

MCILS

June 9, 2015

**Commissioner's Meeting
Packet**

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

JUNE 9, 2015

COMMISSION MEETING

CRIMINAL JUSTICE COMMITTEE ROOM, STATEHOUSE, AUGUSTA

AGENDA

- 1) Approval of May 12, 2015 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Budget and Legislative Update
- 4) Governor's Proposed Legislation
- 5) Discussion of Potential Contract Ideas
- 6) Public Comment
- 7) Set Date, Time and Location of Next Regular Meeting of the Commission
- 8) Executive Session, if needed (Closed to Public)

(1.)
May 12, 2015
Commission Meeting
Minutes

**Maine Commission on Indigent Legal Services – Commissioners Meeting
May 12, 2015**

Minutes

Commissioners Present: Steven Carey, Marvin Glazier, William Logan, Susan Roy, Kenneth Spierer
MCILS Staff Present: John Pelletier, Ellie Maciag

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the April 14, 2015 Commission Meeting Minutes	Copy of minutes received by all Commissioners.	Commissioner Logan moved for the approval of the minutes. Commissioner Glazier seconded. All present at the April 14 th 2015 meeting voted in favor. Approved.
Operations Reports Review	<p>Director Pelletier presented the <u>April 2015 Operations Reports</u>. The number of new cases opened in DefenderData totaled 2,228 – a 163 case decrease from March, but still a higher than average number of new cases. 2,674 vouchers were submitted, totaling \$1,281,530. This was a 269 voucher decrease and \$148,000 decrease from March. The April submitted vouchers came in almost exactly as projected. In April, the Commission paid 3,300 vouchers, totaling \$1,536,923, a 1,521 voucher and \$693,000 increase from March. This sharp increase in voucher payments was the result of paying off the shortfall that accrued at the end of the quarter in March. The average price per voucher in April was \$465.73, a decrease of \$8.24 per voucher from March. The yearly average voucher price has remained steady, around \$468, and is roughly a 10% increase from last fiscal year’s average price. Appeal and Post-Conviction Review cases were the highest average vouchers. Five vouchers exceeding \$5,000 were paid in April. The March transfer of counsel fees, which reflected February’s collections, totaled \$80,969, down \$19,000 from the previous month, but still well above the budgeted monthly average, due in large part to the continued revenue from the tax offset program. The Commission is on track to collect nearly \$700,000 in counsel fee reimbursements this fiscal year. Director Pelletier remarked that the success was due in large part to the great job the financial screeners are doing and the continued cooperation from court staff. Director Pelletier noted that in the biennial budget, the Commission had requested to raise the allotment in both the</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	Conference and the Revenue accounts.	
Budget and Legislative Update	<p>Director Pelletier updated the Commissioners on recent legislative and budget items. \$1.7 million in supplemental funding was approved on April 12th, and will cover all of the Commission's expected costs for the remainder of the current fiscal year. The Appropriations Committee has taken no final action on the Commission's biennial budget request. The Judiciary Committee has yet to schedule a work session on the three major substantive rules and the bill amending the confidentiality statute. Director Pelletier noted that the attorney rate increase will effectively be ruled upon by the Appropriations Committee in its deliberations about the biennial budget. This might require an emergency Commissioner's adopt an emergency fee rule should any pay increase be authorized. Director Pelletier indicated that should the other rules be approved by the Legislature, they will need to be finally adopted by the Commission, but not on an emergency basis. Director Pelletier and Chair Carey were briefed on April 14th about the working draft of the public defender bill being crafted by the Office of Policy and Management. This draft will be further refined and submitted to the Revisor's Office for printing in LD form. To date, no LD has been submitted and the Commission has not be informed about any changes that might have been made to the working draft.</p>	
Response to Solicitation of "Concept" Proposals	<p>Director Pelletier received 22 responses to his email seeking input from rostered attorneys about potentially expanding the use of contracts. Four responses were in favor of the concept, with a couple of attorneys indicating that they would be interested in applying for a contract, 11 responses opposed the concept, and 8 responses addressed both the pros and cons of a contract system in a thoughtful manner. A discussion ensued about the responses and what, if any, next steps should be taken to pursue the idea of additional contracts. Commissioner Spierer was concerned about some of the responses that indicated that a race to the bottom might ensue in the bidding process and wanted to learn more about the results of the Somerset County contract verses the rest of the state. In response to Commissioner Glazier's question about post-conviction review rates in Somerset County, Director Pelletier explained that PCR cases out that county are a very rare occurrence. Director Pelletier also explained that Somerset County presents a unique set of circumstances that might not be found elsewhere. Commissioner Roy questioned why the Farmington contract only lasted one year. Director Pelletier recalled that the two attorneys involved in that contract became overwhelmed which caused it to be short-</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>lived. Chair Carey suggested the Commission look at areas that are similar to Somerset County where contracts could be expanded to. Several areas mentioned included Franklin, Oxford, and Washington counties. Director Pelletier noted that a contract did not necessarily have to be limited to just a geographic area, but rather to a specific case type – serious violent felony or appellate cases, for instance. Director Pelletier offered to gather some exemplars of other state’s contracts for specialized case types to see what is out there.</p>	
New Business	<p>Director Pelletier gave the Commissioners a staffing update: the new part-time investigator financial screener recently started and has begun work on reaching out to other agencies about gaining access to information; the vacant support staff position will most likely be filled sometime in the fall; and the Governor declined to sign the financial order which would have allowed an intern to work during the summer through the Margaret Chase Smith Maine State Government summer intern program.</p>	
Public Comment	<p>Robert Ruffner, Esq., submitted a public comment:</p> <ul style="list-style-type: none"> ○ While there are bad contracts out there, the Commission has the opportunity to start implementing good contracts. ○ Suggested the Commissioners look at the San Mateo, CA contract and the New Hampshire system as two successful contract models. ○ The Somerset County contract is unique due to the three quality attorneys involved. The positive results for clients are due to the attorneys and are not due to the nature of the contract. ○ Believes than any RFP could prohibit a low-bid contract. ○ The Commission is losing a good attorney to a public defender office which provides a more structured job with a steady paycheck. ○ Purpose of the Clifford Commission was to move indigent legal services out of the judiciary to a different model. However, there is still a great deal of input by judges about who gets assigned indigent cases. ○ Is interested in a holistic defense contract in Cumberland County and knows of others interested in a juvenile pilot program in Cumberland County as well. 	
Executive Session	<p>The Commissioners entered into executive session to discuss a personnel matter. 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 June 9, 2015 at 9:30 am.	Commissioner Logan made a motion to adjourn. Commissioner Glazier 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: MAY 2015 OPERATIONS REPORTS
DATE: JUNE 3, 2015

Attached you will find the May, 2015 Operations Reports for your review and our discussion at the upcoming Commission meeting on June 9, 2015. A summary of the operations reports follows:

- 1,999 new cases were opened in the DefenderData system in May. This was a 229 case decrease from April.
- The number of vouchers submitted electronically in May was 2,788, an increase of 114 vouchers over April, totaling \$1,351,344.83, an increase of \$70,000 over April. In May, we paid 3,300 electronic vouchers totaling \$1,569,284.71. The number of vouchers paid in May equaled the number paid in April, but the amount paid rose 32,000.
- There were no paper vouchers submitted or paid in May.
- The average price per voucher in May was \$475.53, up \$9.80 per voucher over April.
- Appeal and Post-Conviction Review cases had the highest average vouchers in May. There were 3 vouchers exceeding \$5,000 paid in May. These cases involved: 1) a Murder case with a plea to a reduced charge several days into the trial; 2) an aggravated trafficking case that involved a testimonial suppression hearing that resulted in entry of a conditional guilty plea and appeal of the suppression ruling; 3) a child protective case that involved a 3-day hearing.

In our All Other Account, the total expenses for the month of May were \$1,689,497.83. Of the amount, approximately \$9,000 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$50,942.47 in expenses for the month of May.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of May, which reflects April's collections, totaled \$68,346.99, down \$18,000 from the previous month but still slightly above the budgeted monthly average.

In our Conference Account, we collected registration fees for the June minimum standards training, and paid the last of the expenses related to the April 1st criminal training. The account balance now stands at \$11,309.47.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

5/31/2015

DefenderData Case Type	May-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	18	\$ 17,329.33	25	\$ 33,188.56	\$1,327.54	126	153	\$ 213,342.64	\$1,394.40
Child Protection Petition	175	383	\$ 234,379.07	461	\$ 267,754.93	\$580.81	1,743	3,667	\$ 2,001,155.20	\$545.72
Drug Court	0	7	\$ 6,610.00	6	\$ 5,549.50	\$924.92	1	65	\$ 34,906.05	\$537.02
Emancipation	8	9	\$ 3,513.88	9	\$ 3,423.38	\$380.38	113	98	\$ 29,120.19	\$297.14
Felony	545	729	\$ 507,161.86	801	\$ 572,389.91	\$714.59	5,908	6,657	\$ 4,774,123.50	\$717.16
Involuntary Civil Commitment	51	50	\$ 9,672.30	64	\$ 12,897.94	\$201.53	741	710	\$ 154,811.15	\$218.04
Juvenile	75	107	\$ 36,103.63	126	\$ 38,277.67	\$303.79	1,049	1,161	\$ 416,623.61	\$358.85
Lawyer of the Day - Custody	205	249	\$ 52,838.38	273	\$ 53,388.73	\$195.56	2,334	2,279	\$ 471,637.17	\$206.95
Lawyer of the Day - Juvenile	39	35	\$ 6,251.19	43	\$ 7,361.86	\$171.21	441	426	\$ 78,248.57	\$183.68
Lawyer of the Day - Walk-in	110	114	\$ 25,014.39	118	\$ 23,865.81	\$202.25	1,256	1,183	\$ 247,849.15	\$209.51
Misdemeanor	573	701	\$ 262,574.28	882	\$ 311,335.89	\$352.99	6,963	7,469	\$ 2,760,357.62	\$369.58
Petition, Modified Release Treatment	0	3	\$ 1,000.05	1	\$ 335.50	\$335.50	11	53	\$ 17,377.56	\$327.88
Petition, Release or Discharge	0	0		0			0	4	\$ 4,032.88	\$1,008.22
Petition, Termination of Parental Rights	13	47	\$ 42,445.15	61	\$ 48,809.83	\$800.16	203	656	\$ 432,231.23	\$658.89
Post Conviction Review	1	10	\$ 12,386.16	17	\$ 20,450.50	\$1,202.97	55	86	\$ 91,532.30	\$1,064.33
Probation Violation	176	191	\$ 71,720.75	208	\$ 75,391.13	\$362.46	1,794	1,807	\$ 652,288.67	\$360.98
Represent Witness on 5th Amendment	0	0		2	\$ 495.00	\$247.50	14	16	\$ 3,146.75	\$196.67
Review of Child Protection Order	17	133	\$ 62,085.91	202	\$ 94,239.07	\$466.53	416	1,902	\$ 953,135.06	\$501.12
Revocation of Administrative Release	1	2	\$ 258.50	1	\$ 93.50	\$93.50	16	26	\$ 9,818.23	\$377.62
DefenderData Sub-Total	1,999	2,788	\$ 1,351,344.83	3,300	\$ 1,569,248.71	\$475.53	23,184	28,418	\$13,345,737.53	\$469.62
Paper Voucher Sub-Total	0	0		0	\$ -	#DIV/0!	6	6	\$ 1,512.24	\$ 252.04
TOTAL	1,999	2,788	\$1,351,344.83	3,300	\$1,569,248.71	\$ 475.53	23,190	28,424	\$ 13,347,249.77	\$ 469.58

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
 FY15 FUND ACCOUNTING
 AS OF 05/31/2015

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		\$ -		\$ -		\$ -		\$ 1,700,000.00	
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		\$ 4,928,737.00	\$ 15,649,052.00
Total Expenses	1	\$ (1,141,359.56)	4	\$ (1,567,153.86)	7	\$ (1,850,113.66)	10	\$ (1,684,022.01)	\$ (6,242,649.09)
	2	\$ (1,199,265.91)	5	\$ (1,261,558.07)	8	\$ (1,216,773.83)	11	\$ (1,689,497.83)	\$ (5,367,095.64)
	3	\$ (1,114,175.03)	6	\$ (557,133.57)	9	\$ (741,719.01)	12	\$ -	\$ (2,413,027.61)
Encumbrances		\$ (213,312.50)		\$ 71,187.50		\$ 71,062.50		\$ 47,375.00	\$ (23,687.50)
TOTAL REMAINING		\$ -		\$ (0.00)		\$ -		\$ 1,602,592.16	\$ 1,602,592.16

Q4 Month 11 (as of 05/31/15)	
INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (1,569,248.71)
Somerset County	\$ (22,687.50)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (30,818.61)
Mental Health Expert	\$ (14,643.40)
Transcripts	\$ (22,067.76)
Other Expert	\$ (14,069.61)
Expert Witness Lodging	\$ (268.92)
Process Servers	\$ (1,788.23)
Interpreters	\$ (763.00)
Misc Prof Fees & Serv	\$ (3,742.50)
SUB-TOTAL ILS	\$ (1,680,098.24)
OPERATING EXPENSES	
Service Center	\$ (794.50)
DefenderData	\$ (4,886.75)
Risk Management	\$ -
Mileage/Tolls/Parking	\$ (751.77)
Mailing/Postage/Freight	\$ (1,929.93)
VDT reimbursement	\$ (125.00)
Notary Fees	\$ -
Office Supplies/Equip.	\$ (650.53)
Cellular Phones	\$ (119.09)
Annual Book Printing Fee	\$ -
Office Equipment Rental	\$ (142.02)
OIT/TELCO	\$ -
(SUB-TOTAL OE)	\$ (9,399.59)
TOTAL	\$ (1,689,497.83)

INDIGENT LEGAL SERVICES	
Q4 Allotment	\$ 4,928,737.00
Q4 Encumbrance Expenditures	\$ 47,375.00
Q4 Expenses as of 05/31/15	\$ (3,373,519.84)
Remaining Q4 Allotment as of 05/31/15	\$ 1,602,592.16

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 05/31/15

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		\$ 184,125.00	\$ 717,467.00
Collected Revenue from JB	1	\$ 51,555.85	4	\$ 61,901.40	7	\$ 53,070.41	10	\$ 80,969.44	
Promissory Note Payments		\$ 200.00		\$ -		\$ 50.00		\$ -	
Collected Revenue from JB	2	\$ 68,324.36	5	\$ 66,316.39	8	\$ 58,966.06	11	\$ 68,346.99	
Promissory Note Payments		\$ 200.00		\$ -		\$ 50.00		\$ 50.00	
Donation		\$ 1,500.00		\$ -		\$ -		\$ -	
Collected Revenue from JB	3	\$ 47,842.05	6	\$ 47,640.77	9	\$ 99,692.53	12	\$ -	
Promissory Note Payments		\$ -		\$ 50.00		\$ 50.00		\$ -	
Returned Check		\$ 45.00		\$ 60.00		\$ 43.00		\$ -	
TOTAL REVENUE COLLECTED		\$ 169,667.26		\$ 175,968.56		\$ 211,922.00		\$ 149,366.43	\$ 706,924.25
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ (149,124.00)	6	\$ (190,337.31)	9	\$ (182,929.00)	12	\$ -	
REMAINING ALLOTMENT		\$ 970.00		\$ 8,786.69		\$ 1,195.00		\$ 184,125.00	\$ 195,076.69
Total Expenses	1	\$ -	4	\$ (2,119.11)	7	\$ (1,237.19)	10	\$ (1,478.04)	
	2	\$ (1,344.65)	5	\$ (415.75)	8	\$ (1.50)	11	\$ (203.50)	
	3	\$ (495.00)	6	\$ (558.00)	9	\$ (1,049.00)	12	\$ -	
REMAINING CASH		\$ 18,703.61		\$ (17,461.61)		\$ 26,705.31		\$ 147,684.89	\$ 175,632.20

Q4 Month 11 (as of 05/31/15)	
DEFENDER DATA COUNSEL PAYMENTS	
	\$ -
SUB-TOTAL ILS	
OVERPAYMENT REIMBURSEMENTS	\$ 203.50
State Cap Expense Q4	\$ (38.69)
Somerset County CDs	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
Process Servers	\$ -
SUB-TOTAL OE	\$ (38.69)
TOTAL	\$ (38.69)

INDIGENT LEGAL SERVICES	
FY15 Allotment	\$ 717,467.00
YTD Collected Revenue	\$ 706,924.25
YTD Expenses	\$ (8,901.74)
YTD Counsel Payments	\$ (522,390.31)
Q4 Remaining Unexpended Cash	\$ 175,632.20

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
AS OF 05/31/2015

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		\$ (20,000.00)		\$ -		\$ -		\$ 20,000.00	
Financial Order Adjustments		\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments				\$ -		\$ -		\$ -	
Total Budget Allotments		\$ 166,226.00		\$ 181,742.00		\$ 169,447.00		\$ 159,222.00	\$ 676,637.00
Total Expenses	1	\$ (66,591.80)	4	\$ (49,740.31)	7	\$ (52,802.70)	10	\$ (48,108.54)	
	2	\$ (49,475.54)	5	\$ (50,117.29)	8	\$ (42,255.91)	11	\$ (50,942.47)	
	3	\$ (50,108.08)	6	\$ (70,109.34)	9	\$ (43,686.90)	12	\$ -	
TOTAL REMAINING		\$ 50.58		\$ 11,775.06		\$ 30,701.49		\$ 60,170.99	\$ 102,698.12

Q4 Month 11 (as of 05/31/15)	
Per Diem Payments	\$ (275.00)
Salary	\$ (23,884.30)
Vacation Pay	\$ (2,066.30)
Holiday Pay	\$ (1,490.72)
Sick Pay	\$ (520.14)
Employee Hlth SVS/Workers Comp	\$ (74.00)
Health Insurance	\$ (9,466.94)
Dental Insurance	\$ (275.74)
Employer Retiree Health	\$ (3,872.31)
Employer Retirement	\$ (1,565.19)
Employer Group Life	\$ (204.16)
Employer Medicare	\$ (400.47)
Retiree Unfunded Liability	\$ (4,556.04)
Retro Pymt	\$ -
Perm Part Time Full Ben	\$ (2,291.16)
TOTAL	\$ (50,942.47)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES
FY15 FUND ACCOUNTING
As of 05/31/15

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						\$ 8,000.00		\$ 12,144.00	
Total Budget Allotments		\$ 4,000.00	\$	20,000.00	\$	12,000.00	\$	16,144.00	\$ 52,144.00
Total Revenue	1	\$ 1,850.00	4	\$ 8,000.00	7	\$ 20.00	10	\$ 1,260.00	
Billed Earned Revenue	1	\$ (150.00)		\$ -			11	\$ 2,400.00	
	2	\$ 975.00	5	\$ 2,700.00	8	\$ 6,705.00	12	\$ -	
	3	\$ 7,575.00	6	\$ -	9	\$ 3,100.00	12	\$ -	
ACTUAL CASH BALANCE		\$ 30,394.41	\$	41,094.41	\$	50,919.41	\$	3,660.00	\$ 54,579.41
Total Expenses	1	\$ (76.04)	4	\$ (3,116.49)	7	\$ (4,856.96)	10	\$ (6,178.46)	
	2	\$ (3,293.26)	5	\$ (1,866.51)	8	\$ (97.71)	11	\$ (7,548.60)	
	3	\$ (402.99)	6	\$ (15,805.12)	9	\$ (75.43)	12	\$ -	
TOTAL REMAINING		\$ 26,772.12	\$	16,684.00	\$	21,376.53	\$	(4,918.46)	\$ 16,458.07

Q4 Month 11 (as of 05/31/15)	
Collected Revenue	\$ 2,400.00
State Cap Cost Allocation	\$ (38.69)
Training Manuals Printing	\$ -
Trainer Fees	\$ -
Films/Materials	\$ -
Training Rooms/Meals	\$ (7,509.91)
Refund for non-attendance	\$ -
Board of Overseers Trainer Fees	\$ -
TOTAL EXPENSES	\$ (7,548.60)

FY15 Allotment	\$ 52,144.00
FY14 Carry Over	\$ 20,144.41
FY15 Collected Revenue	\$ 34,585.00
FY15 Expenses	\$ (43,419.94)
Unexpended Cash	\$ 11,309.47

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Court

5/31/2015

Court	May-15						Fiscal Year 2015			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	156	179	\$ 119,372.58	218	\$ 140,913.89	\$646.39	1,622	2,121	\$ 1,336,866.47	\$630.30
AUBSC	93	131	\$ 72,398.75	165	\$ 84,677.06	\$513.19	1,128	1,222	\$ 738,221.58	\$604.11
AUGDC	38	103	\$ 60,031.50	112	\$ 58,154.73	\$519.24	767	991	\$ 414,963.11	\$418.73
AUGSC	60	127	\$ 84,800.39	139	\$ 94,314.52	\$678.52	1,023	1,272	\$ 799,313.47	\$628.39
BANDC	37	108	\$ 35,957.92	126	\$ 36,391.92	\$288.82	654	1,180	\$ 417,551.21	\$353.86
BANSC	3	0		2	\$ 781.44	\$390.72	24	27	\$ 13,695.54	\$507.24
BATSC	3	8	\$ 4,437.85	4	\$ 1,232.77	\$308.19	40	55	\$ 35,026.80	\$636.85
BELDC	13	29	\$ 12,342.35	27	\$ 11,069.10	\$409.97	273	393	\$ 166,041.54	\$422.50
BELSC	4	22	\$ 8,518.66	23	\$ 12,642.55	\$549.68	207	253	\$ 148,609.30	\$587.39
BIDDC	80	134	\$ 58,544.18	129	\$ 56,500.00	\$437.98	922	1,195	\$ 515,509.57	\$431.39
BRIDC	14	16	\$ 14,015.68	19	\$ 13,251.26	\$697.43	150	243	\$ 126,582.96	\$520.92
CALDC	16	16	\$ 8,692.75	21	\$ 10,730.30	\$510.97	149	205	\$ 95,055.98	\$463.69
CARDC	8	18	\$ 10,136.81	34	\$ 16,488.93	\$484.97	145	292	\$ 135,743.36	\$464.87
CARSC	41	39	\$ 20,530.83	57	\$ 25,342.20	\$444.60	363	415	\$ 203,648.72	\$490.72
DOVDC	2	26	\$ 10,065.97	12	\$ 3,671.80	\$305.98	80	208	\$ 59,746.76	\$287.24
DOVSC	1	0		0			5	7	\$ 1,103.00	\$157.57
ELLDC	17	29	\$ 20,780.34	37	\$ 22,521.22	\$608.68	179	382	\$ 199,554.75	\$522.39
ELLSC	2	4	\$ 28,567.83	4	\$ 1,781.00	\$445.25	32	71	\$ 34,324.42	\$483.44
FARDC	12	14	\$ 10,920.92	36	\$ 17,272.97	\$479.80	79	166	\$ 88,745.14	\$534.61
FARSC	1	2	\$ 264.00	3	\$ 547.14	\$182.38	15	38	\$ 18,940.43	\$498.43
FORDC	10	7	\$ 2,830.08	16	\$ 8,413.02	\$525.81	89	110	\$ 56,773.79	\$516.13
HOUDC	45	45	\$ 18,223.92	39	\$ 14,692.81	\$376.74	424	491	\$ 165,073.45	\$336.20
HOUSC	13	12	\$ 12,087.22	18	\$ 10,717.00	\$595.39	157	190	\$ 122,434.87	\$644.39
LEWDC	119	130	\$ 49,817.02	190	\$ 80,616.68	\$424.30	1,443	1,719	\$ 681,920.83	\$396.70
LINDC	18	15	\$ 6,468.96	18	\$ 8,935.88	\$496.44	164	186	\$ 72,577.70	\$390.20
MACDC	17	27	\$ 8,420.50	43	\$ 15,114.00	\$351.49	272	351	\$ 116,133.70	\$330.87
MACSC	17	10	\$ 7,121.60	12	\$ 6,008.09	\$500.67	143	161	\$ 75,106.88	\$466.50
MADDC	2	1	\$ 261.36	2	\$ 502.04	\$251.02	17	14	\$ 5,405.60	\$386.11
MILDC	0	0		0			8	16	\$ 4,082.82	\$255.18
NEWDC	23	26	\$ 9,904.50	34	\$ 13,907.99	\$409.06	241	320	\$ 104,202.55	\$325.63
PORDC	79	115	\$ 57,289.49	151	\$ 68,898.19	\$456.28	984	1,426	\$ 639,911.15	\$448.75
PORSC	5	5	\$ 2,410.44	4	\$ 2,016.44	\$504.11	38	47	\$ 34,029.62	\$724.03
PREDC	43	51	\$ 18,383.53	43	\$ 14,997.47	\$348.78	315	448	\$ 164,608.94	\$367.43
ROCDL	24	32	\$ 12,346.53	50	\$ 19,448.29	\$388.97	457	574	\$ 207,283.04	\$361.12
ROCSC	14	26	\$ 17,724.36	28	\$ 16,787.12	\$599.54	276	330	\$ 176,658.01	\$535.33
RUMDC	14	14	\$ 4,139.68	37	\$ 15,896.52	\$429.64	141	187	\$ 92,407.93	\$494.16
SKODC	11	42	\$ 25,089.28	63	\$ 27,742.11	\$440.35	161	451	\$ 202,572.13	\$449.16
SKOSC	0	0		1	\$ 137.50	\$137.50	5	8	\$ 3,009.00	\$376.13
SOUDC	27	35	\$ 6,770.96	49	\$ 12,042.84	\$245.77	314	387	\$ 118,408.35	\$305.96
SOUSC	28	87	\$ 34,455.60	95	\$ 47,814.82	\$503.31	406	510	\$ 253,351.16	\$496.77
SPRDC	72	92	\$ 40,410.58	92	\$ 44,696.70	\$485.83	660	752	\$ 338,597.66	\$450.26
Law Ct	6	15	\$ 15,379.57	22	\$ 28,887.38	\$1,313.06	102	107	\$ 149,478.45	\$1,396.99
KENCD	68	26	\$ 7,147.01	28	\$ 6,747.40	\$240.98	118	29	\$ 6,926.15	\$238.83
PENCD	178	232	\$ 85,711.53	219	\$ 98,502.54	\$449.78	1,951	2,106	\$ 996,860.81	\$473.34
SAGCD	18	16	\$ 5,780.10	33	\$ 13,686.43	\$414.74	261	260	\$ 154,622.60	\$594.70
WALCD	20	9	\$ 2,732.95	7	\$ 1,467.40	\$209.63	43	7	\$ 1,467.40	\$209.63
PISCD	15	18	\$ 4,295.68	20	\$ 8,406.28	\$420.31	175	162	\$ 40,462.12	\$249.77
HANCD	59	63	\$ 29,779.00	84	\$ 36,558.25	\$435.22	471	441	\$ 171,165.89	\$388.13
FRACD	36	77	\$ 19,417.86	91	\$ 29,369.11	\$322.74	565	574	\$ 202,250.99	\$352.35
CUMCD	278	372	\$ 193,222.93	405	\$ 219,847.83	\$542.83	3,360	3,453	\$ 1,779,889.99	\$515.46
KNOCD	23	12	\$ 5,478.22	11	\$ 2,942.72	\$267.52	44	12	\$ 3,169.98	\$264.17
SOMCD	0	1	\$ 99.00	0			7	10	\$ 10,748.80	\$1,074.88
LINCD	24	8	\$ 1,620.52	7	\$ 1,229.36	\$175.62	40	7	\$ 1,229.36	\$175.62
WATDC	16	44	\$ 15,823.50	62	\$ 20,720.60	\$334.20	445	639	\$ 217,752.81	\$340.77
WESDC	30	42	\$ 10,181.59	49	\$ 16,565.47	\$338.07	314	386	\$ 125,384.86	\$324.83
WISDC	21	29	\$ 11,015.34	48	\$ 16,894.62	\$351.97	293	326	\$ 93,953.30	\$288.20
WISSC	9	31	\$ 22,607.40	45	\$ 24,171.64	\$537.15	238	282	\$ 129,348.90	\$458.68
YORDC	16	16	\$ 6,517.71	16	\$ 5,581.37	\$348.84	185	203	\$ 77,231.83	\$380.45
TOTAL	1,999	2,788	\$ 1,351,344.83	3,300	\$ 1,569,248.71	\$475.53	23,184	28,418	\$13,345,737.53	\$469.62

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Number of Attorneys Rostered by Court

05/31/2015

Court	Rostered Attorneys	Court	Rostered Attorneys
Alfred Superior Court	119	Portland District Court	161
Auburn Superior Court	118	Presque Isle District Court	13
Augusta District Court	99	Rockland District Court	50
Augusta Superior Court	94	Rumford District Court	26
Bangor District Court	60	Skowhegan District Court	13
Belfast District Court	48	South Paris District Court	69
Biddeford District Court	140	South Paris Superior Court	68
Bridgton District Court	107	Springvale District Court	125
Calais District Court	13	Unified Criminal Docket Augusta	92
Caribou District Court	17	Unified Criminal Docket Bangor	61
Caribou Superior Court	20	Unified Criminal Docket Bath	95
Dover-Foxcroft District Court	28	Unified Criminal Docket Belfast	42
Ellsworth District Court	44	Unified Criminal Docket Dover Foxcroft	24
Farmington District Court	26	Unified Criminal Docket Ellsworth	38
Fort Kent District Court	9	Unified Criminal Docket Farmington	28
Houlton District Court	16	Unified Criminal Docket Portland	153
Houlton Superior Court	18	Unified Criminal Docket Rockland	42
Lewiston District Court	144	Unified Criminal Docket Skowhegan	21
Lincoln District Court	31	Unified Criminal Docket Wiscasset	73
Machias District Court	18	Waterville District Court	57
Machias Superior Court	14	West Bath District Court	113
Madawaska District Court	10	Wiscasset District Court	81
Millinocket District Court	22	York District Court	115
Newport District Court	40		

(3.)
Budget & Legislative
Update

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: BUDGET AND LEGISLATIVE UPDATE
DATE: JUNE 3, 2015

On June 1st, the Appropriations Committee tentatively voted to include funds for MCILS in the biennial budget. The amounts voted included the full amount we asked for to cover increased costs projected for FY'16. For FY'17, no money was voted to cover increased costs. Feedback I have received suggests that the panel wanted to wait to see if these increases materialized and was confident that the Commission would make them aware of our needs as we approached the second year of the biennium.

In addition, the Committee voted additional sums for both FY'16 and FY'17 to increase the hourly rate paid to assigned counsel to **\$60.00/hr. for both years of the biennium**. A copy of the budget numbers voted by the Committee is attached.

Finally, on June 2nd, the Committee voted to include language in the budget authorizing the Commission to adopt an emergency rule setting the hourly rate at \$60.00/hr. At this writing, the budget had not been finalized by the Appropriations Committee and, accordingly to Committee practice, all votes to date are considered tentative. The budget process will play out in Committee and in the full Legislature in the coming weeks.

On May 22nd, the Judiciary held a work session on our three major substantive rules and the statutory amendment regarding investigations of attorneys. In anticipation of the Governor's proposal for changes to the indigent legal services system, the rate increase rule and the specialized panel rule were voted to be carried over to the next regular session in January. The rule addressing the authority of the Executive Director and the bill containing the associated statute change were tabled pending further discussion between the Executive Director and the Governor's office. On June 2nd, the Judiciary Committee voted both measures unanimous "Ought to Pass." The measures will now move on to the full Legislature.

Finally, the Governor's proposed legislation has been printed as LD 1433. A copy is attached for your review and discussion at the upcoming meeting.

Sec. A-41. Appropriations and allocations.

The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: BASELINE BUDGET

GENERAL FUND	2015-16	2016-17
POSITIONS - LEGISLATIVE COUNT	11,500	11,500
Personal Services	\$760,268	\$766,688
All Other	\$13,949,052	\$13,949,052
GENERAL FUND TOTAL	\$14,709,320	\$14,715,740

OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
All Other	\$628,497	\$628,497
OTHER SPECIAL REVENUE FUNDS TOTAL	\$628,497	\$628,497

Maine Commission on Indigent Legal Services Z112

Initiative: Allocates funds to reflect an increase in the collection of counsel fee reimbursement and fees paid to the Commission for training.

OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
All Other	\$149,000	\$165,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$149,000	\$165,000

Maine Commission on Indigent Legal Services Z112

Initiative: Provides one-time additional funding for indigent legal services.

GENERAL FUND	2015-16	2016-17
All Other	\$2,900,000	\$0
GENERAL FUND TOTAL	\$2,900,000	\$0

Maine Commission on Indigent Legal Services Z112

Initiative: Provides funds to increase in the hourly rate to \$60 per hour beginning in fiscal year 2015-16.

GENERAL FUND	2015-16	2016-17
All Other	\$1,470,790	\$1,592,773
GENERAL FUND TOTAL	\$1,470,790	\$1,592,773

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON
DEPARTMENT TOTALS**

	2015-16	2016-17
GENERAL FUND	\$19,080,110	\$16,308,513
OTHER SPECIAL REVENUE FUNDS	\$777,497	\$793,497
DEPARTMENT TOTAL - ALL FUNDS	\$19,857,607	\$17,102,010

(4.)
Governor's Proposed
Legislation



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1433

S.P. 540

In Senate, May 26, 2015

An Act To Create the Office of the Public Defender and Amend the Duties of the Commission on Indigent Legal Services

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BURNS of Washington. (GOVERNOR'S BILL)
Cosponsored by Representative HOBBS of Saco and
Senators: HILL of York, KATZ of Kennebec, Representatives: DION of Portland, FREDETTE
of Newport, GUERIN of Glenburn, WINSOR of Norway.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 2 MRSA §6, sub-§12**, as enacted by PL 2009, c. 419, §1, is repealed.

3 **Sec. 2. 4 MRSA §1801**, as enacted by PL 2009, c. 419, §2, is amended to read:

4 **§1801. Maine Commission on Indigent Legal Services; established**

5 The Maine Commission on Indigent Legal Services, established by Title 5, section
6 12004-G, subsection 25-A, is an independent commission whose purpose is to provide
7 oversight of the Office of the Public Defender, ensuring efficient, high-quality
8 representation to indigent criminal defendants, juvenile defendants and children and
9 parents in child protective cases, consistent with federal and state constitutional and
10 statutory obligations. The commission shall ~~work to ensure~~ oversee the delivery of
11 indigent legal services by qualified and competent counsel in a manner that is fair and
12 consistent throughout the State ~~and to ensure~~ while working with the Chief Public
13 Defender to provide adequate funding of for a statewide system of indigent legal services,
14 which must be provided and managed in a fiscally responsible manner, free from undue
15 political interference and conflicts of interest.

16 **Sec. 3. 4 MRSA §1802**, as amended by PL 2013, c. 159, §10, is further amended
17 to read:

18 **§1802. Definitions**

19 As used in this chapter, unless the context otherwise indicates, the following terms
20 have the following meanings.

21 ~~**1. Assigned counsel.** "Assigned counsel" means a private attorney designated by the~~
22 ~~commission to provide indigent legal services at public expense.~~

23 ~~**1-A. Appellate counsel.** "Appellate counsel" means an attorney who is entitled to~~
24 ~~payment under Title 15, section 2115-A, subsection 8 or 9.~~

25 **1-B. Civil party.** "Civil party" means a party to a civil case described in subsection
26 4, paragraph B.

27 **2. Commission.** "Commission" means the Maine Commission on Indigent Legal
28 Services under section 1801.

29 **2-A. Conflict case.** "Conflict case" means a case in which counsel in the Office of
30 the Public Defender or contract counsel has a conflict of interest under rules adopted by
31 the Supreme Judicial Court.

32 **3. Contract counsel.** "Contract counsel" means a private attorney under contract
33 ~~with the commission to provide indigent legal services~~ Office of the Public Defender to
34 provide indigent legal services.

1 **3-A. Contracted professional services.** "Contracted professional services" means
2 nonattorney services under contract with the Office of the Public Defender that are
3 necessary for an adequate defense.

4 **4. Indigent legal services.** "Indigent legal services" means legal representation
5 provided to:

6 A. An indigent defendant in a criminal case in which the United States Constitution
7 or the Constitution of Maine or federal or state law requires that the State provide
8 representation;

9 B. An indigent party in a civil case in which the United States Constitution or the
10 Constitution of Maine or federal or state law requires that the State provide
11 representation; and

12 C. Juvenile defendants.

13 "Indigent legal services" does not include the services of a guardian ad litem appointed
14 pursuant to Title 22, section 4105, subsection 1.

15 **5. Office of the Public Defender.** "Office of the Public Defender" means the office
16 established under section 1807, which is responsible for administering indigent legal
17 services.

18 **6. Retained counsel.** "Retained counsel" means a private attorney under contract
19 with the Office of the Public Defender to handle conflict cases and cases that are outside
20 the scope of contract counsel.

21 **7. Staff counsel.** "Staff counsel" means an attorney in the Office of the Public
22 Defender who provides indigent legal services under this chapter and is an employee of
23 the State.

24 **Sec. 4. 4 MRSA §1803**, as enacted by PL 2009, c. 419, §2, is amended to read:

25 **§1803. Maine Commission on Indigent Legal Services structure**

26 **1. Members; appointment; chair.** The commission consists of 5 members
27 appointed by the Governor and subject to review by the joint standing committee of the
28 Legislature having jurisdiction over judiciary matters and confirmation by the
29 Legislature. The Governor shall designate one member to serve as chair of the
30 commission. One of the members must be appointed from a list of qualified potential
31 appointees provided by the President of the Senate. One of the members must be
32 appointed from a list of qualified appointees provided by the Speaker of the House of
33 Representatives. One of the members must be appointed from a list of qualified potential
34 appointees provided by the Chief Justice of the Supreme Judicial Court.

35 In determining the appointments and recommendations under this subsection, the
36 Governor, the President of the Senate, the Speaker of the House of Representatives and
37 the Chief Justice of the Supreme Judicial Court shall consider input from persons and
38 organizations with an interest in the delivery of indigent legal services.

1 The Chief Public Defender, or the Chief Public Defender's designee, is an ex officio,
2 nonvoting member of the commission and may participate in all meetings of the
3 commission.

4 **2. Qualifications.** ~~Individuals~~ Of the individuals appointed to the commission who
5 are not attorneys, one must have a background in accounting or finance. All other
6 individuals appointed who are not attorneys must have demonstrated a commitment to
7 quality competent representation for persons who are indigent and must have the skills
8 and knowledge required to ensure that quality of competent representation is provided in
9 each area of relevant law. No more than 3 members may be attorneys engaged in the
10 active practice of law.

11 An attorney appointed to the commission must have expertise in providing legal defense
12 and the skills and knowledge required to ensure that competent representation is provided
13 in each area of relevant law. No more than 3 members may be attorneys engaged in the
14 active practice of law.

15 **3. Terms.** Members of the commission are appointed for terms of 3 years each,
16 except that of those first appointed the Governor shall designate 2 whose terms are only
17 one year, 2 whose terms are only 2 years and one whose term is 3 years. A member may
18 not serve more than 2 consecutive 3-year terms plus any initial term of less than 3 years.

19 A member of the commission appointed to fill a vacancy occurring otherwise than by
20 expiration of term is appointed only for the unexpired term of the member succeeded.

21 **4. Quorum.** Three members of the commission constitutes a quorum. A vacancy in
22 the commission does not impair the power of the remaining members to exercise all the
23 powers of the commission.

24 **5. Compensation.** Each member of the commission is eligible to be compensated as
25 provided in Title 5, chapter 379.

26 **6. Assistance.** The Chief Public Defender or the Chief Public Defender's designee
27 shall provide staff assistance to the commission in carrying out its functions.

28 **Sec. 5. 4 MRSA §1804**, as amended by PL 2013, c. 159, §§11 to 13 and c. 368, Pt.
29 RRR, §1 and affected by §4, is repealed.

30 **Sec. 6. 4 MRSA §1804-A** is enacted to read:

31 **§1804-A. Maine Commission on Indigent Legal Services duties and responsibilities**

32 **1. Maine Commission on Indigent Legal Services standards.** The commission
33 shall develop standards governing the delivery of indigent legal services, including:

34 A. Standards governing eligibility for indigent legal services. The eligibility
35 standards must take into account the possibility of a defendant's or civil party's
36 paying counsel in periodic installments;

37 B. Standards prescribing minimum experience, training and other qualifications for
38 attorneys providing public defender services, which must include standards to ensure

- 1 that attorneys are capable of providing competent representation in the case types to
2 which they are assigned, recognizing that competent representation in each type of
3 case requires experience and specialized training in that field;
- 4 C. Standards for weighted caseloads based on recommendations from the Chief
5 Public Defender and reviewed every 5 years or upon the recommendation of the
6 Chief Public Defender;
- 7 D. Standards for the evaluation of contract counsel to be reviewed every 5 years or
8 upon the recommendation of the Chief Public Defender;
- 9 E. Standards for independent, competent and efficient representation of clients
10 whose cases present conflicts of interest;
- 11 F. Standards for the reimbursement of expenses incurred by retained counsel;
- 12 G. Standards regarding the determination of payments to the Office of the Public
13 Defender that may be required of a defendant or civil party under section 1808. In
14 developing the payment standards under this paragraph, the commission shall
15 consider among other things the rates of private counsel and the type of case; and
- 16 H. Standards considered necessary and appropriate to ensure the delivery of adequate
17 indigent legal services.
- 18 **2. Maine Commission on Indigent Legal Services duties. The commission shall:**
- 19 A. Oversee the Office of the Public Defender to ensure competent and efficient
20 indigent legal services are provided;
- 21 B. Establish processes and procedures to ensure the Office of the Public Defender
22 uses information technology and case management systems to accurately collect,
23 record and report detailed expenditure and case load data;
- 24 C. Establish rates of compensation for retained counsel;
- 25 D. Establish contract guidelines as well as processes and procedures to review
26 contracts entered into between the Office of the Public Defender and contract counsel
27 using best practices for contracts providing indigent legal services. Both the contract
28 guidelines and contract review process must be evaluated every 3 years or at the
29 discretion of the commission;
- 30 E. Establish an application fee of no less than \$5, which may be graduated as
31 provided under section 1808, subsection 4 based on a defendant's or civil party's
32 ability to pay and which is administered by the Office of the Public Defender;
- 33 F. Submit to the Legislature, the Chief Justice of the Supreme Judicial Court and the
34 Governor an annual report on the operation, needs and costs of the indigent legal
35 services system, including an evaluation of contracts, services provided by contract
36 counsel, retained counsel, any contracted professional services and cost containment
37 measures;
- 38 G. Monitor and at the commission's discretion testify on legislative proposals that
39 affect the quality and cost of the indigent legal services system. The commission
40 may name a designee to perform this duty;

- 1 H. Prepare at the end of each legislative session a report on the relevant law changes
2 to the indigent legal services system and the effect on the quality and cost of those
3 changes;
- 4 I. Review the biennial budget request and any supplemental budget requests of the
5 Chief Public Defender prior to their submission to the Department of Administrative
6 and Financial Services, Bureau of the Budget;
- 7 J. Establish the minimum amount of malpractice insurance contract counsel and
8 retained counsel must hold to be eligible to handle indigent defense cases;
- 9 K. Develop a program, with the assistance of the Chief Public Defender, to allow
10 law students opportunities within the indigent legal services system consistent with
11 those available within the District Attorney's Offices;
- 12 L. Designate a member of the commission as a liaison to the Chief Public Defender's
13 cost containment unit under section 1807, subsection 3, paragraph P;
- 14 M. Establish a process for a vote of no confidence in the Chief Public Defender;
- 15 N. Compile a list of grievances against the Chief Public Defender, to be provided to
16 the Governor, if the commission takes a vote of no confidence in the Chief Public
17 Defender under paragraph M; and
- 18 O. Perform all duties necessary and incidental to the performance of any duty set out
19 in this chapter.
- 20 **3. Maine Commission on Indigent Legal Services powers. The commission may:**
- 21 A. Meet and conduct business at any place within the State;
- 22 B. Use voluntary and uncompensated services of private individuals and
23 organizations as may from time to time be offered and needed;
- 24 C. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to
25 this paragraph are routine technical rules as defined in Title 5, chapter 375,
26 subchapter 2-A, except that rules adopted to establish standards under subsection 1,
27 paragraph B and rates of compensation for retained counsel under subsection 2,
28 paragraph C are major substantive rules as defined in Title 5, chapter 375, subchapter
29 2-A;
- 30 D. Appear in court and before other administrative bodies represented by the
31 commission's own attorneys; and
- 32 E. Take a vote of no confidence in the Chief Public Defender and provide a list of
33 grievances to the Governor. A vote of no confidence under this paragraph is cause
34 for dismissal of the Chief Public Defender by the Governor in accordance with
35 section 1807, subsection 2, paragraph A.
- 36 **4. Maine Commission on Indigent Legal Services restrictions. The commission**
37 **may not make decisions regarding the handling of a case.**
- 38 **Sec. 7. 4 MRSA §1805, as enacted by PL 2009, c. 419, §2, is repealed.**

1 **Sec. 8. 4 MRSA §1806, sub-§2, ¶E**, as enacted by PL 2011, c. 260, §1, is
2 amended to read:

3 E. A request for funds for expert or investigative assistance that is submitted by an
4 indigent party or by an attorney on behalf of an indigent client is confidential. The
5 decision of the ~~executive director of the commission hired pursuant to section 1804,~~
6 ~~subsection 1, or the executive director's~~ Chief Public Defender or the Chief Public
7 Defender's designee, to grant or deny such a request is not confidential after a case
8 has been completed. A case is completed when the judgment is affirmed on appeal or
9 the period for appeal has expired.

10 **Sec. 9. 4 MRSA §§1807 and 1808** are enacted to read:

11 **§1807. Office of the Public Defender established; appointment and duties**

12 **1. Establishment.** The Office of the Public Defender is established. The office
13 consists of the Chief Public Defender, who is the head of the office, 2 Deputy Public
14 Defenders, appointed in accordance with subsection 2, and counsel selected by the Chief
15 Public Defender in accordance with the eligibility standards set forth under section
16 1804-A, subsection 1, paragraph B. The responsibilities of the Office of the Public
17 Defender are exclusively concerned with the rights of persons described in section 1802,
18 subsection 4.

19 **2. Chief Public Defender.** The provisions of this subsection apply to the Chief
20 Public Defender.

21 **A.** The Chief Public Defender is appointed by the Governor, subject to review by the
22 joint standing committee of the Legislature having jurisdiction over judiciary matters
23 and confirmation by the Legislature. The Chief Public Defender may be removed
24 from office for cause by the Governor, and Title 5, section 931, subsection 2 does not
25 apply. The Chief Public Defender must be an attorney or judge who has spent at least
26 5 years in the practice of criminal law or presiding over the adjudication of criminal
27 cases. The term of office for the Chief Public Defender is 5 years. If a vacancy
28 occurs during the term, the replacement is appointed to fill out the remaining part of
29 the term.

30 **B.** The Chief Public Defender, with the approval of the Governor, shall appoint 2
31 Deputy Public Defenders. The Deputy Public Defenders report to the Chief Public
32 Defender and serve at the pleasure of the Chief Public Defender. One Deputy Public
33 Defender must be an attorney or judge who has spent a substantial part of the last 5
34 years in the practice of criminal law or presiding over the adjudication of criminal
35 cases. If a vacancy occurs in the Chief Public Defender position or if the Chief
36 Public Defender is temporarily unavailable to perform the duties of the office, this
37 Deputy Public Defender shall assume the duties of the Chief Public Defender until
38 the vacancy is filled or the Chief Public Defender returns to work. The 2nd Deputy
39 Public Defender must be an attorney or judge who has spent a substantial part of the
40 last 5 years in the practice of civil law or presiding over civil cases.

41 **C.** The salary of the Chief Public Defender is consistent with the salary of district
42 attorneys within salary range 90 with the step within that salary range determined by

1 the Maine Commission on Indigent Legal Services subject to the approval of the
2 Governor.

3 The salary of the Deputy Public Defenders is within salary range 36.

4 D. The Chief Public Defender shall contract for or hire staff, including counsel who
5 serve at the pleasure of the Chief Public Defender, necessary to perform the functions
6 of the Office of the Public Defender and to implement the provisions of this chapter.

7 (1) The compensation of staff of the Office of the Public Defender is fixed by the
8 Chief Public Defender with the approval of the Governor, but such compensation
9 may not in the aggregate exceed the amount appropriated for those positions and
10 may not result in an increased request to future Legislatures.

11 (2) Staff counsel is an employee of this State as defined in Title 5, section 20,
12 subsection 1.

13 (3) Professional staff of the Chief Public Defender are not subject to the Civil
14 Service Law.

15 E. The Office of the Public Defender may not represent more than one person when
16 a conflict of interest exists under the code of professional conduct laid out by the
17 Board of Overseers of the Bar.

18 F. The Chief Public Defender, Deputy Public Defenders and staff, contract counsel
19 and retained counsel must be members in good standing of the bar of the State. A
20 "member in good standing of the bar of the State":

21 (1) Is admitted to the practice of law in this State;

22 (2) Is presently registered with the Board of Overseers of the Bar as an active
23 practitioner; and

24 (3) Has not been and is not currently disbarred or suspended from practice
25 pursuant to chapter 17, subchapter 2 or Maine Bar Rule 7.2 or its successor.

26 G. The Chief Public Defender, the Deputy Public Defenders and staff counsel are
27 designated as full-time officers of the State and may not:

28 (1) Appear as counsel in any civil or criminal case or controversy before the
29 Supreme Judicial Court, Superior Courts or District Courts of the State or
30 comparable courts in any other state or before the federal District Court or at any
31 administrative hearing held by any state or federal agency other than in the
32 capacity as a public defender attorney; or

33 (2) Engage in the private practice of law nor be a partner or associate of any
34 person engaged in the private practice of law nor be a member or employee of a
35 professional association engaged in the private practice of law.

36 **3. Chief Public Defender duties and responsibilities.** The Chief Public Defender
37 shall:

38 A. Provide legal representation to eligible persons consistent with federal and state
39 constitutional and statutory obligations;

- 1 B. To the maximum extent possible use contracts in providing indigent legal services
2 as required in this section;
- 3 C. Supervise the operation, activities, policies and procedures of the Office of the
4 Public Defender and may expend such sums for expenses as may be necessary in the
5 performance of the Chief Public Defender's duties, to be paid out of money
6 appropriated by the Legislature for those purposes;
- 7 D. Be the chief legal officer of the Office of the Public Defender with the ultimate
8 authority regarding the disposition of cases handled by the office;
- 9 E. In accordance with standards established under section 1804-A, subsection 1,
10 paragraph A, verify or reassess indigency of a defendant or civil party the court has
11 determined to be indigent. If the Chief Public Defender determines the defendant or
12 civil party is not indigent in full or in part, the Chief Public Defender shall petition
13 the court for whole or partial payment or repayment of all legal services under section
14 1808, subsection 2;
- 15 F. Determine when and where it is necessary to establish district offices for the
16 Office of the Public Defender consistent with the policies and procedures of the
17 Department of Administrative and Financial Services;
- 18 G. Coordinate the development and implementation of rules, policies, procedures,
19 regulations and standards adopted by the commission to carry out the provisions of
20 this chapter and comply with all applicable laws and standards;
- 21 H. Establish a trial and appellate case management system. The system must require
22 the attorneys to record time spent on each case and to classify or describe the type of
23 work done;
- 24 I. Work jointly with other departments and agencies, including the Department of
25 Health and Human Services, that hold data pertinent to determining indigency and
26 establish information sharing agreements as necessary;
- 27 J. Work jointly with other departments and agencies, including the Department of
28 Health and Human Services, to identify opportunities to improve eligibility screening
29 across State Government, including the use of private firms that use established,
30 effective income and asset verification systems;
- 31 K. Prepare and submit to the commission:
- 32 (1) A proposed biennial budget for the provision of indigent legal services,
33 including supplemental budget requests as necessary;
- 34 (2) An annual report containing pertinent data on the operation, needs and costs
35 of the indigent legal services system and the status of information sharing as
36 required under paragraph I, including issues preventing the agreements from
37 being implemented;
- 38 (3) A monthly report on case loads and the gross monthly total of bills approved
39 for payment, including payments to contract counsel and retained counsel, and
40 for contracted professional services, a summary of professional service requests
41 denied and granted by the office, in accordance with section 1806, subsection 2,

- 1 paragraph E and information on complaints made against counsel providing
2 indigent legal services; and
- 3 (4) Any other information as the commission may require;
- 4 L. Develop and conduct regular training programs in compliance with the rules
5 adopted by the commission as required by section 1804-A, subsection 1, paragraph
6 B;
- 7 M. Assist the commission in developing standards for the delivery of adequate
8 indigent legal services;
- 9 N. Maintain proper records of all financial transactions related to the operation of the
10 commission and the notification of eligibility and assignment of counsel and
11 subsequent related orders as submitted by the courts of this State;
- 12 O. Serve as an ex officio, nonvoting member of the commission and attend all
13 commission meetings. The Chief Public Defender may delegate this responsibility;
- 14 P. Establish a cost containment unit within the Office of the Public Defender to
15 include a member of the commission designated by the commission. The cost
16 containment unit is responsible for monitoring efforts to recoup costs under section
17 1808, subsection 3, identifying ways to improve cost recoupment and issuing a
18 quarterly summary of the expenses recouped over the period and the year to date to
19 be provided to the commission. This function may be contracted out;
- 20 Q. Establish policies and procedures for managing case loads to implement the
21 standards established by the commission under section 1804-A, subsection 1,
22 paragraph C, including a method for accurately tracking and monitoring case loads;
- 23 R. Establish procedures to handle complaints about the performance of counsel
24 providing indigent legal services;
- 25 S. Establish a process to provide services for conflict cases first through existing
26 contract counsel, and only at last through the use of retained counsel; and
- 27 T. Perform duties as the commission may assign or are necessary and incidental to
28 the performance of any duty set out in this chapter.
- 29 **4. Chief Public Defender powers.** The Chief Public Defender may:
- 30 A. As the Chief Public Defender determines necessary, contract for the services of
31 private attorneys in the delivery of indigent legal services, including establishment of
32 a lawyer of the day, as provided in section 1804-A and in accordance with standards
33 established by the commission and the contract policies established by the
34 Department of Administrative and Financial Services. Any contract must require
35 contract counsel and retained counsel to record time spent on each case and to
36 classify or describe the type of work that was done;
- 37 B. Require contract counsel and retained counsel to have at least the minimum level
38 of malpractice insurance as established in section 1804-A, subsection 2, paragraph J;
- 39 C. Delegate the legal representation of any person to any member of the Maine State
40 Bar Association eligible under section 1804-A in accordance with standards
41 established and maintained by the commission;

- 1 D. Contract for and supervise personnel necessary to perform a function of the
2 Office of the Public Defender and to implement the provisions of this chapter;
- 3 E. Establish processes and procedures to acquire investigative or expert services that
4 may be necessary for a case;
- 5 F. Enter into agreements with the Maine State Bar Association, local bar
6 associations, law firms and private counsel for legal representation without
7 compensation as a service to the State;
- 8 G. Apply for and accept on behalf of the Office of the Public Defender funds that
9 may become available from any source, including government, nonprofit or private
10 grants, gifts or bequests. These funds do not lapse at the end of any fiscal year but
11 are carried forward to be used for the purpose originally intended; and
- 12 H. Sponsor training activities and charge tuition to recoup the cost of the activities.

13 5. Legal counsel. The Attorney General, at the request of the Chief Public
14 Defender, shall furnish legal assistance, counsel or advice the Office of the Public
15 Defender requires in the discharge of its duties.

16 A. The Attorney General may represent staff members of the Office of the Public
17 Defender in litigation as appropriate.

18 B. In cases in which staff members of the Office of the Public Defender could be
19 represented by either the Attorney General or counsel retained through malpractice
20 insurance, the Attorney General shall determine who represents the staff members.

21 **§1808. Indigency determinations; redeterminations; verification; collection**

22 **1. Duties.** The Chief Public Defender shall establish a system to:

23 A. Verify the information used to determine indigency under the standards
24 established by the commission pursuant to section 1804-A;

25 B. Reassess indigency during the course of representation;

26 C. Record the amount of time spent on each case by the attorney appointed to that
27 case; and

28 D. Receive from the court collections for the costs of representation from defendants
29 or civil parties who are partially indigent or who have been otherwise determined to
30 be able to reimburse the Office of the Public Defender for the cost of providing
31 counsel.

32 **2. Determination of a defendant's or civil party's eligibility.** The Chief Public
33 Defender shall provide to the court having jurisdiction over a proceeding information
34 used to determine indigency under the standards established by the commission pursuant
35 to section 1804-A for guidance to the court in determining a defendant's or civil party's
36 financial ability to obtain counsel.

37 If the court does not order full payment for representation by the Office of the Public
38 Defender, the Chief Public Defender shall investigate to determine the defendant's or civil

1 party's financial condition and ability to make repayment and petition the court for a new
2 repayment order at any time within 7 years of the original order.

3 **3. Partial indigency and repayment.** The provisions of this subsection apply to
4 partial indigency and repayment.

5 A. If the court determines, in accordance with subsection 2, that a defendant or civil
6 party is able to pay some, but not all, of the expenses of obtaining private counsel, the
7 court shall order the defendant or civil party to pay a fixed contribution. The
8 defendant's or civil party's full payment must be made to the court prior to the
9 conclusion of the proceedings, unless otherwise ordered by the court. The clerk of
10 court shall remit such payments to the Office of the Public Defender.

11 B. A defendant or civil party may not be required to repay for legal services an
12 amount greater than the rate established pursuant to section 1804-A, subsection 2,
13 paragraph C.

14 C. If a defendant is incarcerated in the State Prison, an order for repayment pursuant
15 to this subsection may be suspended until the time of the defendant's release.

16 D. The Chief Public Defender may enter into contracts to secure the repayment of
17 fees and expenses paid by the State as provided for in this section.

18 **4. Application fee.** An applicant seeking indigent legal services shall pay an
19 application fee as set forth by the commission in section 1804-A, subsection 2, paragraph

20 E. In a case involving a juvenile the application fee is the responsibility of the parent or
21 legal guardian except that, when a juvenile is accused of a crime against the juvenile's
22 parent or legal guardian or when legal guardianship rests with the State, the fee is waived.

23 The application fee may be waived by the court. A defendant or civil party may pay the
24 fee in a lump sum or in installments. Full payment must be made to the court prior to the
25 conclusion of the proceedings, unless otherwise ordered by the court.

26 **Sec. 10. 5 MRSA §931, sub-§1, ¶L-3,** as amended by PL 2003, c. 646, §1, is
27 further amended to read:

28 L-3. The Executive Analyst of the Board of Environmental Protection; ~~and~~

29 **Sec. 11. 5 MRSA §931, sub-§1, ¶M,** as amended by PL 1987, c. 9, §2, is further
30 amended to read:

31 M. Other positions in the Executive Branch made unclassified by law; ~~and~~

32 **Sec. 12. 5 MRSA §931, sub-§1, ¶N** is enacted to read:

33 N. The Deputy Public Defenders, staff counsel and other professional staff of the
34 Office of the Public Defender.

35 **Sec. 13. 5 MRSA §959,** as enacted by PL 2009, c. 419, §3, is repealed.

36 **Sec. 14. 36 MRSA §191, sub-§2, ¶ZZ** is enacted to read:

1 ZZ. The disclosure by employees of the bureau to an authorized representative of the
2 Office of the Public Defender for the administration of Title 4, section 1804-A,
3 subsection 1, paragraph A for determining eligibility for indigent legal services under
4 Title 4, chapter 37.

5 **Sec. 15. Maine Revised Statutes headnote amended; revision clause.** In
6 the Maine Revised Statutes, Title 4, chapter 37, in the chapter headnote, the words
7 "Maine commission on indigent legal services" are amended to read "office of the public
8 defender and Maine commission on indigent legal services" and the Revisor of Statutes
9 shall implement this revision when updating, publishing or republishing the statutes.

10 **SUMMARY**

11 This bill establishes a statewide public defender system. The purposes of this bill are
12 to:

13 1. Provide effective assistance of counsel to indigent criminal defendants, juvenile
14 defendants and children and parents in child protective cases in courts of this State;

15 2. Ensure that the system is free from undue political interference and conflicts of
16 interest;

17 3. Provide for the delivery of public defender services by qualified and competent
18 counsel in a manner that is fair and consistent throughout the State;

19 4. Establish a system that uses state employees, contracted services and other
20 methods of providing services in a manner that is responsive to and respectful of regional
21 and community needs and interests;

22 5. Ensure that adequate public funding of the statewide public defender system is
23 provided and the system is managed in a fiscally responsible manner; and

24 6. Ensure that a person using the services of a statewide public defender system pay
25 reasonable costs for services provided by the system based on the person's financial
26 ability to pay.

(5.)
Discussion of Potential
Contract Ideas

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

TO: MCILS COMMISSIONERS
FROM: JOHN D. PELLETIER, EXECUTIVE DIRECTOR
CC: ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR
SUBJECT: CONTINUING CONTRACTS DISCUSSION
DATE: JUNE 3, 2015

As mentioned at the last meeting, attached you will find a copy of the Vermont Serious Felony contract as an exemplar from a state using a hybrid contract system – public defender system.

For purposes of discussion, it may be useful to attempt to identify certain case types or court proceedings for which contracts might make sense and how regional differences might affect the scope of a contract. These could include:

- lawyer for the day
- appeals – criminal, child protective or both
- a contract in a urban court for a certain number or type of cases, e.g. serious violent felonies – whether all cases or up to a certain number
- all cases in a rural county similar to Somerset

Our discussion may well give rise to other ideas. These are listed simply as “food for thought” for your preparation for Tuesday’s meeting.

STATE OF VERMONT

Contract # 22212

STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, Office of the Defender General (hereafter called "State"), and _____, with its principal place of business in _____, Vermont, (hereafter called "Contractor"). Contractor's form of business organization is a _____. It is the contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is Assigned Counsel Serious Felony Unit Services. Detailed services to be provided by the contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$ _____, which shall include reimbursement for expenses as set forth in Attachment B.
4. **Contract Term.** The period of contractor's performance shall begin on July 1, 2013, and end on June 30, 2014.
5. **Prior Approvals.** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.
 - Approval by the Attorney General's Office is required.
 - Approval by the Secretary of Administration is required.
 - Approval by the CIO/Commissioner DII is not required.
6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
7. **Cancellation.** This contract may be canceled by either party by giving written notice at least 60 days in advance, except as provided in Attachment D,3.
8. **Attachments.** This contract consists of 12 pages including the following attachments which are incorporated herein:
 - Attachment A – Specifications of Work to be Performed

Attachment B – Payment Provisions

Attachment C – “Standard State Contract Provisions” (revision date 11/7/2012)

Attachment D – Other Contract Provisions

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.

By the State of Vermont:

Date: _____

Signature: _____

Name: Matthew F. Valerio, Defender General

Department: Office of the Defender General

By the Contractor:

Date: _____

Signature: _____

Title:

Name:

Vendor No.

(End Standard State Contract for Services)

Attachment A: Specifications of Work to Be Performed

1. *Professional Work Statement.* For its part Contractor agrees to the following:

Goals and Objectives:

a) Perform Assigned Counsel Serious Felony Unit services originating by appointment of the State of Vermont Superior Court Criminal, Family, and Civil Divisions pursuant to Chapter 163 of Title 13, Vermont Statutes Annotated. Such appointments shall and may include criminal cases with a potential life term imprisonment and major felony cases, as defined in Administrative Order No. 4 (assault and robbery, larceny from a person, aggravated assault, first degree domestic violence, lewd and lascivious conduct, lewd and lascivious conduct with a child, manslaughter, sexual assault, careless and negligent operation with death resulting, leaving the scene of a fatal accident, driving under the influence with death resulting, and any drug offense with a maximum prison term of five years or more. Such appointments shall occur throughout the State. Such services may include acting as sole counsel, or as lead counsel, co-counsel, or second counsel, or providing consultation and mentoring assistance to local public defenders on life term or major felony cases. Contractor shall also assist in providing training.

Assignments shall be made by the clerk of the court, with review by the Defender General and/or the Assigned Counsel Coordinator.

Contractor shall perform these services following the professional standards prescribed by 13 V.S.A. Section 5253(b)(1), the Vermont Rules of Professional Conduct, and Title 13 Chapter 163, Public Defenders.

The Defender General, in consultation with the Assigned Counsel Coordinator, may in his sole discretion, request that the court assign additional or replacement counsel in individual cases if, in his opinion, such action is required because of the contractor's caseload, consistent with 13 V.S.A. §§5205 and 5274, and the Vermont Rules of Professional Conduct. Contractor's pending caseload shall not exceed twenty life term cases, or thirty total cases.

b) Contractor shall maintain caseload records as prescribed by the Defender General, including information on cases added, and complete a monthly added cases reporting form that lists each added case. Such caseload forms shall be submitted to the Office of the Defender General within thirty days from the end of every month.

c) Contractor and persons employed by or associated with Contractor in the practice of law under this section shall attend and participate in training sessions and meetings as directed by the Defender General.

d) Contractor and any attorney who provides legal services under this contract shall participate upon notice from the Defender General with the public defenders in providing telephone coverage for nighttime and weekend police calls, including, but not limited to, calls involving DWI processing.

e) Neither Contractor nor any partner or employee shall forego representation on an assigned case to represent a private client with a related criminal or juvenile case. It is further agreed that preliminary representation at arraignment of a potential assigned counsel client, who subsequently is not assigned counsel at state expense, shall be a bar to private representation by Contractor's office, unless that client seeks and is refused representation by one member of the private bar engaged in the practice of criminal law.

Outcomes: The outcomes of this contract are the resolution of cases assigned to contractor following the professional standards prescribed by 13 V.S.A. Section 5253(b)(1), the Vermont Rules of Professional Conduct, and Title 13 Chapter 163, Public Defenders.

Evaluation Criteria: Contractor's performance shall be measured by:

- a) The assigned counsel contractor evaluation process which includes feedback from judges.
- b) Completion of caseload records as specified above in 1b).
- c) Attendance at Defender General training sessions as specified above in 1c).

Penalties:

- a) Payments may be withheld in whole or in part in the event of failure by the Contractor to comply with any term of the contract.
- b) After providing actual notice to the Contractor, the Defender General, in his sole discretion, may immediately terminate this contract at any time for cause. Cause may include, but shall not be limited to, the failure of the contractor to adequately represent the client consistent with the Vermont Rules of Professional Conduct, failure of the contractor to adhere to professional standards established by the Defender General consistent with Title 13 V.S.A. Section 5253, or failure to otherwise perform duties established by the terms of this contract.

Attachment B: Payment Provisions

1. *Payment Provisions.*

Monthly Payment In consideration of the services to be provided by Contractor, State agrees to pay Contractor _____ in twelve monthly installments _____, commencing on or about the first day of July, 2013, and thereafter on or about the first of each succeeding month.

Contractor will submit a bill or invoice on or about the 15th of the month for the following month's services to:

Gail Dickinson, Financial Specialist
Office of the Defender General
6 Baldwin Street, 4th Floor
Montpelier, VT 05633-3301

Payments may be withheld in whole or in part in the event of failure by the Contractor to comply with any term of the contract.

2. *Costs Not Chargeable to Contractor.* Contractor shall not be liable for payment of any and all categories and classifications of non-attorney services provided by other than Contractor and/or employees to assigned counsel clients of the Contractor. These services shall include, but are not limited to, the following:

Specialized Investigator Service (e.g., Handwriting analysis, arson investigation, accident reconstruction)
Court Reporters
Expert Evaluations
Deputy Sheriffs

Contractor also shall not be liable for operating expenses including, but not limited to, the following:

Film and Film Processing
Witnesses, Expert Witnesses, and Subpoenas
Third Party Copying Fees
Travel

All categories of service and expense cited in Paragraph 2 shall be paid by the State and shall not be charged to the Contractor by the State of Vermont or any agent, division, or department thereof.

Any expenses incurred by Contractor under this section, except for in-state travel, must have prior approval by the Defender General or his designee. Failure to receive such prior authorization shall nullify the State's obligation to pay that charge.

All claims for reimbursement of personal expenses must be submitted to the Office of the Defender General with supporting documentation within three (3) months of having incurred the expense, or the claim shall be deemed waived by Contractor and any partner or employee providing services under this contract.

3. ***Costs Chargeable to Contractor.*** Contractor shall be responsible, notwithstanding Paragraph 2 above, for providing such services and expenses as the following:

Standard Defense Investigative Services

All Telephone Costs

Office Supplies

Photocopying

Postage

Rent and Maintenance

Attachment D: Other Contract Provisions

1. ***Powers of the Defender General.*** The Defender General shall have the right to disapprove the participation of any attorney or any partner in the services provided in this contract. Contractor agrees to seek prior approval for participation by additional attorneys following commencement of this contract.
2. ***Supervision of Contractor.*** The Defender General may not supervise or control in any way the representation of persons receiving legal services as defined in this contract. All requests for expenditures of funds in connection with these services shall be addressed to the Assigned Counsel Coordinator, as provided in Attachment B.
3. ***Termination.*** This contract may be terminated by either party with sixty (60) days prior notice in writing. After providing actual notice to the Contractor, the Defender General, in his sole discretion, may immediately terminate this contract at any time for cause. Cause may include, but shall not be limited to, the failure of the contractor to adequately represent the client consistent with the Vermont Rules of Professional Conduct, failure of the contractor to adhere to professional standards established by the Defender General consistent with Title 13 V.S.A. Section 5253, or failure to otherwise perform duties established by the terms of this contract. The Defender General, upon notification of termination by either party, may immediately terminate assignment of new cases.
4. ***Files.*** All files of persons provided representation under this contract shall be retained or disposed of according to the directions of the Defender General.
5. ***Professional liability insurance.*** Before commencing work on this contract the Contractor must provide professional liability insurance for any and all services performed under this contract, with minimum coverage of \$500,000.00 per occurrence. Contractor shall provide proof of said professional liability insurance by forwarding to the Defender General a copy of the certificate of coverage. It is the responsibility of the Contractor to maintain current certificates of insurance on file with the State through the term of this contract. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been established to protect the interests of the State. Upon termination of a contract for any reason, the contractor shall maintain insurance in place to cover any acts or omissions which occurred during the term of the contract for a period of six (6) years from the date the contract is terminated.

6. *Automotive Liability Insurance Amendment.* Attachment C, Paragraph 7, Automotive Liability, is amended to read: The Contractor shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with this contract. Limits of coverage shall not be less than \$300,000 combined single limit.

7. *Integration.* This contract constitutes the entire agreement between the parties on this subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. No amendments to this contract shall be effective unless in writing and signed by duly authorized representatives of both parties.