

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**TO:** HON. CHAIRS OF THE JOINT STANDING COMMITTEE ON  
APPROPRIATIONS AND FINANCIAL AFFAIRS

HON. CHAIRS OF THE JOINT STANDING COMMITTEE ON JUDICIARY

**FROM:** JUSTIN W. ANDRUS, (INTERIM) EXECUTIVE DIRECTOR

**SUBJECT:** TESTIMONY WITH RESPECT TO THE PROPOSED FY'22 – FY'23  
BIENNIAL BUDGET

**DATE:** MARCH 1, 2021

---

Honorable Chairs, Senators and Representatives, I am Justin W. Andrus, (Interim) Executive Director of the Maine Commission on Indigent Legal Services (Commission or MCILS). I appear before you today to testify in support of the proposed budget submitted by the Commission, as amended herein, and to correct an oversight in summary of SECTION FFF.

BRIEF OVERVIEW OF COMMISSION OPERATIONS

The Maine Commission on Indigent Legal Services is an independent commission whose purpose is to provide efficient, high-quality representation to indigent individuals who are entitled to counsel at state expense under the United States Constitution or under the Constitution or statutes of Maine. The Commission uses assigned private attorneys to provide representation to criminal defendants, juvenile defendants, parents in child protective cases, and people facing involuntary commitment to a psychiatric hospital who are indigent. The Commission may also use contract counsel but does not currently do so. The Commission's office staff consists of an (Interim) Executive Director, a Deputy Executive Director, an

Accounting Technician, and an Office Associate I. The Commission also employs nine (9) Financial Screeners, six (6) full time and three (3) part time, who work in courthouses assisting courts in the determination of whether a person is indigent, and if so, whether the person can reimburse the State for some or all of the cost of their representation. With respect to people ordered to make reimbursement, the Financial Screeners track payments and pursue collection efforts. Currently, Commission operations are overseen by six serving Commissioners.

In 2017, the Maine Legislature created the Working Group to Improve the Provision of Indigent Legal Services. That working group determined that the Commission did not provide systemic oversight and evaluation of attorneys, and was in need of stronger fiscal management and recommended an independent assessment. In March 2018, the Maine Legislative Council contracted the Sixth Amendment Center (6AC) to evaluate right to counsel services provided by MCILS and to recommend any needed changes.<sup>1</sup>

The 6AC issued its report in April 2019. The report makes seven specific recommendations, five of which provide specific impetus to the Commission's budget initiatives<sup>2</sup>:

RECOMMENDATION 3: Except for ministerial, non-substantive tasks, the State of Maine and the Maine Commission on Indigent Legal Services should require that the same properly qualified defense counsel continuously represents the client in each case, from appointment through disposition, and personally appears at every court appearance throughout the pendency of an assigned case.

RECOMMENDATION 4: MCILS should use its current statutory power to promulgate more rigorous attorney qualification, recertification, training, supervision, and workload standards. The State of Maine should statutorily require financial oversight by requiring that MCILS limit the number of permissible billable hours, subject to

---

<sup>1</sup> Excepted from *The Right to Counsel in Maine: Evaluation of Services Provided by the Maine Commission on Indigent Legal Services*, Sixth Amendment Center, April 2019, at page IV, with permission. (the "6AC Report")

<sup>2</sup> The two recommendations not listed here require action from the legislature outside the direct ambit of the Commission.

waiver only upon a finding of need for additional capacity. The State of Maine should fund MCILS at a level to ensure rigorous training and effective substantive and financial oversight of attorneys.

RECOMMENDATION 5: The State of Maine should statutorily ban all public defense contracts that provide financial disincentives to or that otherwise interfere with zealously advocating on behalf of the defendants' stated interests, including the use of fixed fee contracts. Maine should require that any public defense contract include reasonable caseload limits, reporting requirements on any private legal work permitted, and substantial performance oversight, among other protections.

RECOMMENDATION 6: The State of Maine should fund MCILS at a level that allows private attorneys to be compensated for overhead expenses plus a reasonable fee (i.e., \$100 per hour). MCILS should be authorized to provide additional compensation of \$25 per hour for designated case types such as murder, sexual assaults, and postconviction review.

RECOMMENDATION 7: The State of Maine should authorize and fund MCILS at an appropriate level to employ state government attorneys and support staff to operate a statewide appellate defender office and a Cumberland County trial level public defender office.<sup>3</sup>

The depth and scope of the 6AC's investigation are detailed in its report, but its findings direct Commission operations at two distinct levels. The first was a renewed imperative to ensure that Commission operations are compliant with existing statutes and rules. The second was to chart a course toward actual compliance with the strictures of the Sixth Amendment, and the law of the State of Maine. Our budget initiatives are necessary to both sets of tasks.

Following the publication of the 6AC Report, the 129<sup>th</sup> Legislature's Government Oversight Committee ("GOC") directed the Office of Program Evaluation and Government Accountability ("OPEGA") to review Commission operations. From five initial evaluation areas listed in the project direction statement, GOC directed OPEGA to expedite the review of two:

---

<sup>3</sup> *Id.*, p. IX – X.

- Adequacy of systems and procedures used by MCILS staff to process payments and expenditures associated with providing legal representation to clients who have been determined to be indigent or partially indigent; and
- Adequacy of the oversight structure of MCILS in ensuring that operations align with and accomplish the organization’s purpose.<sup>4</sup>

The OPEGA Report identified nine issues and provided guidance as to how those issues might be addressed. In its report, OPEGA also noted, however, that it:

observed a lack of sufficient staff to adequately meet the full responsibilities of the agency. When we asked the Executive Director about review or improvements to specific agency operations, the Executive Director described that the current MCILS staff is the minimum necessary to allow the system to continue to function. Thus, there was little time available to consider new initiatives, or improvements, to wider substantive structural issues such as quality of representation, the lawyer-of- the-day program, or the use of single-source contracts to provide legal services.<sup>5</sup>

The OPEGA findings are consistent with the 6AC findings. The Commission has substantial work to do to adequately meet its obligations to its indigent client-base, while providing appropriate oversight of both quality and finances; and, the Commission cannot meet those obligations and goals as currently resourced.

The Commission and its staff are justifiably proud of the attorneys who serve our clients and are enthusiastic for the opportunity to further promote the ability and integrity of that bar. The Commission and staff are also pleased to report that we have been able to begin to address nearly all the OPEGA recommendations in whole or part. Now, we are ready move forward in our evolution.

---

<sup>4</sup> *Maine Commission on Indigent Legal Services (MCILS) – An evaluation of MCILS’s structure of oversight and the adequacy of its systems and procedures to administer payments and expenditures*, OPEGA, November 9, 2020 at overleaf. (the “OPEGA Report”)

<sup>5</sup> OPEGA Report, p.23.

## BUDGET OVERVIEW

The Commission proposes significant changes to its operations to promote compliance with the Sixth Amendment, Maine State law, and sound principles of agency oversight, all consistent with and considering the 6AC and OPEGA reports. Those changes cannot be made without additional resources. Where the Commission proposes hiring employee attorneys to serve clients, a legislative change will be required.

## INITIATIVES AND BUDGET REQUEST

The Commission's budget initiatives are intended to address the shortcomings and adopt the recommendations of both the 6AC Report and the OPEGA Report. Without budget support for the Commission's proposals, it is not possible to make the progress we agree is necessary to meeting our legal charge. In the appendices to its report, the 6AC made specific recommendations to support constitutionally consistent operations.<sup>6</sup> Those appendices are attached to this testimony. Rather than restate the Budget Narrative made part of those documents, I incorporate them here, except to the extent that we have updated certain numbers.

---

<sup>6</sup> 6AC Report, p.97 *et seq.*

1. Change package C-A-1 / Commission Staff

The Commission asks that the Legislature include ten additional Commission staff positions, as recommended by the 6AC in its report, and as described at Appendix A to that report. The budget request of October 23, 2020 excludes from this initiative the Executive Director and Deputy Director positions because they already exist. We have recalculated the cost of this initiative in preparation for this hearing and conclude that the FY'22 cost for this initiative is \$1,113,607.40. The calculations supporting that conclusion are set out below beginning at page 9.

2. Change package C-A-2 / Kennebec County Defender Office

The Commission asks that the Legislature permit us to fund a single-county public defender office as recommended by the 6AC in its report, and as described at Appendix C to that report. The Commission has concluded that although the 6AC Report recommended opening a defender office in Cumberland County, doing so in Kennebec County presents an improved opportunity. We have recalculated the cost of this initiative in preparation for this hearing and conclude that the FY'22 cost for this initiative is \$2,094,911.28. The calculations supporting that conclusion are set out below beginning at page 11.

3. Change package C-A-3 / Appellate and Post-Conviction Review Office

The Commission asks that the Legislature permit us to fund an appellate and post-conviction review office as recommended by the 6AC in its report, and as described at Appendix B to that report. We have recalculated the cost of this initiative in preparation for this hearing and conclude that the FY'22 cost for this initiative is \$2,623,610.80. The calculations supporting that conclusion are set out below beginning at page 14.

4. Change package C-A-4 / Additional Funding

The Commission asks that the Legislature allocate an additional \$2,804,980 in each year of the biennium. This allocation would maintain the current level of Commission funding.

5. Change package C-A-5 / Additional Funding

The Commission asks that the Legislature provide an additional \$11,465,959 in each year of the biennium to implement the attorney rate increase identified by the 6AC as necessary to ensure the provision of quality legal services to indigent clients.

PART FFF

At section FFF-1 of the Executive’s Proposed Budget, 4 MRSA §1804(4)(D) is amended to enhance the Commission’s responsiveness to evolutions in operating conditions by changing rules that establish certain standards from major substantive rules to routine technical rules. The amendment to the statute does not change the status of the rules setting rates of compensation for assigned or contract counsel. In the summary, however, the inverse is described. The Commission recommends that the part FFF Summary read:

This Part allows the Maine Indigent Legal Services Commission to establish standards for assigned counsel and contract counsel through routine technical, rather than major substantive, rulemaking, enabling the Commission to make these changes more quickly and efficiently.

CONCLUSION

The Commission asks the Legislature to recognize the need for additional resources to permit it to provide the services and oversight that it is mandated to provide. The 2017 Working Group; the 6<sup>th</sup> Amendment Center; OPEGA; and the Commission itself agree that change must be implemented. Both the 6AC and OPEGA reports show that to implement that change without additional resources is impossible, however. For that reason, the Commission asks that you consider its budget request in full, as updated:

	FY’22	FY’23
Baseline Budget	\$ 16,476,580.00	\$ 16,499,009.00
Initiative: Commission Staff	\$ 1,113,607.40	\$ 1,113,607.40
Initiative: Defender Office	\$ 2,094,911.28	\$ 2,094,911.28
Initiative: Appellate Office	\$ 2,623,610.80	\$ 2,623,610.80
Initiative: Restoration of Baseline	\$ 2,804,980.00	\$ 2,804,980.00
Initiative: Fees adjustment	\$ 11,465,959.00	\$ 11,465,959.00
Totals	\$ 36,579,648.48	\$ 36,602,077.48



Package C-A-1 / Commission Staff

<b>Position</b>	<b>Classification</b>	<b>Spec/grade</b>		<b>Step 3</b>
Training Director	Public Service Coordinator II	47-31	Salary	\$ 70,720.00
			Fringe	\$ 49,907.00
Practice Standards/Quality Assurance Attorney	Public Service Coordinator II	47-31	Salary	\$ 70,720.00
			Fringe	\$ 49,907.00
Finance/Voucher Attorney	Public Service Coordinator II	47-31	Salary	\$ 70,720.00
			Fringe	\$ 49,907.00
Trial Resource Attorney	Public Service Coordinator II	47-31	Salary	\$ 70,720.00
			Fringe	\$ 49,907.00
Mental Health/SA/Sentencing Resource Attorney	Public Service Coordinator II	47-31	Salary	\$ 70,720.00
			Fringe	\$ 49,907.00
Audit Director	Auditor III	09-25	salary	\$ 54,641.00
			fringe	\$ 43,810.00
Field Examiner	Field Examiner II	04-20	salary	\$ 40,643.00
			fringe	\$ 38,500.00
Field Examiner	Field Examiner II	04-20	salary	\$ 40,643.00
			fringe	\$ 38,500.00
Voucher Review Staff	Auditor I	04-20	salary	\$ 40,643.00
			fringe	\$ 38,500.00

Training Staff	Public Service Coordinator I	47-21	salary	\$	46,238.00
			fringe	\$	40,625.00
			<b>Salary total</b>	\$	1,025,878.00

Bar dues	\$1,325.00
Cell phone	\$3,780.00
Eyeglass reimbursement	\$600.00
Legal research subscription	\$3,360.00
Monitor, mouse, keyboard*	\$6,000.00
Mileage	\$4,800.00
Office furniture*	\$24,800.00
Office supplies	\$7,500.00
OIT/TELCO	\$26,386.00
TELCO installation costs*	\$3,200.00
Service center (Payroll processing)	\$5,628.40
Subscriptions (rule and statute books)	\$350.00
<i>*notes a one-time first year cost</i>	
<b>Ancillary Cost Total</b>	\$87,729.40
<b>Salary total</b>	1,025,878.00
<b>Total</b>	\$1,113,607.40

Package C-A-2 / Kennebec County Defender Office

<b>11</b>	<b>Classification</b>	<b>Spec/grade</b>		<b>Step 3</b>
District Defender	Public Service Manager III	47-39	salary	102,003
			fringe	61,771
Deputy District Defender	Public Service Manager III	47-38	salary	97,052
			fringe	59,892
Serious Felony Defender	Public Service Manager III	47-37	salary	92,435
			fringe	58,137
Serious Felony Defender	Public Service Manager III	47-37	salary	92,435
			fringe	58,137
Senior Assistant Public Defender	Public Service Manager II	47-33	salary	77,001
			fringe	52,287
Senior Assistant Public Defender	Public Service Manager II	47-33	salary	77,001
			fringe	52,287
Assistant Public Defender	Public Service Manager II	47-31	Salary	70,720
			Fringe	49,907
Assistant Public Defender	Public Service Manager II	47-31	Salary	70,720
			Fringe	49,907
Assistant Public Defender	Public Service Manager II	47-31	Salary	70,720
			Fringe	49,907
Investigator	Public Service Coordinator I	47-21	salary	46,238
			fringe	40,625
Investigator	Public Service Coordinator I	47-21	salary	46,238

			fringe	40,625
Social Worker	Clinical Social Worker	04-25	salary	51,355
			fringe	42,566
Social Worker	Clinical Social Worker	04-25	salary	51,355
			fringe	42,566
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Office Manager	Office Specialist II SUPV	81-22	salary	46,966
			fringe	40,905
		<b>Salary Totals</b>		<b>\$1,929,187</b>

Bar dues	\$2,385.00
Case management software	\$3,900.00
Cell phone	\$4,800.00
Eyeglass reimbursement	\$1,000.00
Legal research subscription	\$4,320.00
Monitor, mouse, keyboard*	\$10,200.00
Mileage	\$4,500.00
Office furniture*	\$42,160.00
Office supplies	\$12,750.00
OIT/TELCO	\$64,071.00
TELCO installation costs*	\$5,440.00
Service center (Payroll processing)	\$9,568.28
Subscriptions (rule and statute books)	\$630.00
<i>*notes a one-time first year cost</i>	
<b>Ancillary Cost Total</b>	\$165,724.28
<b>Salary Totals</b>	\$1,929,187
<b>Total</b>	\$2,094,911.28

Package C-A-3 / Appellate and Post-Conviction Review Office

<b>Position</b>	<b>Classification</b>	<b>Spec/grade</b>		<b>Step 3</b>
<i>Appellate Division</i>				
Appeal and Post-Conviction Review Director	Public Service Manager III	47-39	salary	102,003
			fringe	61,771
Appellate Division Deputy Director	Public Service Manager III	47-38	salary	97,052
			fringe	59,892
Senior Assistant Appellate Defender	Public Service Manager II	47-37	salary	92,435
			fringe	58,137
Senior Assistant Appellate Defender	Public Service Manager II	47-37	salary	92,435
			fringe	58,137
Senior Assistant Appellate Defender	Public Service Manager II	47-37	salary	92,435
			fringe	58,137
Assistant Appellate Defender	Public Service Manager II	47-33	salary	77,001
			fringe	52,287
Assistant Appellate Defender	Public Service Manager II	47-33	salary	77,001

			fringe	52,287
Assistant Appellate Defender	Public Service Manager II	47-33	salary	77,001
			fringe	52,287
Assistant Appellate Defender	Public Service Manager II	47-31	Salary	70,720
			Fringe	49,907
Assistant Appellate Defender	Public Service Manager II	47-31	Salary	70,720
			Fringe	49,907
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Post-Conviction Review Division Deputy Director	Public Service Manager III	47-37	salary	92,435
			fringe	58,137
Senior Assistant Post-Conviction Defender	Public Service Manager II	47-33	salary	77,001
			fringe	52,287
Assistant Post-	Public Service Manager II	47-31	Salary	70,720

Conviction Defender			Fringe	49,907
Assistant Post- Conviction Defender	Public Service Manager II	47-31	Salary	70,720
			Fringe	49,907
Paralegal	Paralegal	04-20	salary	40,643
			fringe	38,500
Mitigation Specialist	Public Service Coordinator I	47-21	salary	46,238
			fringe	40,625
Investigator	Public Service Coordinator I	47-21	salary	46,238
			fringe	40,625
			<b>Salary Totals</b>	<b>\$2,412,964</b>



Bar dues	\$3,710.00
Case management software	\$5,400.00
Cell phone	\$7,908.00
Eyeglass reimbursement	\$1,200.00
Legal research subscription	\$6,720.00
Monitor, mouse, keyboard*	\$12,000.00
Mileage	\$500.00
Office furniture*	\$49,600.00
Office supplies	\$15,000.00
OIT/TELCO	\$59,972.00
TELCO installation costs*	\$6,400.00
Printing/Binding/Mailing	\$30,000.00
Service center (Payroll processing)	\$11,256.80
Subscriptions (rule and statute books)	\$980.00

*\*notes a one-time first year cost*

<b>Ancillary Cost Total</b>	\$210,646.80
<b>Salary Totals</b>	\$2,412,964.00
<b>Total</b>	\$2,623,610.80

# APPENDIX A

## MCILS ADMINISTRATION

PERSONNEL	TITLE	SALARY	BENEFITS	POSITIONS	TOTAL
ATTORNEYS	Executive Director	\$101,002.17	\$54,385.78	1	\$155,387.95
	Deputy Director	\$96,906.00	\$54,267.36	1	\$151,173.36
	Training Director	\$72,418.42	\$38,994.53	1	\$111,412.95
	Family Law Resource Attorney	\$72,418.42	\$38,994.53	1	\$111,412.95
	Delinquency Resource Attorney	\$72,418.42	\$38,994.53	1	\$111,412.95
	Adult Trial Resource Attorney	\$72,418.42	\$38,994.53	1	\$111,412.95
	Mental Health Resource Atty	\$72,418.42	\$38,994.53	1	\$111,412.95
	Audit Director	\$70,675.00	\$39,578.00	1	\$110,253.00
	Training staff	\$37,408.00	\$20,948.48	2	\$116,712.96
	Auditing staff	\$37,408.00	\$20,948.48	2	\$116,712.96
Sub-Total					\$1,207,304.98

NON-PERSONNEL EXPENSES	CURRENT	PROJECTED
Risk management insurances	\$1,795.39	\$7,181.56
Mailing/postage/freight	\$4,675.71	\$18,702.84
Cellular phones service	\$1,406.69	\$5,626.76
Service center	\$3,095.00	\$12,380.00
Office supplies & equipment	\$2,062.61	\$8,250.44
Office equipment rental	\$1,274.45	\$5,097.80
Eyeglasses reimbursement	\$300.00	\$1,200.00
OIT/TELCO	\$27,774.75	\$111,099.00
Subscriptions	\$327.75	\$1,311.00
Dues	\$585.00	\$2,340.00
Annual report prorated	\$9.58	\$38.32
Annual parking permit fee	\$1,140.00	\$4,560.00
Printing/binding	\$22.00	\$88.00
InforME annual fee	\$2,640.00	\$10,560.00
Sub-Total		\$188,435.72

CAPITAL EXPENDITURES	RATE	NUMBER	TOTAL
Laptop computer	\$1,400.00	10	\$14,000.00
Furniture	\$1,200.00	10	\$12,000.00
Cell phones	\$300.00	10	\$3,000.00
Sub-Total			\$29,000.00

<b>GRAND TOTAL</b>	<b>\$1,424,740.70</b>
--------------------	-----------------------

## BUDGET NARRATIVE

In addition to the current Director and Deputy Director, the 6AC recommends the addition of five attorney positions: Training Director, Family Law Resource Attorney, Juvenile Resource Attorney, Mental Health Resource Attorney, and Adult Trial Resource Attorney. Each of the Resource Attorneys will provide direct supervision and provide help desk assistance to attorneys in the field. The Training Director will be responsible for developing and instituting new attorney and on-going training programs, as well as periodic topic-specific trainings to be delivered regionally and remotely. The Training Director will oversee a staff of two to help with logistics and training development. MCILS should also have a dedicated professional with an auditing background to oversee all financial auditing functions, supported by two professional staff members.

With the additional staff, the 6AC recommend that the Director position be paid on par with the salary and compensation of a District Attorney (\$155,387.95)<sup>335</sup> and that the Deputy Director be paid what the MCILS Director is currently being paid (\$151,173.36).<sup>336</sup> The new attorney positions are paid salaries and benefits at the rate paid to assistant district attorneys (\$111,412.95).<sup>337</sup> Although the 6AC are not experts in the prosecution function, 6AC staff has travelled all across the country and interacted with numerous prosecutors, and it is our general observation that the prosecution function in Maine is under-resourced, especially in relation to salaries and compensation. Still, we present these recommendations because the prosecution function offers the best current comparison.

The Auditing Director is projected at the salary and compensation of the current MCILS Deputy Director (\$110,253). The four training and auditing staff are compensated at the current salary and benefits package of the existing rate for the Accounting Technician (\$58,356.48).<sup>338</sup>

Non-personnel expenses reflect the current MCILS budget,<sup>339</sup> less line items dedicated specifically for financial screeners. Each expense was prorated based on the existing three MCILS staff members (excluding financial screeners and costs associated

---

<sup>335</sup> Email from Mark A. Toulouse, Division Chief – Finance & Administrative Services, Office of the Attorney General State of Maine, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 12, 2019). This amount reflects salary plus benefits calculated at approximately 35% of salary.

<sup>336</sup> Email from John Pelletier, Director, Maine Commission on Indigent Legal Services, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 7, 2019).

<sup>337</sup> Email from Mark A. Toulouse, Division Chief – Finance & Administrative Services, Office of the Attorney General State of Maine, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 12, 2019). This amount reflects salary plus benefits calculated at approximately 35% of salary.

<sup>338</sup> Email from John Pelletier, Director, Maine Commission on Indigent Legal Services, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 7, 2019).

<sup>339</sup> Email from John Pelletier, Director, Maine Commission on Indigent Legal Services, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 7, 2019).

primarily for screening) and then multiplied by the recommended staff of twelve. Capital outlay expenses for new computers, furniture, and cell phones are calculated at available retail rates.

# APPENDIX B

## STATE APPELLATE DEFENDER OFFICE

PERSONNEL	TITLE	SALARY	BENEFITS	POSITIONS	TOTAL
ATTORNEYS	Chief Public Defender	\$101,002.17	\$54,385.78	1	\$155,387.95
	Deputy Public Director	\$96,906.00	\$54,267.36	1	\$151,173.36
	Assistant Public Defender	\$72,418.42	\$38,994.53	11	\$1,225,542.45
	Investigator	\$43,068.00	\$24,118.08	1	\$67,186.08
	Social Worker	\$43,068.00	\$24,118.08	1	\$67,186.08
	Paralegal	\$38,500.00	\$21,560.00	3	\$180,180.00
	Office Manager	\$43,068.00	\$24,118.08	1	\$67,186.08
Sub-Total					\$1,913,842.00
NON-PERSONNEL EXPENSES				COST/STAFF	PROJECTED
Risk Management Insurances				\$598.46	\$11,370.80
Mailing/Postage/Freight				\$1,558.57	\$29,612.83
Cellular Phones				\$468.90	\$8,909.04
Service Center (payroll processing, etc.)				\$1,031.67	\$19,601.67
Office Supplies/Equip.				\$687.54	\$13,063.20
Office Equipment Rental				\$424.82	\$8,071.52
Eyeglasses reimbursement				\$100.00	\$1,900.00
OIT/TELCO				\$9,258.25	\$175,906.75
Subscriptions				\$109.25	\$2,075.75
Dues				\$195.00	\$3,705.00
Annual report prorated				\$3.19	\$60.67
Annual parking permit fee				\$380.00	\$7,220.00
Printing/Binding				\$7.33	\$7,500.00
InforME Annual Fee (webhosting, etc.)				\$880.00	\$16,720.00
Rent				\$5,000.00	\$95,000.00
Sub-Total					\$400,717.22
CAPITAL EXPENDITURES			RATE	NUMBER	TOTAL
Laptop computer			\$1,400.00	19	\$26,600.00
Furniture			\$1,200.00	19	\$22,800.00
Cell phones			\$300.00	19	\$5,700.00
Sub-Total					\$55,100.00
<b>GRAND TOTAL</b>					<b>\$2,369,659.22</b>

## BUDGET NARRATIVE

For 2018, MCILS reports that there were 235 direct appeal cases and 96 post-conviction cases statewide. Assuming 80% are handled in-house, that means a new statewide appellate office will handle approximately 265 direct appeal and post-conviction cases. The NAC standards are nationally recognized as the absolute upper limit of cases that a defense attorney can be expected to handle and still provide effective, zealous representation to each and every client. For appellate services, the NAC Standards prescribe that attorneys should handle no more than 25 appeals in a single year.<sup>340</sup> Thus eleven attorneys are needed to staff the office.

National standards require one supervising attorney for every ten attorneys carrying a full caseload.<sup>341</sup> Therefore, in addition to a Chief Appellate Defender, a Deputy Chief Defender is required for supervision.

Although national standards require one investigator for every three staff attorneys<sup>342</sup> and one social worker for every three attorneys,<sup>343</sup> these standards are generally seen as applying to trial practice. Therefore, we are recommending one investigator and one social worker for the appellate office to assist on the post-conviction workload. National standards also require one paralegal for every four staff attorneys.<sup>344</sup>

The 6AC recommends that the Director position be paid on par with the salary and compensation of a District Attorney (\$155,387.95)<sup>345</sup> and that the Deputy Director be paid what the MCILS Director is currently being paid (\$151,173.36).<sup>346</sup> The new attorney positions are paid salaries and benefits at the rate paid to assistant district attorneys (\$111,412.95).<sup>347</sup> Again, although the 6AC are not experts in the prosecution

<sup>340</sup> NATIONAL ADVISORY COMM'N ON CRIMINAL JUSTICE STANDARDS AND GOALS, REPORT OF THE TASK FORCE ON THE COURTS, ch. 13 (The Defense), Std. 13.12 (1973).

<sup>341</sup> NATIONAL STUDY COMM'N ON DEFENSE SERVICES, GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES 4.1 (1976) (“Proper attorney supervision in a defender office requires one full-time supervisor for every ten staff lawyers, or one part-time supervisor for every five lawyers.”).

<sup>342</sup> NATIONAL STUDY COMM'N ON DEFENSE SERVICES, GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES 4.1 (1976) (“Defender offices should employ investigators with criminal investigation training and experience. A minimum of one investigator should be employed for every three staff attorneys in an office. Every defender office should employ at least one investigator.”).

<sup>343</sup> NATIONAL LEGAL AID & DEFENDER ASS'N, MODEL CONTRACT FOR PUBLIC DEFENSE SERVICES § VII.F, available at <http://www.nlada.org/defender-standards/model-contract/black-letter>

<sup>344</sup> U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE PUB. NO. NCJ185632, KEEPING DEFENDER WORKLOADS MANAGEABLE (2001).

<sup>345</sup> Email from Mark A. Toulouse, Division Chief – Finance & Administrative Services, Office of the Attorney General State of Maine, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 12, 2019). This amount reflects salary plus benefits calculated at approximately 35% of salary.

<sup>346</sup> Email from John Pelletier, Director, Maine Commission on Indigent Legal Services, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 7, 2019).

<sup>347</sup> Email from Mark A. Toulouse, Division Chief – Finance & Administrative Services, Office of the Attorney General State of Maine, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 12, 2019). This amount reflects salary plus benefits calculated at approximately 35% of salary.

function, 6AC staff has travelled all across the country and interacted with numerous prosecutors, and it is our general observation that the prosecution function in Maine is under-resourced, especially in relation to salaries and compensation. Still, we present these recommendations because the prosecution function offers the best current comparison. Support staff salaries and benefits are based on support staff compensation in the Cumberland County District Attorney Office.

Non-personnel expenses reflect the current MCILS budget, less line items dedicated specifically for financial screeners. The rent projection is based on \$25 per square foot charged against 200 square feet per staff (or \$5,000 per staff member). Capital outlay expenses for new computers, furniture, and cell phones were calculated at available retail rates.

# APPENDIX C

## CUMBERLAND COUNTY TRIAL LEVEL PUBLIC DEFENDER OFFICE

PERSONNEL	TITLE	SALARY	BENEFITS	POSITIONS	TOTAL
ATTORNEYS	Chief Public Defender	\$101,002.17	\$54,385.78	1	\$155,387.95
	Deputy Public Director	\$96,906.00	\$54,267.36	1	\$151,173.36
	Assistant Public Defender	\$72,418.42	\$38,994.53	12	\$1,336,955.40
	Investigator	\$43,068.00	\$24,118.08	4	\$268,744.32
	Social Worker	\$43,068.00	\$24,118.08	4	\$268,744.32
	Paralegal	\$38,500.00	\$21,560.00	3	\$180,180.00
	Office Manager	\$43,068.00	\$24,118.08	1	\$67,186.08
Sub-Total					\$2,428,371.43

NON-PERSONNEL EXPENSES	CURRENT	PROJECTED
Risk Management Insurances	\$598.46	\$15,560.05
Mailing/Postage/Freight	\$1,558.57	\$40,522.82
Cellular phones service	\$468.90	\$12,191.31
Service Center (payroll processing, etc.)	\$1,031.67	\$26,823.33
Office Supplies/Equip.	\$687.54	\$17,875.95
Office Equipment Rental	\$424.82	\$11,045.23
Eyeglasses reimbursement	\$100.00	\$2,600.00
OIT/TELCO	\$9,258.25	\$240,714.50
Subscriptions	\$109.25	\$2,840.50
Dues	\$195.00	\$5,070.00
Annual report prorated	\$3.19	\$83.03
Annual parking permit fee	\$380.00	\$9,880.00
Printing/Binding	\$7.33	\$190.67
InforME Annual Fee (webhosting, etc.)	\$880.00	\$22,880.00
Rent	\$5,000.00	\$130,000.00
Sub-Total		\$538,277.39

CAPITAL EXPENDITURES	RATE	NUMBER	TOTAL
Laptop computer	\$1,400.00	26	\$36,400.00
Furniture	\$1,200.00	26	\$31,200.00
Cell phones	\$300.00	26	\$7,800.00
Sub-Total			\$75,400.00

<b>GRAND TOTAL</b>	<b>\$3,042,048.82</b>
--------------------	-----------------------



## BUDGET NARRATIVE

For 2018, MCILS reports 1,232 murder, class A, B, and C cases, 2,022 class D and E cases, and 329 juvenile crime cases in Cumberland County. Assuming 80% are handled in-house, that means a new trial level public defender office would handle 985 felony cases, 1,618 misdemeanor cases, and 263 delinquency cases. The NAC standards are nationally recognized as the absolute upper limit of cases that a defense attorney can be expected to handle and still provide effective, zealous representation to each and every client. For adult trial level services, the NAC standards prescribe that attorneys should handle no more than 150 felonies in a single year, or 400 misdemeanors, or 200 delinquency cases.<sup>348</sup> Thus twelve attorneys are needed to staff the office.

National standards require one supervising attorney for every ten attorneys carrying a full caseload.<sup>349</sup> Therefore, in addition to a Chief Public Defender, a Deputy Chief Defender is required for supervision.

National standards require one investigator for every three staff attorneys<sup>350</sup> and one social worker for every three attorneys.<sup>351</sup> This means that the new Cumberland County public defender office will need four investigators and four social workers. National standards also require one paralegal for every four staff attorneys,<sup>352</sup> requiring the new office to have three paralegals.

The 6AC recommend that the Director position be paid on par with the salary and compensation of a District Attorney (\$155,387.95)<sup>353</sup> and that the Deputy Director be paid what the MCILS Director is currently being paid (\$151,173.36).<sup>354</sup> The new attorney positions are paid salaries and benefits at the rate paid to assistant district

<sup>348</sup> NATIONAL ADVISORY COMM'N ON CRIMINAL JUSTICE STANDARDS AND GOALS, REPORT OF THE TASK FORCE ON THE COURTS, ch. 13 (The Defense), Std. 13.12 (1973).

<sup>349</sup> NATIONAL STUDY COMM'N ON DEFENSE SERVICES, GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES 4.1 (1976) (“Proper attorney supervision in a defender office requires one full-time supervisor for every ten staff lawyers, or one part-time supervisor for every five lawyers.”).

<sup>350</sup> NATIONAL STUDY COMM'N ON DEFENSE SERVICES, GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES 4.1 (1976) (“Defender offices should employ investigators with criminal investigation training and experience. A minimum of one investigator should be employed for every three staff attorneys in an office. Every defender office should employ at least one investigator.”).

<sup>351</sup> NATIONAL LEGAL AID & DEFENDER ASS'N, MODEL CONTRACT FOR PUBLIC DEFENSE SERVICES § VII.F, available at <http://www.nlada.org/defender-standards/model-contract/black-letter>.

<sup>352</sup> U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE PUB. NO. NCJ185632, KEEPING DEFENDER WORKLOADS MANAGEABLE (2001).

<sup>353</sup> Email from Mark A. Toulouse, Division Chief – Finance & Administrative Services, Office of the Attorney General State of Maine, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 12, 2019). This amount reflects salary plus benefits calculated at approximately 35% of salary.

<sup>354</sup> Email from John Pelletier, Director, Maine Commission on Indigent Legal Services, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 7, 2019).

attorneys (\$111,412.95).<sup>355</sup> Again, although the 6AC are not experts in the prosecution function, 6AC staff has travelled all across the country and interacted with numerous prosecutors, and it is our general observation that the prosecution function in Maine lacks adequate funding, especially in relation to salaries and compensation. Still, we present these recommendations because the prosecution function offers the best current comparison. Support staff salaries and benefits are based on support staff compensation in the Cumberland County District Attorney Office.

Non-personnel expenses reflect the current MCILS budget, less line items dedicated specifically for financial screeners. Each expense<sup>356</sup> was prorated based on the existing three MCILS staff members and then multiplied by the recommended staff of eleven. The rent projection is based on \$25 per square foot charged against 200 square feet per staff (or \$5,000 per staff member). Capital outlay expenses for new computers, furniture and cell phones were calculated at available retail rates.

---

<sup>355</sup> Email from Mark A. Toulouse, Division Chief – Finance & Administrative Services, Office of the Attorney General State of Maine, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 12, 2019). This amount reflects salary plus benefits calculated at approximately 35% of salary.

<sup>356</sup> Email from John Pelletier, Director, Maine Commission on Indigent Legal Services, to David Carroll, Executive Director of Sixth Amendment Center (Mar. 7, 2019).