



FINDING 1: MCILS attorney qualification standards are too lenient, resulting in an excessive number of attorneys on panels, and there are no attorney recertification requirements. MCILS has only limited new attorney training and lacks requirements that ongoing attorney training relate to defense-specific subject areas. MCILS lacks appropriate supervision of attorneys.

Under MCILS' qualification requirements, an attorney who graduated from law school two years ago and hung out their shingle in a private practice, with no supervision or training, can have two jury trials and two judge trials and then be appointed to represent indigent defendants in every type of criminal case other than a homicide or sex offense. More worrisome perhaps is that indigent defendants charged with Class E crimes, carrying up to six months in jail, can be represented by an attorney who just received their bar card and completed a single training course in criminal law, as long as the lawyer has an email address, telephone number, and a confidential space to meet with clients.

MCILS does not require attorneys appointed to represent the indigent to obtain training in the fields in which they provide indigent legal representation (beyond that required to first be placed on the roster for appointments in operating under the influence or domestic violence cases). Similarly, MCILS has not established any requirements for supervision of attorneys appointed to provide indigent legal representation. After the start of the assessment, MCILS identified 25 attorneys statewide to serve as resource counsel and provide mentoring to less experienced attorneys. However, these attorneys are each capped at providing only 10 hours of mentoring per month, and the resource counsel attorneys do not have authority to require any mentee to cooperate.

Finding 5: Despite there being many excellent assigned lawyers providing representation to the indigent accused throughout Maine, there are also too many attorneys throughout the state who do not perform adequately.

In one of the studied counties, the Sheriff estimated, due to the volume of prisoner complaints, that about 25% of assigned attorneys do not visit their clients in jail to prepare their cases. He was also concerned about attorneys not accepting calls from the jail. He said prisoners stop calling when their calls are not accepted. Consistent with that report, one judge estimated that 25% of assigned counsel have not met with their clients before the first dispositional conference date. She reported that up to 10% of attorneys withdraw or become a second chair if the case goes to trial.

MCILS data tends to confirm these observations of the sheriffs. For example, the 6AC requested three years of data on jail visits on cases billed out of Cumberland County. The data reveal a number of attorneys that often visit clients, but a concerning number of folks that do not. For example, in 2017, one attorney billed MCILS \$111,771 for cases arising in Cumberland County, including \$3,024 for 96 jail visits. By contrast, another attorney billed MCILS \$171,880, but did not bill any time for even a single jail visit. Certainly it is possible, though unlikely, that the attorney simply decided it was not worth the time to bill jail visits, but the point is that MCILS and the State of Maine do not know because of a lack of oversight.

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 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.