19
BANDC	72	138	\$ 46,744.95	146	\$ 52,617.69	\$ 360.40	481	773	\$ 274,382.16	\$ 354.96
BANSC	1	3	\$ 3,351.50	2	\$ 1,083.00	\$ 541.50	16	21	\$ 9,413.50	\$ 448.26
BATSC	2	2	\$ 1,671.60	6	\$ 4,636.95	\$ 772.83	27	40	\$ 25,167.83	\$ 629.20
BELDC	17	34	\$ 20,122.51	45	\$ 23,078.04	\$ 512.85	196	253	\$ 113,986.46	\$ 450.54
BELSC	27	18	\$ 8,893.76	31	\$ 18,368.82	\$ 592.54	148	142	\$ 90,551.01	\$ 637.68
BIDDC	85	104	\$ 49,507.40	173	\$ 82,160.26	\$ 474.91	604	785	\$ 344,213.77	\$ 438.49
BRIDC	25	28	\$ 12,779.99	29	\$ 14,064.62	\$ 484.99	97	162	\$ 77,123.81	\$ 476.07
CALDC	12	12	\$ 8,852.58	21	\$ 12,628.93	\$ 601.38	99	136	\$ 60,027.18	\$ 441.38
CARDC	10	19	\$ 4,514.27	46	\$ 20,266.04	\$ 440.57	100	195	\$ 90,169.31	\$ 462.41
CARSC	30	58	\$ 26,603.13	65	\$ 29,424.99	\$ 452.69	232	245	\$ 122,041.25	\$ 498.13
DOVDC	3	19	\$ 8,376.65	38	\$ 12,791.03	\$ 336.61	47	125	\$ 38,573.28	\$ 308.59
DOVSC	1	0		1	\$ 104.50	\$ 104.50	4	5	\$ 685.00	\$ 137.00
ELLDC	9	21	\$ 10,503.50	34	\$ 18,708.50	\$ 550.25	107	251	\$ 134,217.74	\$ 534.73
ELLSC	6	8	\$ 2,490.00	11	\$ 5,639.35	\$ 512.67	23	44	\$ 23,202.35	\$ 527.33
FARDC	8	6	\$ 8,310.31	11	\$ 9,145.24	\$ 831.39	41	95	\$ 49,337.59	\$ 519.34
FARSC	1	3	\$ 5,329.74	5	\$ 1,913.00	\$ 382.60	11	29	\$ 12,201.35	\$ 420.74
FORDC	12	15	\$ 9,108.00	19	\$ 7,955.80	\$ 418.73	57	64	\$ 28,896.27	\$ 451.50
HOUDC	38	39	\$ 12,009.86	48	\$ 20,511.14	\$ 427.32	257	311	\$ 103,037.05	\$ 331.31
HOUSC	16	27	\$ 25,226.06	35	\$ 20,596.59	\$ 588.47	91	121	\$ 79,115.06	\$ 653.84
LEWDC	153	191	\$ 76,651.77	192	\$ 69,854.16	\$ 363.82	972	1,060	\$ 405,396.76	\$ 382.45
LINDC	17	22	\$ 10,337.87	24	\$ 10,734.07	\$ 447.25	110	115	\$ 39,618.21	\$ 344.51
MACDC	31	34	\$ 10,812.50	44	\$ 14,039.40	\$ 319.08	185	213	\$ 76,160.49	\$ 357.56
MACSC	22	19	\$ 11,117.50	34	\$ 17,446.55	\$ 513.13	98	108	\$ 44,486.29	\$ 411.91
MADDC	1	1	\$ 211.86	2	\$ 484.22	\$ 242.11	7	9	\$ 4,068.66	\$ 452.07
MILDC	0	0		1	\$ 574.42	\$ 574.42	8	16	\$ 4,082.82	\$ 255.18
NEWDC	17	28	\$ 10,028.36	44	\$ 13,870.29	\$ 315.23	165	207	\$ 65,810.27	\$ 317.92
PORDC	106	120	\$ 56,788.11	163	\$ 72,607.47	\$ 445.44	631	910	\$ 405,119.68	\$ 445.19
PORSC	5	3	\$ 1,809.50	4	\$ 2,571.75	\$ 642.94	24	27	\$ 25,476.93	\$ 943.59
PREDC	24	36	\$ 10,464.45	65	\$ 20,518.48	\$ 315.67	188	294	\$ 101,687.87	\$ 345.88
ROCDL	37	61	\$ 22,459.65	70	\$ 18,193.43	\$ 259.91	335	380	\$ 135,163.24	\$ 355.69
RODC	37	61	\$ 22,459.65	70	\$ 18,193.43	\$ 259.91	335	380	\$ 135,163.24	\$ 355.69
ROSC	23	40	\$ 24,686.16	35	\$ 20,986.28	\$ 599.61	189	194	\$ 114,562.85	\$ 590.53
RUMDC	10	16	\$ 6,716.59	19	\$ 6,670.09	\$ 351.06	92	119	\$ 57,835.65	\$ 486.01
SKODC	26	46	\$ 20,307.60	53	\$ 20,946.69	\$ 395.22	98	279	\$ 119,755.89	\$ 429.23
SKOSC	0	1	\$ 371.80	0			3	6	\$ 2,499.70	\$ 416.62
SOUNDC	31	37	\$ 10,490.91	45	\$ 11,966.66	\$ 265.93	188	245	\$ 82,845.25	\$ 338.14
SOUNSC	41	66	\$ 36,579.77	50	\$ 28,261.57	\$ 565.23	269	312	\$ 155,569.05	\$ 498.62
SPRDC	60	58	\$ 27,060.23	102	\$ 43,413.54	\$ 425.62	383	492	\$ 211,045.50	\$ 428.95
Law Ct	7	7	\$ 12,795.53	10	\$ 15,241.08	\$ 1,524.11	54	59	\$ 82,276.58	\$ 1,394.52
PENCD	176	227	\$ 103,110.15	313	\$ 118,144.24	\$ 377.46	1,186	1,354	\$ 644,222.70	\$ 475.79
SAGCD	9	16	\$ 9,546.36	29	\$ 15,098.48	\$ 520.64	159	161	\$ 92,367.39	\$ 573.71
PISCD	20	21	\$ 4,502.20	30	\$ 7,090.50	\$ 236.35	109	95	\$ 19,396.00	\$ 204.17
HANCD	46	38	\$ 11,892.00	83	\$ 29,814.50	\$ 359.21	268	237	\$ 91,247.91	\$ 385.01
FRACD	28	30	\$ 8,976.63	53	\$ 22,059.91	\$ 416.22	356	307	\$ 105,908.02	\$ 344.98
CUMCD	293	342	\$ 202,182.77	454	\$ 249,724.10	\$ 550.05	2,089	2,090	\$ 1,083,594.26	\$ 518.47
SOMCD	0	0		1	\$ 220.00	\$ 220.00	2	5	\$ 5,128.30	\$ 1,025.66
WATDC	45	65	\$ 24,038.38	115	\$ 39,573.47	\$ 344.12	324	423	\$ 142,788.06	\$ 337.56
WESDC	29	39	\$ 13,559.19	67	\$ 16,988.86	\$ 253.57	199	239	\$ 74,596.98	\$ 312.12
WISDC	27	31	\$ 9,735.14	50	\$ 11,643.06	\$ 232.86	199	199	\$ 55,489.64	\$ 278.84
WISSC	22	26	\$ 10,410.12	36	\$ 11,828.91	\$ 328.58	167	151	\$ 68,489.94	\$ 453.58
YORDC	12	19	\$ 7,437.27	30	\$ 10,676.69	\$ 355.89	113	133	\$ 50,812.89	\$ 382.05
TOTAL	2,051	2,721	\$ 1,320,778.57	3,735	\$ 1,732,801.45	\$ 463.94	14,621	17,733	\$ 8,299,820.47	\$ 468.04

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Number of Attorneys Rostered by Court

01/31/2015

Court	Rostered Attorneys
Alfred Superior Court	116
Auburn Superior Court	116
Augusta District Court	97
Augusta Superior Court	93
Bangor District Court	61
Belfast District Court	52
Belfast Superior Court	50
Biddeford District Court	138
Bridgton District Court	102
Calais District Court	13
Caribou District Court	16
Caribou Superior Court	20
Dover-Foxcroft District Court	28
Ellsworth District Court	45
Farmington District Court	28
Fort Kent District Court	8
Houlton District Court	17
Houlton Superior Court	19
Lewiston District Court	143
Lincoln District Court	32
Machias District Court	17
Machias Superior Court	13
Madawaska District Court	9

Court	Rostered Attorneys
Millinocket District Court	24
Newport District Court	43
Portland District Court	154
Presque Isle District Court	14
Rockland District Court	49
Rockland Superior Court	42
Rumford District Court	29
Skowhegan District Court	32
South Paris District Court	70
South Paris Superior Court	67
Springvale District Court	124
Unified Criminal Docket Bangor	62
Unified Criminal Docket Bath	88
Unified Criminal DocketDover Foxcroft	26
Unified Criminal Docket Ellsworth	41
Unified Criminal Docket Farmington	29
Unified Criminal Docket Portland	149
Unified Criminal Docket Skowhegan	21
Waterville District Court	58
West Bath District Court	109
Wiscasset District Court	76
Wiscasset Superior Court	70
York District Court	114

(3.)
Legislative Update

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: LEGISLATIVE UPDATE
DATE: FEBRUARY 4, 2015

Chair Carey and I appeared at the Appropriations Committee on January 22nd. Commissioner Logan also attended. For new members of the Committee, we presented an agency overview, and we also discussed our budget needs and the need to increase the rate of pay for assigned counsel. Attached is a copy of the documents we presented at that time. From my perspective, the Committee asked good questions and we received a generally favorable reception.

I appeared at the Judiciary Committee on January 29th. Many of the Committee members in attendance were new to the Committee, so I spent much of the time introducing them to the history and work of the Commission. I also spoke about our budget needs and the need to increase the rate of pay for assigned counsel. I provided the Committee with the same packet of documents presented to the Appropriations Committee.

Also on January 29th, our rules on attorney eligibility and specialized panels, which you will recall were filed after the deadline due to an error on my part, were on the agenda of the Legislative Council. The Legislative Council is responsible for deciding if bills or major substantive rules that are submitted "after-deadline" will be accepted for consideration. When our rules came up, a motion to table was made and seconded, and the rules were tabled without discussion. Since that meeting, the Commission has been asked by the maker of the motion to provide a brief summary of the rules to be included in Council members' folders for the next meeting, so they will have a better understanding of what the rules entail. I will provide that summary before the next Legislative Council meeting.

THE MAINE COMMISSION ON INDIGENT LEGAL SERVICES

AGENCY OVERVIEW

John D. Pelletier, Esq. Executive Director

The Maine Commission on Indigent Legal is an independent commission established by the Legislature in 2009. The purpose of the Commission is to provide efficient, high-quality representation to people entitled to representation at state expense under the Constitution of the United States or the Constitution or laws of Maine. These are people who cannot afford counsel in cases where the state seeks to restrict a person's liberty, such as criminal cases, juvenile cases, child protection cases, and cases seeking involuntary commitment to a psychiatric hospital. The Commission carries out its statutory mission primarily through the use of private assigned counsel; that is, attorneys in private practice who are assigned to provide representation in individual cases and who are paid a fixed hourly rate by the Commission.¹ The hourly rate is currently \$55.00/hr.

The Commission has 5 members appointed by the Governor and confirmed by the Senate. Commission operations are administered by a central office staff that includes 4 authorized positions, one of which has been vacant for some time. The Commission also employs 8 financial screeners, six full-time and 2 part-time, who work in courthouses around the state. The screeners obtain and review financial information provided by people applying for assigned counsel and make recommendations to the court about eligibility for counsel based on financial guidelines that the Commission has promulgated. The Court makes the final determination whether a person is eligible to counsel, and if so, whether they will be ordered to reimburse the state for some of all of the cost of their representation. The financial screeners track payments required by reimbursement orders and pursue collections when people are delinquent in their payments. Reimbursements flow to the Commission and are used to defray the cost of indigent legal services. In FY'14, the Commission collected \$654,406.00 in reimbursements for assigned counsel fees.

The Commission sets qualifications that lawyers must meet to be placed on the roster of eligible attorneys. Courts assign counsel from the rosters produced by the Commission. During FY'14, the Commission oversaw approximately 500 lawyers on its rosters.

At the end of each case, the attorney submits a detailed voucher listing the work performed and the number of hours expended through a state of the art electronic billing system. Commission staff review each voucher and authorize payment using an electronic interface between its billing program and the State Controller's office. In FY'14, the Commission processed just over 28,000 attorney vouchers.

Often, to provide adequate representation requires it is necessary that the attorney obtain the assistance of a private investigator or expert witness. In such cases, attorneys must apply to the Commission for pre-approval to hire an expert or investigator. In FY'14, the Commission

¹ The Commission does have one contract under which a group of attorneys handle all of the criminal and juvenile cases in Somerset County.

processed over 1,100 requests for experts and investigators and paid the respective providers for the services performed.

Finally, the Commission organizes and presents training, both as a pre-requisite for new attorneys joining the roster and as on-going training for experienced counsel working on assigned cases. During calendar year 2014, the Commission organized and presented 61 hours of continuing legal education during 12 separate live and video replay programs.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
Training Provided to Assigned Counsel in 2014

Criminal Law Minimum Standards (video replay)

June 12, 2014 – Augusta

6 hours CLE credit

November 19, 2014 – Augusta

6 hours CLE credit

Juvenile Law Minimum Standards (video replay)

June 23, 2014 – Augusta

7 hours CLE credit

Child Protection Minimum Standards (video replay)

June 24, 2014 – Augusta

5 hours CLE credit

November 20, 2014 – Augusta

5 hours CLE credit

Emancipation Minimum Standards (video replay)

June 25, 2014 – Augusta

2 hours CLE credit

November 20, 2014 – Augusta

2 hours CLE credit

Involuntary Commitment Training

July 25, 2014 – Bangor

4 hours CLE credit

Advanced Juvenile Training (video replay)

September 18, 2014 – Augusta

6 hours CLE credit

Advanced Criminal Law Training

October 23-24, 2014 – Freeport

12.75 hours CLE credit

Juvenile Law Minimum Standards

December 4, 2014 – Freeport

6 hours CLE credit

61.75 hours of training provided in 2014

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
INDIGENCY STATISTICS

ALL SCREENERS	Indigent	Partial	Denied	Screened but Pled	TOTAL	%Indigent	%Partial	%Denied
Fiscal Year 2014	8714	2331	1285	1863	12330	71%	19%	10%

MIDCOAST	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	108	86	24		218	50%	39%	11%
August	93	81	22		196	47%	41%	11%
September	85	66	24		175	49%	38%	14%
October	91	50	19		160	57%	31%	12%
November	90	68	17		175	51%	39%	10%
December	98	45	21		164	60%	27%	13%
January	105	76	21		202	52%	38%	10%
February	93	70	19		182	51%	38%	10%
March	98	75	23	1	196	50%	38%	12%
April	84	49	16	0	149	56%	33%	11%
May	97	88	23	1	208	47%	42%	11%
June	90	63	28	1	181	50%	35%	15%
TOTAL:	1132	817	257	3	2206	51%	37%	12%

Screener covers Belfast District and Superior Courts, Rockland District and Superior Courts, Wiscasset District and Superior Courts, Bath Superior Court, West Bath District Court and Two Bridges Regional Jail

ANDROSCOGGIN	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	121	21	8		150	81%	14%	5%
August	145	42	9		196	74%	21%	5%
September	99	26	3		128	77%	20%	2%
October	108	29	4		141	77%	21%	3%
November	101	29	0		130	78%	22%	0%
December	107	20	8		135	79%	15%	6%
January	115	23	2		140	82%	16%	1%
February	92	23	3	1	118	78%	19%	3%
March	104	21	6	1	131	79%	16%	5%
April	102	26	5	1	133	77%	20%	4%
May	90	29	5	0	124	73%	23%	4%
June	104	17	6	0	127	82%	13%	5%
TOTAL:	1288	306	59	3	1653	78%	19%	4%

Screener covers Lewiston District Court, Auburn Superior Court, South Paris District and Superior Courts, and Androscoggin County Jail.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

INDIGENCY STATISTICS

KENNEBEC	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	89	20	5		114	78%	18%	4%
August	74	18	4		96	77%	19%	4%
September	51	10	3	24	64	80%	16%	5%
October	no screener during this month							
November (partial Screener coverage)	34	9	0	8	43	79%	21%	0%
December	71	19	1	51	91	78%	21%	1%
January	100	15	2	31	117	85%	13%	2%
February	129	15	8	47	152	85%	10%	5%
March	102	18	6	32	126	81%	14%	5%
April	109	20	7	22	136	80%	15%	5%
May	no screener during this month							
June	no screener during this month							
TOTAL:	759	144	36	215	939	81%	15%	4%

Screener covers Augusta District and Superior Courts, Waterville District Court and Kennebec County Jail

PENOBSCOT	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	93	18	20	66	131	71%	14%	15%
August	92	27	18	52	137	67%	20%	13%
September	119	27	14	61	160	74%	17%	9%
October	121	14	11	48	146	83%	10%	8%
November	109	38	27	39	174	63%	22%	16%
December	122	31	11	35	164	74%	19%	7%
January	144	13	17	49	174	83%	7%	10%
February	128	35	12	31	175	73%	20%	7%
March	171	24	16	35	211	81%	11%	8%
April	175	9	19	51	203	86%	4%	9%
May	178	29	13	67	220	81%	13%	6%
June	117	29	24	44	214	55%	14%	11%
TOTAL:	1569	294	202	578	2109	74%	14%	10%

Screener covers Penobscot County Unified Criminal Docket & Bangor District Court

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
INDIGENCY STATISTICS

YORK	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	147	53	24		224	66%	24%	11%
August	149	60	14		223	67%	27%	6%
September	123	52	17		192	64%	27%	9%
October	142	45	14		201	71%	22%	7%
November	115	52	10		177	65%	29%	6%
December	127	48	14		189	67%	25%	7%
January	132	44	5	1	181	73%	24%	3%
February	108	46	7	1	161	67%	29%	4%
March	110	53	3	2	166	66%	32%	2%
April	103	54	6	3	163	63%	33%	4%
May	124	47	8	0	179	69%	26%	4%
June	101	48	9	4	158	64%	30%	6%
TOTAL:	1334	549	107	11	2214	60%	25%	5%

Screener covers Biddeford District Court, Springvale District Court, York County Superior Court and York County Jail

CUMBERLAND CTY	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	189	3	35		227	83%	1%	15%
August	216	17	47		280	77%	6%	17%
September	195	12	13	48	220	89%	5%	6%
October	120	24	3	46	147	82%	16%	2%
November								
(partial coverage)	49	5	1	29	55	89%	9%	2%
December								
(partial coverage)	166	3	23		192	86%	2%	12%
January	195	31	42	50	268	73%	12%	16%
February	202	12	41	28	255	79%	5%	16%
March	234	1	42	47	277	84%	0%	15%
April	229	3	61	50	293	78%	1%	21%
May	288	4	38	71	330	87%	1%	12%
June	278	3	36	19	317	88%	1%	11%
TOTAL:	2361	118	382	388	2861	83%	4%	13%

Screener covers Cumberland County Unified Court and Cumberland County Jail

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
INDIGENCY STATISTICS

AROOSTOOK	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	No screener from January to March							
August								
September								
October								
November								
December								
January								
February								
March								
April	21	16	4	59	41	51%	39%	10%
May	59	34	5	13	98	60%	35%	5%
June	60	20	28	15	123	49%	16%	23%
TOTAL:	140	70	37	87	262	53%	27%	14%

Screener covers Houlton District, Houlton Superior, Caribou Superior and Aroostook County Jail

HANCOCK	Indigent	Partial	Denied	Pled	TOTAL	%Indigent	%Partial	%Denied
July	No screener from January to mid-April							
August								
September								
October								
November								
December								
January								
February								
March								
April <i>(partial coverage)</i>	9	4	0		13	69%	31%	0%
May	33	10	1		44	75%	23%	2%
June	25	19	2		46	54%	41%	4%
TOTAL:	67	33	3		103	65%	32%	3%

Screener covers Hancock County Unified Criminal Docket, Ellsworth District Court, and Hancock County Jail

THE MAINE COMMISSION ON INDIGENT LEGAL SERVICES (MCILS)

FUNDING REQUESTS

John D. Pelletier, Esq. Executive Director

BUDGET OVERVIEW

The provision of indigent legal services is a constitutional obligation of the State. The budget for indigent legal services has two prominent features. First, recent history shows that the cost of indigent legal services goes up from year to year. Second, the drivers of cost increases for indigent legal services are beyond the control of the agency providing those services.

Attached are two documents that show the cost of indigent legal services from fiscal year 2000 through fiscal year 2014.¹ The multicolored document reflects a 10-year period when the Judicial Branch oversaw indigent legal services.² During that period, costs increased year-over-year in all but FY'10, increasing by more than \$800,000 four times and by more than \$1.2 million twice. The second document, entitled "Four-Year Trend Data," shows the cost of providing indigent legal services during the four years that the MCILS has operated the system. The MCILS data reflect a cost trend similar to that seen when the Judicial Branch oversaw the system.³

The increased costs reflected in these documents result from societal trends and policy decisions that are beyond the control of either the Judicial Branch or MCILS. For example, 1) technology improvements have enabled police and prosecutors to identify violations of bail conditions much more readily, resulting in a very large increase in the number of new criminal cases relating to violation of bail conditions; 2) the recent proliferation of audio and video recordings increases the hours required by defense counsel to review and analyze evidence and often requires expenditures to transcribe such recordings; 3) the proliferation of criminal code provisions that increase the class of a crime based on prior convictions makes representation on the enhanced crime more expensive in general and often generates specific costs for attorney hours and transcripts necessary to challenge the constitutionality of the prior convictions; 4) the recent rise in the prevalence of child abuse and neglect, which declined in the late 2000's, has resulted in substantial increases in the number of child protection cases brought by DHHS in recent years; 5) the increased prevalence of mental illness among criminal defendants makes cases more complicated and increases costs for mental health experts; 6) the increased use of cell-phone location data by prosecutors has resulted much more complicated cases and the need for expert assistance unheard of a few years ago; 7) the new Mainer population presents cases

¹ Note that the documents do not contain data for FY'10, the last year that the Judicial Branch oversaw indigent legal services prior to the Commission's creation and operation of the system.

² This document is provided to illustrate cost trends. The actual costs are not a direct comparison to Commission costs because the Judicial Branch data reflects costs for the guardian ad litem system in child protection cases that did not transition to the Commission and remains funded within the Judicial Branch budget.

³ Note that during the entire period covered by these two documents, the rate of pay for assigned counsel was \$50.00/hr., which had been constant since 1997. For FY'15, the rate of pay increased to \$55.00/hr., and the increased rate should be considered when assessing increased costs for FY'15.

that are complicated by immigration consequences and the need for interpreter services; and 8) jail consolidation has increased lawyer time and travel costs associated with representing a defendant housed far from the court in which the defendant is charged.

Other examples of cost drivers could be cited, but suffice it to say that the cost of indigent legal services has and will increase based on factors beyond MCILS control.

SUPPLEMENTAL BUDGET NEED FOR FY'15 - \$1,678,000

On September 2, 2014, the Commission submitted to the Budget Office a supplemental budget request for FY'15 totaling \$818,000. Our justification for that request is attached.

During the first half of FY'15, however, our costs exceeded our original budget projections. Attached is a document entitled "Voucher Trends" that compares vouchers submitted in the first half of FY'15 with the same data for the first half of FY'14. As you can see, the Commission has seen double digit increases in all of its major voucher categories and with respect to a number of specific major crimes.⁴ As a result of the large increase of voucher submissions, costs ran over projections, and the Commission ended the second quarter with a shortfall of \$430,000.00.⁵ The Commission expects that costs for the remainder of FY'15 will exceed projections by a similar amount. Accordingly, the Commission believes that it will need supplemental funding of \$860,000.00 in addition to the original request of \$818,000, bringing the total supplemental need to \$1,678,000.00.

BIENNIAL BUDGET REQUEST

The Commission's biennial budget request has two components. First, it seeks to build-in the annual increase in costs that the Commission has experienced in hopes of avoiding the heretofore annual need for supplemental funding. Second, despite the recent increase of \$5.00/hr. in the rate of pay for assigned counsel, the Commission continues to believe that the hourly rate is inadequate to support the work necessary to provide quality indigent legal services and to recognize the importance of the work performed by dedicated attorneys throughout the state. Moreover, the rate of compensation endangers the Commission's ability to attract and retain the experienced, qualified counsel necessary to providing quality indigent legal services.

PROJECTED INCREASED COSTS

Regarding the budget need based on projected annual increases, in its first four years of operation, costs for indigent legal services have risen by an average of 8.2% per year. Accordingly, the Commission has incorporated this rate of increase into its cost projections in hopes of fully funding Commission operations and ending the need for yearly supplemental funding that the Commission has encountered to date. In assessing the amounts below, note that

⁴ The document also reflects a 10.4% increase in the cost per voucher. Note, however, that the rate of pay for counsel increased by 10% beginning on July 1, 2014. The increase rate of pay was built in to our budget projections and when the rate increase is considered, the cost per voucher has remained relatively stable.

⁵ The Commission strives to pay vouchers 14 days after they are submitted by the attorney. As a result of the shortfall, attorney vouchers submitted on or after December 1, 2014 were not paid until the beginning of January.

the increases are over the Commission's baseline budget, but the baseline budget amount is significantly less than the Commission's final allocation for FY'14 or our projected need for FY'15.⁶

	FY'16	FY'17
Baseline Budget	\$13,949,052	\$13,949,052
Additional funds needed to cover projected increased costs	\$2,928,164	\$4,278,341

INCREASED HOURLY RATE

Regarding an increase in the hourly rate paid to attorneys providing indigent legal services, that rate is governed by a Fee Schedule rule promulgated by the Commission. The Commission's statute makes any rulemaking with respect to the hourly rate major substantive. The Commission has provisionally adopted an amendment to the Fee Schedule that would raise the hourly rate to \$70.00/hr. for FY'16 and \$75.00/hr. for FY'17 and beyond. This provisionally adopted major substantive rule has been submitted to the Legislative Counsel and has been referred to the Judiciary Committee for its review. Note that even if the proposed rates were implemented, the rate paid to attorneys providing constitutionally required legal services would still be well below what large law firms charge their clients for paralegal services.

	FY'16	FY'17
Additional funds needed To cover proposed increase In the hourly rate	\$4,424,371	\$6,371,094
Total Biennial Budget Change Request	\$7,352,535	\$10,649,436

⁶ The budget justification sent to the Budget Office in September included both a supplemental request and a biennial request. As stated above, a copy is attached. Projections for the biennial budget were based on our assumptions for FY'15. As discussed above, the projection of our total need for FY'15 has increased since September. The biennial budget amounts contained herein have been adjusted from the September document to reflect the increase in what we expect total costs to be for all of FY'15.

MAINE JUDICIAL BRANCH
EXPENDITURES FOR INDIGENT LEGAL SERVICES, Attorneys & Other expenses TREND, FY'00 - FY'09

KEY:	
TOTAL EXPEND.	REIMBURSEMENTS
GEN FUND EXPEND.	NON-ATTY. COSTS

ILS-1 - Trend
FY'00- FY'09
AOC/saw 10.1.09

ADULT CRIMINAL & JUVENILE OFFENSES (includes "Lawyer of the Day")

	FY'00	FY'01	FY'02	FY'03	FY'04	FY'05	FY'06	FY'07	FY'08 (1.)	FY'09 (2.)	% change 1 yr. '08-'09
LAW COURT: expenditures	\$51,441	\$35,010	\$50,834	\$39,809	\$42,532	\$52,456	\$44,022	\$59,078	\$42,655	\$72,395	
LAW COURT: # vouchers	99	58	74	58	63	77	61	71	57	95	
Avg Cost per Law Ct vouch:	\$520	\$604	\$687	\$686	\$675	\$681	\$722	\$832	\$745	\$766	
SUPERIOR COURT: expenditures	\$2,036,328	\$2,131,982	\$2,516,220	\$2,907,249	\$3,086,462	\$2,909,544	\$3,480,002	\$3,728,155	\$4,457,238	\$4,419,832	
SUPERIOR COURT: # vouchers	4,456	4,126	4,580	5,556	6,119	5,916	6,589	7,602	9,031	9,009	
Avg Cost per Super Ct vouch:	\$457	\$517	\$549	\$523	\$504	\$492	\$528	\$490	\$494	\$491	
Unified Crim Docket: expenditures										\$230,794	
SUPERIOR COURT: # vouchers										690	
Avg Cost per Super Ct vouch:										\$334	
<i>NOTE: UCD, which opened in Nov. 2008, includes all Criminal cases in Cumberland County. These cases would have been previously filed in Portland District or Superior.</i>											
DISTRICT COURT Expenditures:	\$1,744,991	\$2,142,646	\$2,314,435	\$2,505,356	\$2,352,169	\$2,437,730	\$2,381,694	\$2,373,701	\$2,526,152	\$2,378,723	
DISTRICT COURT # vouchers:	8,816	9,160	9,664	10,329	9,812	9,770	9,314	9,348	9,677	9,392	
Avg Cost per Dist Ct vouch:	\$198	\$234	\$239	\$243	\$240	\$250	\$256	\$254	\$261	\$253	
Contracts with coalitions of attorneys in Somerset County (and Franklin County in FY'05-06 only), for representation in all criminal cases in the District & Superior Courts in those counties:											
CONTRACTED COUNSEL:	\$174,000	\$194,000	\$201,800	\$201,800	\$218,646	\$244,840	\$262,040	\$223,706	\$225,000	\$254,583	
SUBTOT. ALL CR & JV:	\$4,006,760	\$4,503,638	\$5,083,289	\$5,654,213	\$5,699,809	\$5,644,570	\$6,167,757	\$6,384,640	\$7,251,045	\$7,356,326	1.5%
REIMBURSEMENTS:	-\$439,954	-\$367,827	-\$463,113	-\$474,711	-\$494,149	-\$392,211	-\$421,020	-\$425,581	-\$446,447	-\$506,597	13.5%
% of costs reimbursed:	11.0%	8.2%	9.1%	8.4%	8.7%	6.9%	6.8%	6.7%	6.2%	6.9%	
NET COST TO GEN FUND FOR CR & JV At	\$3,740,806	\$4,329,811	\$4,821,976	\$5,381,302	\$5,424,306	\$5,497,199	\$6,008,777	\$6,182,765	\$7,029,598	\$7,104,312	1.1%
<i>NOTE: Reimbursements paid by defendants ordered to pay part of their defense costs are used as funds to pay court-appointed attorneys (off-setting costs to General Fund)</i>											
CHILD PROTECTIVE: <i>(see next page for Detail by Child, Parent or Other representation)</i>											
DISTRICT COURT Expenditures:	\$3,667,536	\$4,282,998	\$4,647,351	\$5,161,370	\$5,471,555	\$5,421,921	\$5,058,990	5,043,455	5,160,705	\$4,734,387	
DISTRICT COURT # vouchers:	9,510	10,319	10,223	10,793	11,561	11,136	10,586	10,202	10,415	9,911	
LAW COURT Expenditures:	\$51,530	\$33,125	\$26,368	\$19,950	\$25,752	\$25,007	\$30,796	\$27,342	\$23,683	\$40,194	
LAW COURT # vouchers:	74	51	33	28	34	30	39	31	32	52	
TOTAL CP \$	\$3,719,066	\$4,316,122	\$4,673,719	\$5,181,320	\$5,497,307	\$5,446,928	\$5,089,786	\$5,070,797	\$5,184,388	\$4,774,581	-7.9%
Avg Cost per CP voucher	\$388	\$416	\$456	\$479	\$474	\$488	\$479	\$496	\$496	\$479	-3.4%
MENTAL HEALTH											
DIST. CT. MH Expenditures:	\$62,448	\$58,233	\$62,059	\$60,875	\$59,008	\$72,837	\$82,380	\$110,227	\$110,709	\$124,066	12.1%
DIST. CT. # MH vouchers:	589	511	568	593	574	594	584	703	694	767	10.5%
Avg Cost per Dist Ct MH vouch:	\$106	\$114	\$109	\$103	\$103	\$123	\$141	\$157	\$160	\$162	1.4%
TOTAL EXPENDITURES FOR ATTORNEYS:											
District Court	\$5,474,975	\$6,483,877	\$7,023,844	\$7,727,601	\$7,882,732	\$7,932,489	\$7,523,063	\$7,527,383	\$7,797,566	\$7,237,175	
Superior Court	\$2,036,328	\$2,131,982	\$2,516,220	\$2,907,249	\$3,086,462	\$2,909,544	\$3,480,002	\$3,728,155	\$4,457,238	\$4,419,832	
Unified Crim Docket/Cumb. County										\$230,794	
Law Court	\$102,972	\$68,134	\$77,202	\$59,758	\$68,284	\$77,463	\$74,817	\$86,420	\$66,338	\$112,589	
Contract Counsel	\$174,000	\$194,000	\$201,800	\$201,800	\$218,646	\$244,840	\$262,040	\$223,706	\$225,000	\$254,583	
COUNTING RECONCILIATION (a.):	-\$11,369	-\$487	-\$12,956	-\$5,568	-\$3,431	-\$69,533	\$10,343	-\$13,028	\$82,617	\$19,044	
TOTAL	\$7,788,274	\$8,877,993	\$9,819,066	\$10,896,408	\$11,256,124	\$11,164,335	\$11,339,923	\$11,565,664	\$12,546,142	\$12,254,973	-2.3%
REIMBURSEMENTS (b.):	-\$439,954	-\$367,827	-\$463,113	-\$474,711	-\$494,149	-\$392,211	-\$421,020	-\$425,581	-\$446,447	-\$506,597	13.5%
NET COST TO GEN FUND FOR ATTY's (c.)	\$7,359,689	\$8,510,653	\$9,368,909	\$10,427,265	\$10,765,406	\$10,841,657	\$10,908,560	\$11,153,111	\$12,182,312	\$11,729,332	-3.7%
NON-ATTORNEY COSTS (d.)	\$1,108,600	\$1,197,820	\$1,307,027	\$1,087,779	\$1,069,846	\$1,121,561	\$1,154,685	\$1,232,991	\$1,515,060	\$1,350,392	-10.9%
GRAND TOTAL (inc. reimburse.) (e)	\$8,896,874	\$10,075,813	\$11,126,093	\$11,984,187	\$12,325,970	\$12,285,896	\$12,494,608	\$12,798,655	\$14,061,202	\$13,605,365	-3.2%
GRAND TOTAL: NET GEN.FUND (f.)	\$8,468,289	\$9,708,473	\$10,675,936	\$11,515,044	\$11,835,252	\$11,963,218	\$12,063,245	\$12,386,102	\$13,697,372	\$13,079,724	-4.5%

NOTES:

Maine Commission on Indigent Legal Services

Four-year Trend Data

	<u>FY'11</u>	<u>FY'12</u>	<u>FY'13</u>	<u>FY'14</u>
<u>All Other Allotment</u>	\$10,097,996.00	\$11,473,123	\$11,882,677	\$12,767,799
		+13.6%	+3.6%	+7.4%
Vouchers Paid	25,041	27,626	28,153	28,117
Cost per Voucher	\$389.63	\$404.89	\$407.88	\$434.60
Reimbursements	\$400,227	\$640,827	\$595,444	\$654,406

THE MAINE COMMISSION ON INDIGENT LEGAL SERVICES

VOUCHER TRENDS - FIRST HALF OF FY'15

	7/1/2013 – 12/31/2013	7/1/2014 – 12/31/2014	Change
General			
Vouchers Submitted	13,573	15,264	+12.5
Cost per Voucher	\$424.97	\$469.14	+10.4%
Felony vouchers	2,964	3,494	+17.9%
Misdemeanor Vouchers	3,535	3,945	+11.6%
Child Protective Vouchers	2,969	3,375	+13.7%
Juvenile Vouchers	611	678	+10.5%
Specific Crimes			
Murder	31	32	+3.2%
Robbery	101	155	+53.5%
Gross Sexual Assault	121	138	+14.0%
Aggravated Assault	191	196	+2.6%
Burglary	795	625	-21.4%
Aggravated Trafficking	133	152	+14.3%
Trafficking	272	311	+14.3%

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Budget Request Summary

FY'15 Supplemental	1,678,000	
	FY-16	FY-17
Baseline Budget	\$13,949,052	\$13,949,052
Additional funds needs To cover projected Increased costs*	\$2,928,164	\$4,278,341
Additional funds needed To cover proposed increase In the hourly rate**	\$4,424,371	\$6,371,094
Total Biennial Budget Request	\$7,352,535	\$10,649,436

*In its first four years of operation, costs for indigent legal services have risen by an average of 8.2% per year, similar to the pattern of increases experienced when the system was operated by the Judicial Branch. The Commission has incorporated this rate of increase into its cost projections in hopes of fully funding Commission operations and ending the need for yearly supplemental funding that the Commission has encountered to date.

**The hour rate paid to counsel providing indigent legal services was set at \$50/hr. in 1997 and remained unchanged until July 1, 2014, a period of 17 years. Considering inflation, the current rate of \$55/hr. continues to provide substantially less compensation than attorneys received in 1997 and is substantially less than the rate charged for paralegal services by most law firms. Moreover, the rate of compensation endangers the Commission's ability to attract and retain the experienced, qualified counsel necessary to providing quality indigent legal services. Accordingly, the Commission believes the hourly rate should be increased to \$70/hr. beginning July 1, 2015 and to \$75/hr. beginning July 1, 2016. The funding request set forth above reflects these proposed rate increases.

MCILS BUDGET SUMMARY (with 1,678,000 FY15 Supplemental)

FY14 AO Final Allocation	\$12,767,799		
	FY15	FY16	FY17
AO Baseline	\$13,949,052	\$13,949,052	\$13,949,052
AO need \$55/hr	\$15,627,052	\$16,877,216	\$18,227,394
		8% projected increase over '15	8% projected increase over '16
Vouchers @ \$55/hr	\$15,021,013	\$16,222,694	\$17,520,510
Voucher increase @ \$70/hr		\$4,424,371	
Voucher increase @ \$75/hr			\$6,371,094
AO need with increase		\$21,301,587	\$24,598,488
Biennial Budget Change Request		\$7,352,535	\$10,649,436

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MELISSA GOTT, STATE BUDGET OFFICER
CARLISLE McLEAN, ESQ., CHIEF LEGAL COUNSEL TO THE GOVERNOR

FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR

SUBJECT: MCILS BUDGET JUSTIFICATION
FY'15 SUPPLEMENTAL BUDGET REQUEST
FY'16-17 BIENNIAL BUDGET REQUEST

DATE: SEPTEMBER 2, 2014

FY'15 SUPPLEMENTAL BUDGET REQUEST - \$818,000

Unmet Supplemental Request from January, 2014 - \$490,000

In January, 2014, the Commission submitted a supplemental budget request to the Legislature in the amount of \$980,000 based on trend data showing increasing costs for indigent legal services during the first half of FY'14. In response, the Legislature appropriated an additional \$490,000 for MCILS for FY'15. Cost data for the second half of FY'14 were consistent with the increase seen earlier in the year. As a result, the Commission continues to be in need of the full amount requested in January, i.e. an additional \$490,000.

Moreover, the Commission now projects that it will need an additional \$328,000 over the amount set forth above to cover costs projected for FY'15. That amount is broken down as follows:

Excess carryover from FY'14 - \$252,000

Due to the payment schedule for attorney vouchers submitted to the Commission (vouchers submitted during the final two weeks of any quarter are paid during the subsequent quarter), each year costs incurred in one fiscal year are paid during the next. At the end of FY'14, the Commission carried forward into the current fiscal year \$252,000 more in attorney vouchers than had been carried forward from FY'13 into FY'14. This excess carryover did not cause a substantial delay in payments at the end of FY'14 because a large supplemental appropriation at the end of FY'13 had allowed the Commission to carry an unusually small amount into FY'14. The excess carryover, however, when included in projections for FY'15, would cause a substantial delay in payments at the end of FY'15. Accordingly, the Commission needs \$252,000 to cover the excess carryover from FY'14.

Specific Increased Cost Items – \$76,000

The Commission recently put the longstanding contract for indigent legal services in Somerset County out to bid by RFP. Only the incumbent provider submitted a bid, and that bid reflected a

10% increase over the previous contract amount, which mirrors the recent 10% increase in the hourly rate paid to attorneys on individual assigned cases. The increased Somerset contract cost for FY'15 equals \$20,625.

As noted in the supplemental request the Commission made in January, costs for non-counsel services necessary for effective representation have risen significantly as the number of serious cases and the complexity of cases in general has increased. Moreover, the Legislature has approved a \$5/hr. increase in the rate paid to private investigators (\$25/hr. to \$30.00) effective January 1, 2015, and the Commission projects that the new rate will be applied to more investigator hours than originally predicted. The increased non-counsel cost projected for FY'15 equals \$39,000.

The Legislature authorized new financial screener positions that have increase our operating expenses, as has the renewal at a slightly higher rate of our contract for the attorney voucher payment system. Accordingly, we project operational expenses to increase by \$16,000.

Finally, note that the Commission has had increasing success collecting reimbursements from people ordered to pay some or all of the cost of their representation. In FY'14, the Commission collected \$654,406, the highest amount since the Commission's inception. The amounts stated above, however, remain necessary despite improving collections.

BIENNIAL BUDGET REQUEST - FY'16 – 17

FY'16 - \$ 6,168,602

FY'17 - \$9,283,804

The amounts set forth above reflect funds requested in addition to the Commission's baseline budget for FY'16 and FY'17. The requested increases are based on two principal components: 1) the history of the increasing cost for indigent legal services, both since the inception of the Commission and previously when these costs were borne by the Judicial Branch; and 2) the Commission's belief that the current hourly rate of \$55/hr. paid to assigned counsel is inadequate and should be raised to \$70/hr. for FY'16 and \$75/hr. for FY'17.

Increasing Costs

Since the Commission's inception, the cost of providing indigent legal services has increased each year. The percentage increases have been as follows: FY'11/12 – 13.6%; FY12/13 – 3.6%; FY'13/14 – 7.4% (see attached document entitled Four Year Cost Trend). The trend is not dissimilar to the trend that existed when these costs were borne by the Judicial Branch (see attached Judicial Branch 10-year cost data). The average yearly increase for the first four years of the Commission's existence equals 8.2%. In August, the Commission decided that based on this history, Commission budget projections for FY'16 and FY'17 should reflect 8% cost increases for each year.

Increased Hourly Rate

As stated above, the Commission believes that the current hourly rate of \$55/hr. paid to assigned

counsel is inadequate and should be raised to \$70/hr. for FY'16 and \$75/hr. for FY'17. Toward that end, the Commission has adopted an amendment to its Fee Schedule rule to raise the rate as just described. The Commission understands that the Legislature has recently made the Fee Schedule a major substantive rule and that any actual increase will require the approval of and funding by the Legislature. The Commission's budget request reflects the amounts needed to fund the proposed hourly rate increase.

The attached projection spreadsheets and summary of our "All Other Need" reflect separately the amounts necessary to meet our increased projected costs and the amounts necessary to fund the proposed rate increase.

I look forward to discussing these budget requests with you and will be glad to provide any additional information you may request.