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Judiciary Committee
Government Oversight Committee

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82 State House Station
Augusta, Maine 04333

REQUEST FOR REVIEW

Dear Senator Chenette, Representative Mastraccio and GOC colleagues,

I am submitting this letter to request that the Government Oversight Committee take action to direct the Office of Program Evaluation and Government Accountability to conduct a rapid review of the Maine Commission on Indigent Legal Services (MCILS) and the Indigent Legal Services program in the State.

MCILS is an independent commission whose purpose is to provide efficient, high-quality representation to indigent citizens who are entitled to counsel at state expense under the 6th Amendment of the United States Constitution. The Commission uses assigned private attorneys and contract counsel 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.

Substantial evidence indicates that MCILS is not fulfilling its duty as outlined by Maine law which states that:

“the commission shall work to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the State and to ensure adequate funding of a statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner, free from undue political interference and conflicts of interest. 4 M.R.S.A. §§ 1801.”

The necessity for integrity in the defense of the indigent cannot be overstated. Our system of justice, quite literally, depends on all who are criminally accused having a robust defense. Moreover, if a questionable or fraudulent system is in place, creating uncertainty about the integrity of justice, then we have also lost justice. A strong society is built on faith in a fair and impartial judicial system, one that is blind to social and economic status.

Reliable information has come to light, from multiple sources, prompting serious concern that Maine’s indigent defendants and Maine’s taxpayers are being ill-served by MCILS due to a systemic lack of accountability and oversight; a failure to use basic accounting methods and the

commission's legal duty to scrutinize the quality of representation, the veracity of vouchers, or indigency determinations.

The potential for harm to the public is significant in terms of the following assertions:

- the inefficient management of public funds;
- falsification of attorney vouchers, the most blatant evidence of which can be found on Maine's Open Checkbook where in 2018, twenty-five MCILS rostered attorneys were paid more than the highest possible MCILS income of \$124,800 (based on \$60hr/40hrs/wk, 52wks/yr), with MCILS highest 2018 rostered attorney being paid ~\$275k. An unrealistically low estimate is that there have been at least 35,000 more attorney hours billed over the past 5 years than what is possible to have been billed;
- representation allocated to those who may have the financial means to pay for legal service (or a portion), thereby depleting resources through mismanagement;
- given the lack of oversight, the potential that those deserving and entitled to representation not receiving the constitutionally guaranteed right to attorney;
- negligence in oversight of quality of representation by not utilizing the basic measure of jail visits, client contact, motions filed, or trial and plea rates to judge competency;
- lack of oversight in managing the state contract, in regard to attorney hours spent per case and failure to recognize and remedy an obvious conflict of interest within this contractual agreement.

An OPEGA review of MCILS would shed light on the concerning administration of the program, its efficiency, and its oversight of the quality and effectiveness of representation, and the screening procedure used to determine eligibility for legal services. The Maine citizens who financially support the system, and more pointedly, those who are entitled to its services, have the right to a system that is properly conducted and in keeping with the intent of the 6th Amendment.

Given the gravity of this ongoing situation as noted in the outlined assertions, that are partial in presentation to protect some identities, and belief in a high duty to safeguard justice, I ask the members of the Government Oversight Committee vote in favor of a rapid review of MCILS. Maine people have a right to know.

Respectfully submitted,



Lisa Keim
State Senator

Sunshine is the best antiseptic.