

**MCILS**

**October 9, 2012  
Commissioner's Meeting  
Packet**

---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**OCTOBER 9, 2012  
COMMISSION MEETING  
AGENDA**

---

- 1) Approval of September 11, 2012 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Budget Update
- 4) Training Update
- 5) Discussion of Amendments to the Fee Schedule
- 6) Public Comment
- 7) Set Date and Time of next Regular Meeting of the Commission
- 8) Executive Session, if needed (Closed to Public)

**(1.)**  
**September 11, 2012**  
**Commission Meeting**  
**Minutes**

**Maine Commission on Indigent Legal Services – Commissioners Meeting  
September 11, 2012**

**Minutes**

**Commissioners Present:** Steven Carey, Marvin Glazier, David Mitchell, Kenneth Spierer, Susan Roy  
**MCILS Staff Present:** John Pelletier, Ellie Brogan

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of August 14 and 30, 2012 Commission Meeting Minutes	<p>Copy of minutes received by all Commissioners.</p> <p>Commissioner Spierer moved to amend the August 30 meeting minutes to reflect a resolution thanking former Chair Ron Schneider for his three years of service on the Commission.</p>	<p>Commissioner Spierer moved for the amendment and approval of the minutes. Marvin Glazier seconded. All present voted in favor. Approved.</p>
Operations Reports Review	<p>Director Pelletier presented the <u>August 2012 Operations Reports</u> to the Commissioners.</p> <p>Discussion ensued about the status of screening and collections around the state. Suggestions were made about how to best go about expanding the geographic location of the current financial screeners to best utilize our current resources. Commissioner Carey noted that he fielded questions about the screeners during his confirmation hearing and suggested adding a collections clerk as a central office position so as to allow the financial screeners to focus solely on screening.</p> <p>Director Pelletier told the Commission about the impact of the MCILS-Judicial Branch interface on collections going forward and about the potential for revenue growth in the bail set-off provision, which would allow judges to order first-party bail to be diverted to MCILS for payment of attorney fees for partially indigent clients. Director Pelletier will try to set up a meeting with Chief Justice Saufley to discuss getting on the agenda for the All Judges meeting during the Fall Admin Week in October.</p> <p>Chair Mitchell wanted to know how much money is generated from first-party bail set-offs. He stressed the importance of gathering data that would demonstrate to the</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>Legislature and to the citizens of Maine that the Commission has sources of revenue and that it's not just a financial drain on taxpayers.</p> <p>The discussion then turned to the possible reasons for the uptick in the average voucher cost. Director Pelletier surmised that vouchers from a triple homicide case submitted in August were the likely cause in the jump in average price per voucher. Director Pelletier also conveyed that the rise in the use of electronic discovery could be contributing to the increase in amount of time attorneys spend on document review. Also, he has seen an increase in the amount of time attorneys have to devote to travel to meet with clients since there is an increased trend in prisoners being housed all across the state.</p> <p>Chair Mitchell indicated that the Commission should find out why the average voucher cost is increasing.</p>	
<p>Update on Zero-based Budget Process and Budget Submission</p>	<p>Director Pelletier fielded questions from the Commissioners about the zero-based budget submissions and asked if changes needed to be made to the documents. He confirmed that the priority numbers had been changed to reflect the Commissioners' input during the August 30 meeting. Director Pelletier explained that the next step in the process is to meet with the governor's office and the budget office to review the budget submission.</p> <p>Discussion ensued about attorney performance and whether there was any data available about problem attorneys. Director Pelletier explained that feedback about attorney performance comes in two forms: client correspondence via the courts and informal discussions with judges. Clerks send the Commission copies of client letters which in turn get put in the attorney's MCILS file. To date there has not been a significant number of client complaints that warrant concern about a particular attorney. When the Commission receives an informal complaint from the court, there are procedures in place to investigate that complaint. Again, the Commission staff has not seen a significant number of informal complaints and has not had to remove attorneys from any roster.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>Discussion then turned to the entry in the budget submission about the small, but significant number of experienced attorneys leaving the rosters due to the lack of increase in the hourly rate and increased administrative tasks to be a rostered attorney. Director Pelletier warned that there are a lot of frustrated attorneys and that if a rate increase fails that there will be a mass exodus of attorneys from our rosters.</p> <p>Chair Mitchell requested that the Commission staff gather data on how many attorneys have left and explain why this number is a significant loss for the Commission.</p>	
Discussion of Rule-Making for Fee Schedule	<p>Director Pelletier suggested two timetables for the upcoming rule-making on the fee schedule. The consensus was to have a draft available for the Commission's review at the October 9th meeting to allow for a vote on the concept of the rule and to put the proposed rule out for public comment in late October-early November. This timetable would allow for a public hearing in December and a final vote in January.</p> <p>Commissioner Carey suggested the Commission seek clarity from the Attorney General's Office about what constitutes a "substantial change."</p>	
Public Comment	<p>Robert Ruffner, Esq., submitted a public comment:</p> <ul style="list-style-type: none"> <li>• Requested that the Commission include a 12 month average along with the current monthly totals;</li> <li>• Expressed concerns about first-party bail monies of completely indigent clients being used for payment of attorney fees; believes the practice should be limited to clients who have been found to be partially indigent;</li> <li>• Explained his thoughts about why the average voucher costs might be rising: increased time spent waiting in court on single cases (as opposed to dockets where attorney can split in-court time among several clients);</li> <li>• Believes the caps are useful and are serving a good purpose;</li> <li>• Suggested the Commission explore the possibility of a pilot project in some of the high volume courts to increase productivity and efficiency.</li> </ul>	

<b>Agenda Item</b>	<b>Discussion</b>	<b>Outcome/Action Item/Responsible Party</b>
Adjournment of meeting	The Commission then voted to adjourn with the next meeting to be on October 9, 2012 at 9:30 a.m. at the Board of Corrections Conference Room (same wing as MCILS offices) at 32 Blossom Lane, Augusta, Maine.	Commissioner Carey made a motion to adjourn. Commissioner Roy seconded. All present voted in favor.

**(2.)**  
**Operations Reports**  
**Review**

---

---

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

---

---

**TO:** MCILS COMMISSIONERS  
**FROM:** ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** SEPTEMBER 2012 OPERATIONS REPORTS  
**DATE:** OCTOBER 4, 2012

---

Attached you will find the September 2012 Operations Reports for your review and our discussion at the upcoming Commission meeting on October 9, 2012. A summary of the operations reports follows:

- 2,152 new cases were opened in the DefenderData system in September.
- The number of vouchers submitted electronically in September was 2,378, totaling \$925,633.48. We paid 1,898 electronic vouchers totaling \$734,660.96.
- There were no paper vouchers submitted in September.
- The average price per voucher in September was \$387.07. For Fiscal Year 2013 the average price per voucher is \$401.36.
- Appeals and Termination of Parental Rights cases were the highest average vouchers in September.

In our All Other Account, the total expenses for the month of September were \$680,952.30. Of that amount, only \$11,549.98 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$36,316.33 in expenses for the month of September.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of September, which reflects August's collections, totaled \$45,020.66. Collections continue to run below estimates, although collections for August were closer to our projections than the previous two months.

In September, we had no activity in the Conference Account. Our Conference Account balance now totals \$7,538.93.

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Activity Report by Case Type

9/30/2012

DefenderData Case Type	Sep-12						Fiscal Year 2013			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	7	8	\$ 7,655.75	8	\$ 7,972.15	\$ 996.52	24	41	\$ 49,021.79	\$ 1,195.65
Child Protection Petition	162	291	\$ 138,981.83	238	\$ 124,742.66	\$ 524.13	495	830	\$ 425,291.56	\$ 512.40
Drug Court	0	15	\$ 4,130.00	13	\$ 3,610.00	\$ 277.69	12	32	\$ 11,395.00	\$ 356.09
Emancipation	8	6	\$ 1,265.00	12	\$ 2,214.78	\$ 184.57	44	31	\$ 5,804.88	\$ 187.25
Felony	488	523	\$ 321,512.67	396	\$ 217,447.32	\$ 549.11	1,490	1,353	\$ 828,531.18	\$ 612.37
Involuntary Civil Commitment	79	70	\$ 13,396.62	44	\$ 7,600.42	\$ 172.74	234	197	\$ 30,674.74	\$ 155.71
Juvenile	131	121	\$ 37,432.42	140	\$ 52,450.53	\$ 374.65	407	372	\$ 125,385.06	\$ 337.06
Lawyer of the Day - Custody	214	184	\$ 35,790.24	149	\$ 28,746.30	\$ 192.93	670	571	\$ 105,553.92	\$ 184.86
Lawyer of the Day - Juvenile	51	46	\$ 7,437.00	37	\$ 5,655.70	\$ 152.86	152	126	\$ 22,879.65	\$ 181.58
Lawyer of the Day - Walk-in	115	119	\$ 21,403.96	81	\$ 15,312.74	\$ 189.05	334	304	\$ 56,262.02	\$ 185.07
Misdemeanor	713	687	\$ 218,854.68	526	\$ 167,113.98	\$ 317.71	2,039	1,794	\$ 585,876.19	\$ 326.58
Petition, Modified Release Treatment	1	10	\$ 2,307.81	5	\$ 1,489.29	\$ 297.86	1	8	\$ 2,084.29	\$ 260.54
Petition, Release or Discharge	0	1	\$ 205.00	1	\$ 315.00	\$ 315.00	0	2	\$ 555.00	\$ 277.50
Petition, Termination of Parental Rights	5	13	\$ 9,432.62	9	\$ 8,886.28	\$ 987.36	31	48	\$ 38,856.00	\$ 809.50
Post Conviction Review	18	6	\$ 4,720.00	4	\$ 2,670.00	\$ 667.50	28	17	\$ 14,844.99	\$ 873.23
Probation Violation	120	148	\$ 49,214.48	124	\$ 41,083.43	\$ 331.32	408	386	\$ 124,001.87	\$ 321.25
Represent Witness on 5th Amendment	2	0		0			3	2	\$ 285.00	\$ 142.50
Review of Child Protection Order	35	125	\$ 49,762.46	108	\$ 46,923.88	\$ 434.48	132	364	\$ 149,304.07	\$ 410.18
Revocation of Administrative Release	3	5	\$ 2,130.94	3	\$ 426.50	\$ 142.17	13	10	\$ 1,996.00	\$ 199.60
<b>DefenderData Sub-Total</b>	<b>2,152</b>	<b>2,378</b>	<b>\$ 925,633.48</b>	<b>1,898</b>	<b>\$ 734,660.96</b>	<b>\$ 387.07</b>	<b>6,517</b>	<b>6,488</b>	<b>\$ 2,573,603.21</b>	<b>\$ 397.44</b>
<b>Paper Voucher Sub-Total</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>0</b>	<b>\$ -</b>	<b>#DIV/0!</b>	<b>5</b>	<b>5</b>	<b>\$ 27,401.81</b>	<b>\$ 5,480.36</b>
<b>TOTAL</b>	<b>2,152</b>	<b>2,378</b>	<b>\$925,633.48</b>	<b>1,898</b>	<b>\$734,660.96</b>	<b>\$ 387.07</b>	<b>6,517</b>	<b>6,493</b>	<b>\$ 2,606,005.02</b>	<b>\$ 401.36</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY13 FUND ACCOUNTING**  
AS OF 09/30/2012

Account 010 95F Z112 01 (All Other)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY13 Total
FY13 Professional Services Allotment		\$ 2,884,397.00		\$ 2,687,500.00		\$ 2,965,472.00		\$ 926,391.00	
FY13 General Operations Allotment		\$ 26,980.00		\$ 26,979.00		\$ 26,979.00		\$ 26,979.00	
Financial Order Adjustment								\$ 450,000.00	
<b>Total Budget Allotments</b>		<b>\$ 2,911,377.00</b>		<b>\$ 2,714,479.00</b>		<b>\$ 2,992,451.00</b>		<b>\$ 1,403,370.00</b>	<b>\$ 10,021,677.00</b>
Total Expenses	1	\$ (953,054.83)							
	2	\$ (1,091,744.87)							
	3	\$ (680,952.30)							
<b>TOTAL REMAINING</b>		<b>\$ 185,625.00</b>		<b>\$ 2,714,479.00</b>		<b>\$ 2,992,451.00</b>		<b>\$ 1,403,370.00</b>	<b>\$ 7,295,925.00</b>

<b>Q1 Month 3 (as of 09/30/12)</b>	
<b>INDIGENT LEGAL SERVICES</b>	
Counsel Payments	\$ (612,972.11)
Somerset County	\$ (20,665.00)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (8,705.62)
Mental Health Expert	\$ (11,405.00)
Misc Prof Fees & Srvc	\$ (2,715.10)
Transcripts	\$ (4,259.50)
Other Expert	\$ (6,733.46)
Process Servers	\$ (1,031.25)
Interpreters	\$ (915.28)
<b>SUB-TOTAL ILS</b>	<b>\$ (669,402.32)</b>
<b>OPERATING EXPENSES</b>	
Cell Phones	\$ (168.36)
DefenderData	\$ (4,186.00)
Service Center Fees	\$ (794.50)
Mileage/Tolls/Parking	\$ (1,196.64)
Mailing/Postage/Freight	\$ (779.26)
Risk Management Ins.	\$ (26.60)
Website Maintenance	\$ (2,640.00)
Office Supplies/Equip.	\$ (278.63)
Office Equipment Rental	\$ (129.98)
OIT/TELCO	\$ (1,350.01)
<b>SUB-TOTAL OE</b>	<b>\$ (11,549.98)</b>
<b>TOTAL</b>	<b>\$ (680,952.30)</b>

<b>INDIGENT LEGAL SERVICES</b>	
Q1 Allotment	\$ 2,911,377.00
Remaining Allotment for Somerset cty PDP contract	\$ (185,625.00)
Q1 Expenses as of 9/30/12	\$ (2,725,752.00)
Remaining Allotment as of 9/30/12	\$ -

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY13 FUND ACCOUNTING**  
As of 09/30/12

<b>Account 014 95F Z112 01 (Revenue)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY13 Total</b>
<b>Total Budget Allotments</b>		\$ 149,124.00	\$	149,124.00	\$	149,124.00	\$	149,125.00	\$ 596,497.00
Financial Order Adjustment									
Financial Order Adjustment									
Financial Order Adjustment									
<b>Total Budget Allotments</b>		\$ 149,124.00	\$	149,124.00	\$	149,124.00	\$	149,125.00	\$ 596,497.00
Collected Revenue from JB	1								
Collected Revenue									
Transfer from conference account									
Collected Revenue from JB	2	\$ 77,964.58							
Collected Revenue from JB	3	\$ 45,020.66							
<b>TOTAL REVENUE COLLECTED</b>		\$ 122,985.24	\$	-	\$	-	\$	-	\$ 122,985.24
Total Expenses	1								
	2	\$ (542.39)							
	3	\$ (121,688.85)							
<b>TOTAL REMAINING</b>		\$ 26,892.76	\$	149,124.00	\$	149,124.00	\$	149,125.00	\$ 474,265.76

<b>Q1 Month 3(as of 09/30/12)</b>	
<b>DEFENDER DATA COUNSEL PAYMENTS</b>	
	\$ (121,688.85)
<b>SUB-TOTAL ILS</b>	
OVERPAYMENT REIMBURSEMENTS	\$ (350.00)
TRAINING MATERIAL REPRINTS	\$ -
<b>SUB-TOTAL OE</b>	\$ (350.00)
<b>TOTAL</b>	\$ (350.00)

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY13 FUND ACCOUNTING**  
AS OF 09/30/2012

<b>Account 010 95F Z112 01 (Personal Services)</b>	<b>Mo.</b>	<b>Q1</b>	<b>Mo.</b>	<b>Q2</b>	<b>Mo.</b>	<b>Q3</b>	<b>Mo.</b>	<b>Q4</b>	<b>FY13 Total</b>
FY13 Allotment	\$	165,613.00	\$	146,660.00	\$	153,265.00	\$	112,316.00	\$ 577,854.00
Financial Order Adjustments									
<b>Total Budget Allotments</b>	<b>\$</b>	<b>165,613.00</b>	<b>\$</b>	<b>146,660.00</b>	<b>\$</b>	<b>153,265.00</b>	<b>\$</b>	<b>112,316.00</b>	<b>\$ 577,854.00</b>
Total Expenses	1	\$ (48,341.22)	2	\$ (29,487.98)	3	\$ (36,316.33)			
<b>TOTAL REMAINING</b>	<b>\$</b>	<b>51,467.47</b>	<b>\$</b>	<b>146,660.00</b>	<b>\$</b>	<b>153,265.00</b>	<b>\$</b>	<b>112,316.00</b>	<b>\$ 463,708.47</b>

<b>Q1 Month 3 (as of 09/30/12)</b>	
Per Diem Payments	\$ (110.00)
Salary	\$ (20,496.99)
Vacation Pay	\$ (1,037.20)
Holiday Pay	\$ (1,068.16)
Sick Pay	\$ (464.38)
Overtime Pay	
Health Insurance	\$ (6,892.77)
Dental Insurance	\$ (219.04)
Employer Retiree Health	\$ (1,884.54)
Employer Retirement	\$ (1,200.55)
Employer Group Life	\$ (130.00)
Employer Medicare	\$ (312.30)
Retiree Unfunded Liability	\$ (2,500.40)
<b>TOTAL</b>	<b>\$ (36,316.33)</b>

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY13 FUND ACCOUNTING**  
As of 09/30/12

Account 014 95F Z112 02 (Conference Account)	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY13 Total
FY12 Carry Over		\$ (7,404.87)							\$ -
<b>Total Budget Allotments</b>									
Actual Collected Earned Revenue	1	\$ (134.06)							
	2								
	3								
<b>ACTUAL CASH BALANCE</b>		\$ (7,538.93)							
Total Expenses	1								
	2								
	3								
<b>TOTAL REMAINING</b>		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

<b>Q1 Month 3 (as of 09/30/12)</b>	
Collected Revenue	
Training Expenses	
<b>TOTAL</b>	\$ -

NO ACTIVITY SEPTEMBER 2012