

**WASHINGTON STATE
CIVIL LEGAL AID OVERSIGHT
COMMITTEE**

**MEETING OF
DECEMBER 9, 2016**

**WASHINGTON STATE BAR
ASSOCIATION
1325 FOURTH AVENUE
SIXTH FLOOR
SEATTLE, WA**

MEETING MATERIALS

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF DECEMBER 9, 2016**

MEETING MATERIALS

- Tab 1: Meeting Agenda**
- Tab 2: Draft Minutes of September 30, 2016 Meeting**
- Tab 3: Civil Legal Aid Oversight Committee Mission**
- Tab 4: Civil Legal Aid Oversight Committee Roster**
- Tab 5: Civil Legal Aid Oversight Committee
Operating Rules and Procedures**
- Tab 6: List of Oversight Committee Resolutions and
Policies**
- Tab 7: Report from the Director of the Office of Civil
Legal Aid (with attachments)**

TAB 1

CIVIL LEGAL AID OVERSIGHT COMMITTEE
December 9, 2016
10:30 a.m. to 1:30 p.m.
Washington State Bar Association
1325 Fourth Ave., Sixth Floor
Seattle, WA

AGENDA

- (1) Welcome and introductions (Jennifer Greenlee)
- (2) Review and adopt minutes of September 30, 2016 meeting
- (3) Introduction of Dana Boales and Brief Update on Civil Legal Aid to Crime Victims Program
- (4) Update on OCLA FY 2017-19 Budget Request (Jim Bamberger)
- (5) Discussion of Response to Resolution 2016-02 – Civil Legal Aid Funding
 - (a) Report on Dec. 5th Meeting With Supreme Court Justices (Jennifer Greenlee, Judge Spearman)
 - (b) Report on Nov. 18th Meeting of WSBA Board of Governors (Jennifer Greenlee, Judge Spearman)
 - (c) Report on Meetings With Other Interested Stakeholders (Jennifer Greenlee, Judge Spearman, Jim Bamberger)
 - (d) Open Discussion
 - (e) Committee Action (if any)
- (6) ATJ Board Update
- (7) Equal Justice Coalition Update (Jay Doran)
- (8) New/Other Business

TAB 2

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF SEPTEMBER 30, 2016
DRAFT MINUTES**

Pursuant to notice duly provided in advance, a meeting of the Civil Legal Aid Oversight Committee was held on Friday, September 30, 2016 at the K&L Gates Law Firm, 925 Fourth Ave., 29th Floor, in Seattle, WA.

Members Participating in Person: Jennifer Greenlee (Chair), Martin Bohl, Judge Michael Spearman, Taylor “Tip” Wonhoff, Judge Ellen Clark, Judge Greg Tripp, Rep. Drew Stokesbary, Rep. Laurie Jenkins, Sen. Jamie Pedersen

Members Not Participating: Sen. Ann Rivers

Staff: James Bamberger, Director, Office of Civil Legal Aid; Jill Malat, Children’s Representation Program Manager, Office of Civil Legal Aid

Guests: Jay Doran (Equal Justice Coalition); Ishbel Dickens, Access to Justice Board (ATJ Board); César Torres, NJP; Sandi Swarthout (Equal Justice Coalition by phone); Alex Doolittle (Seattle Community Law Center by phone); Suchi Sharma (House Democratic Caucus); John Tirpak (Unemployment Law Project by phone)

Ms. Greenlee called the meeting to order at 10:30 a.m.

1. Welcome and introductions

Members and guests introduced themselves.

2. Review and Adopt Minutes of June 10, 2016 Meeting

Mr. Bamberger advised the draft minutes mistakenly indicate that Rep. Stokesbary was in attendance.

Motion: By Judge Spearman to amend the draft to reflect that Rep. Stokesbary was not in attendance and approve the minutes.

Second: By Judge Tripp

Action: Unanimous in favor

3. Oversight Committee Member Updates

Mr. Bamberger advised that Mr. Magaña’s term ended on June 30th. He has been working with the ATJ Board to recruit applicants who are income eligible and interested in contributing to the work of the Oversight Committee. No appointment has yet been made.

Mr. Bamberger noted that Rep. Stokesbary had been appointed to fill the remaining term of the position previously held by Rep. Holy. That term ended on June 30th. Mr. Bamberger has asked the House Republican Caucus to reappoint Rep. Stokesbary for a full three year term.

Mr. Bamberger advised that Judge Tripp had been reappointed by the Board for Judicial Administration for an additional three years term.

4. Executive Session: OCLA Director's Performance Review

Ms. Greenlee called the Oversight Committee into executive session to discuss the results of the OCLA Director's performance review and make decisions about the Director's compensation. The Oversight Committee returned from executive session at 10:50. Ms. Greenlee reported that the Oversight Committee had taken action on both the Director's performance review and his salary level for FY 2017.

5. Update on Crime Victims Legal Services Funding

Mr. Bamberger reported that he was in the final stages of negotiation of a contract with the Department of Commerce, Office of Crime Victim Advocacy pursuant to which \$7.6 million will be made available for civil legal assistance to victims of crime on matters arising from their victimization. The core activities will be those outlined in the State Plan for Legal Aid to Crime Victims which was included in the materials and which is posted on OCLA's website. Because the amount made available is larger than that initially contemplated, OCLA is working to fill some gaps in the types of crime victims and geographic coverage that remained after adoption of the initial state plan.

Mr. Bamberger announced that he had hired Ms. Dana Boales to serve as the Program Manager of the Civil Legal Aid to Crime Victims Program. Ms. Boales currently serves as the Deputy Director of Tacoma Community House, a multi-service agency in Tacoma that provides services to many low income and vulnerable client populations, with a large emphasis on services to immigrants and refugees and those in need of personal and family safety. An attorney, Ms. Boales brings substantial experience across a range of disciplines including criminal defense and court administration in addition to her work in the educational, human and social services fields. In addition to her JD, Ms. Boales has a Masters Degree in organizational systems renewal from Seattle University. Mr. Bamberger advised that Ms. Boales will have her hands full standing up and supporting this important program. She will begin work on October 31st.

6. FY 2017-19 OCLA Decision Packages

Mr. Bamberger reported that he made a presentation to the Supreme Court Budget Committee on the substance of the three decision packages that had previously been endorsed in concept by the Oversight Committee. These three packages would (a) protect NJP's current client service capacity from increased personnel and leasehold costs that will be experienced in FY 2017-19; (b) provide NJP staff with a modest COLA for FY 2017-19; and (c) fund Phase I of the Civil Justice Reinvestment Plan. The Budget Committee offered a number of comments and suggestions that were considered and a number of which were incorporated. Most notable was the suggestion to more deliberately phase in the staff attorney expansion over FY 2018, which reduced the overall cost of the package by nearly \$1 million. Changes were also made to the COLA package to conform it to the substance of the salary adjustments recently negotiated by the Office of Financial Management and state employee unions. These will provide for a 2% increase on July 1, 2017, a 2% increase on July 1, 2018 and an additional 2% increase on January 1, 2019.

Mr. Bamberger called the Oversight Committee's attention to the independent salary comparability analysis that NJP received, which documented that its attorney salaries were substantially below comparability with those of other publicly funded attorneys. He also noted that, unlike state employees, NJP staff did not receive the benefit of the 3% and 1.8% COLA's during the current fiscal year. Finally, Mr. Bamberger noted that the general maintenance level adjustment had been modified slightly to incorporate the increased costs of NJP's leasehold expenses due to the renegotiation of NJP's master space in Pioneer Square. NJP leases about 25,000 square feet at its current location. The cost/sq. ft. at that space will increase from about \$22 to about \$32. NJP staff and its consultant considered other locations and concluded that staying at the present location would be the most cost-effective solution. An additional cost-driver is the opening of new office space in South King County near the Maleng Regional Justice Center in Kent.

Mr. Bamberger reported that the full Supreme Court reviewed the revised decision packages and supplemental supporting information and agreed to forward them to the Office of Financial Management as they have been revised and as part of a consolidated judicial branch submission. The total amount requested is about \$13.7 million.

Mr. Bamberger asked the Committee for its final endorsement of the FY 2017-19 decision packages.

7. Report on Consultations With Stakeholders

Mr. Bamberger reported that he had met with leaders of the Washington State Bar Association, the Association for Justice, the Equal Justice Coalition and the ATJ Board regarding the question of whether and, if so, what might be asked of the Legislature regarding a dedicated funding source for civil legal aid. He also reported that a similar conversation had been had with members of the Supreme Court Budget Committee.

Mr. Bamberger synopsized the feedback as being consistent and focused on a request for sustained and substantially expanded general fund money. The ATJ Board has passed a resolution that is silent on the source of funding for expanded legal aid services. The language of the ATJ Board Resolution is substantially consistent with that suggested in Version B of the draft resolution that was prepared for the Oversight Committee's consideration. Mr. Bamberger advised that a similar resolution was prepared for consideration by WSBA and that he had been advised that the matter had been assigned to WSBA's Legislative Committee for its consideration. He said that a similar resolution would be considered this fall by the Association for Justice.

Mr. Bamberger reported that he had engaged the assistance of a consultant with strong connections with Republican leadership in both the House and Senate and with key business community organizations. Preliminary feedback suggests that there is as yet insufficient understanding of the magnitude of the problem or the role of civil legal aid in addressing critical problems that low income people face. The dominant view reported back was that McCleary

would crowd out consideration of lower priority issues and it would be a heavy lift to secure the level of additional general fund support we need in light of the other high priority budget needs.

Mr. Bamberger explained that none of the organizations with which he had been engaged were excited about a tax or surcharge on legal services or a dedicated increase in the B&O tax on legal professionals. He noted that none had answered the question of where funding would originate in the event that there is no general fund money left after addressing McCleary, mental health, state employee salaries and other critical budget drivers.

Mr. Bamberger reported that, at the request of Senator Pedersen, he had drafted two versions of a resolution affirming the Committee's endorsement of the Civil Justice Reinvestment Plan. One expressly asks the Legislature to establish a dedicated funding mechanism using a tax or surcharge on legal services while the other simply asks the Legislature to provide sustained and sufficient funding to underwrite the Civil Justice Reinvestment Plan.

The Committee took up discussion of the draft resolutions. Discussion centered around whether a resolution specifically recommending a new dedicated funding source would be strategically helpful, whether it might work against efforts to secure expanded state general fund money as part of any revenue package that might be developed to address the larger state budget shortfalls, and whether a proposal for a tax or surcharge would have any political chance of success given the political makeup of the Legislature.

Mr. Bohl observed that moving a revenue proposal forward to establish a stable and dedicated funding source for legal aid might stimulate others to engage in the conversation and come up with other, better ideas, to address the problem. The goal is to engage the stakeholder and secure their commitment.

Mr. Doran spoke on behalf of the Equal Justice Coalition. He reported that the EJC had met to review the Civil Justice Reinvestment Plan and the funding options under consideration by the Oversight Committee. The EJC is committed to working hard to secure sufficient funding to implement the Reinvestment Plan. The EJC intends to push OCLA's general fund budget request but understands that there may come a time at which other ideas, including those under consideration by the Oversight Committee might have to be considered. Mr. Doran expressed concern about proposals that might split the longstanding unity of support for civil legal aid within the bench and bar.

Ms. Greenlee expressed her belief that the Oversight Committee needed to take action in light of the findings of the Civil Legal Needs Study Update. She noted that none of the legislators think it likely that we will be successful in securing a general fund increase of \$13,000,000. She agreed with that assessment. She said that if it is not realistic to get this level of general fund increase, she said the Oversight Committee needed to put other ideas in play.

Motion: By Senator Pedersen to adopt Version A of Resolution 2016-02.

Senator Pederson offered that nobody will tell us with straight face that there is any reasonable possibility that, given everything else on table, that we will double funding for legal aid. If we take the findings of the CLNS Update and the strategies outlined in the Civil Justice

Reinvestment Plan seriously and if we believe that investment should be made, we need to bring solution to the table. Sen. Pedersen said that there is no down side to moving forward with a revenue solution, especially one that might result in freeing up scarce general fund dollars for other priority state needs. He told the committee that he had spoken about this at length with Senator Rivers (who had a conflicting meeting) and that she agrees with the idea of moving a revenue proposal forward and supports version A of the draft resolution.

Senator Pedersen observed that it would be important to (1) do some serious work with law firms to figure out ways to make this administratively simple to administer especially for the larger interstate and international law firms, and (2) identify a couple of significant purchasers of legal services who will support the concept. The goal would be to get these purchasers to say that, as large consumers of legal services, we have responsibility to have a functioning civil justice system; and the current system does not work for too many.

Second: By Judge Tripp.

Judge Tripp noted that as a former small firm lawyer and a pretty conservative person, he generally disagrees with the idea of funding programs like this with special taxes or charges. But he felt this is different. He explained that unless the Oversight Committee takes a position that has specificity we are likely not to get anything. He expressed hope that the WSBA Board of Governors would lead the effort to get the funding we need. He thought that by adopting this resolution, the Oversight Committee would stimulate others to come up with different, and possibly better ideas. Judge Tripp said that in the end, it is the Oversight Committee's responsibility to lead and carry this forward.

Judge Spearman said that he generally supports the motion. He expressed concern about burning bridges with people who have traditionally supportive of legal aid. If the Oversight Committee is the only one advocating for this, to what extent are we putting that support in jeopardy? Will we alienate the bar Associations, small law firms? Will we be alone? If at the end of the day we get nothing, will we be able to protect important relationships with our friends and colleagues who support civil legal aid?

Rep. Jinkins observed that if we can't get our own community to support this, we will never get state general fund money. She noted that the B&O tax is likely to be the subject of extensive conversations, and that it may be proposed to address any number of budget challenges facing the state. She felt that we should get our marker in before others do. If we don't we will lose. There is some value in being the people who put the mark in first. She said that she understood why people want to focus only on the state general fund, but that is more of a theoretical position rather than a practical one. As a legislator, she is looking for practical solutions. She expressed hope that supporters of civil legal aid who were not comfortable with this approach would not actively lobby against it.

Rep. Jinkins suggested adding the phrase "... or another dedicated source of funding for civil legal aid" to the resolution. Sen. Pedersen said that the resolution would force others to come up with ideas before our meeting in December and that we can always adjust our position in December. Judge Tripp agreed. He said that the Oversight Committee needed to lead with a strong position.

Rep. Stokesbary said that he takes a little different view. He is nervous about proposal in large part because it would have to go through at least six committees in order to be enacted. On other hand, a successful ask for state general funds needs only the agreement of the budget writers. He thinks it is an easier lift. He is concerned that version A is an all or nothing approach. With a general fund strategy, there is more flexibility as circumstances change during the budget deliberations. It is not an all or nothing approach.

Members acknowledged many unknowns including the outcome of the November elections and the composition of the next Legislature. There were further discussions about legislative dynamics and potential changes. All agreed that they may have to reconsider the action in light of election results.

Mr. Doran noted that the EJC is worried about building support on the ground for the dedicated tax or surcharge approach and reported that the King County Bar Association is likely to oppose it. He said that the EJC had whether leading with revenue proposal might limit or marginalize our ability to get needed funding from other sources including the general fund.

Action on the Motion: Voting Yes: Senator Pedersen, Representative Jinkins, Mr. Bohl, Judge Spearman, Judge Tripp, Ms. Greenlee, Judge Clark, Mr. Wonhoff. Voting No: Rep. Stokesbary.

8. Access to Justice Board -- State Plan Update

Ms. Dickens spoke on behalf of the ATJ Board and gave an update on the state planning process. She described the goal as establishing a framework designed to support collaborative and non-duplicative delivery of civil legal aid services consistent with needs of low-income people as reported in the CLNS Update. She explained that the state planning effort is principally carried by 25 member Consensus Group that has been meeting for nine months. The goal is to establish specific achievable goals and strategies for the legal aid system and the individual programs that make up the system along with measures of success that can be tracked. Five goals have been preliminarily identified along with a range of strategies. Current plans are to circulate a draft for public comment in November. The draft will be shared with the Oversight Committee.

9. Equal Justice Coalition Update

Mr. Doran updated the committee on the Equal Justice Coalition's efforts to build support for the Civil Justice Reinvestment Plan and OCLA's FY 2017-19 budget request. They are working closely with county bar associations, community based legal aid programs and others to secure endorsements of the Reinvestment Plan. A Legal Aid Lobby Day will be held in mid-February. The EJC is working with NJP to host open houses and educational events for legislators in advance of the coming legislative session. The meetings include NJP's Executive Director, the local office's Senior Attorney, a client who has received legal assistance and EJC staff. He described the focus and approach used in the meetings and provided a list of legislative members with whom they have met.

10. Schedule of Meetings

The committee agreed to the following calendar year meeting schedule.

Spring Meeting (Olympia): Friday, March 24, 2017

Summer Meeting (Yakima in conjunction with ATJ Conference): Friday, June 2, 2017

Fall Meeting (Seattle): Friday, September 22, 2017

Winter Meeting (Seattle or by conference call): Friday, December 8, 2017

11. Other Business

Mr. Bohl suggested that members review a copy of the Summer 2014 issue of *Daedalus*, the Journal of the American Academy of Arts and Sciences, which has a symposium on the invention and operation of courts.

Motion: By Sen. Pedersen to adjourn

Second: By Judge Clark

Action: Approved unanimously



Washington State Civil Legal Aid Oversight Committee

1112 Quince St. SE
Olympia, WA 98504
MS 41183
360-704-4135

Jennifer Greenlee, Chair (Seattle)
Hon. Ellen Clark (Spokane County Sup. Ct.)
Hon. Michael Spearman (Ct. of App., Div. 1)
Hon. Greg Tripp (Spokane County Dist. Ct.)
Rep. Drew Stokesbary (R-31)
Rep. Laurie Jenkins (D-28)
Sen. Ann Rivers (R-18)
Sen. Jamie Pedersen (D-43)
Martin Bohl (Olympia)
Taylor Wanhoff (Office of the Governor)

RESOLUTION NO. 2016-02 **Endorsing the Civil Justice Reinvestment Plan and** **Recommending that the Washington State Legislature Provide Adequate** **Funding to Implement The Plan**

Whereas, access to and the ability to secure just outcomes in the civil justice system for all regardless of income, race, gender, language, age and other characteristics are core commitments of our legal system; and

Whereas, in September, 2003, the Washington State Supreme Court's Task Force on Civil Equal Justice Funding issued the first and then only study on the unmet civil legal needs of low-income Washington residents, and that this study served as the benchmark for developing policy and budget responses designed to address the significant gap in access to justice for low-income individuals documented in the study; and

Whereas, since 2009, basic field legal aid capacity has declined by nearly 20% due to reductions in public support and increased costs of client service operations, and that the ratio of full-time basic field legal aid attorneys to people living at or below 125% of the federal poverty level has gone from 1:9,000 in 2009 to the current level of 1:11,500, placing Washington State substantially below the federal "minimum access" level of 1:5,000.

Whereas, in December, 2013, the Washington Supreme Court concluded that a comprehensive update of the 2003 Civil Legal Needs Study was needed and established a Civil Legal Needs Study Update Committee (Update Committee) to oversee the update the 2003 CLNS and that the Update Committee engaged Washington State University's Social and Economic Sciences Research Center (WSU-SESRC) was engaged to conduct the Civil Legal Needs Study Update; and

Whereas, the Update Committee published its Final Report of the 2015 Washington State Civil Legal Needs Study Update on October 29, 2015 and that this Final Report offers a deeply troubling picture of scope and prevalence of legal problems experienced by low-income Washington residents and their limited ability to secure legal help for a wide-range of problems affecting their physical and family safety, economic security, access to essential health care, residential stability and other matters affecting basic human needs; and

Whereas, the Final Report also documents significant racial disparities in the substance and prevalence of civil legal problems experienced by low-income Washington residents. In particular, low-income African American and Native American households experience a substantially higher prevalence of legal problems across nearly every substantive problem area than the general low income population, and victims of domestic violence, persons with disabilities and youth ages 15-21 also experience higher than average rates of legal problems than the general low income population; and

Whereas, the Final Report further documents that more than 50% of low-income Washington residents lack the ability to self-diagnose the legal nature of and self-refer for legal assistance with respect to many of the problems they experience, that more than 75% of those who experience civil legal problems do not get any legal help, and that more than 60% of low-income respondents expressed that they had limited or no trust and confidence that the courts and the civil justice system would help people like them solve important civil legal problems; and

Whereas, in response to the findings of the 2015 Civil Legal Needs Study Update and after extensive consultation with the members and supporters of Washington State's Alliance for Equal Justice, the Washington State Office of Civil Legal Aid produced a Civil Reinvestment Plan designed to achieve minimum access staffing and support for civil legal aid and pro bono programs and to enhance the capacity of low-income residents to understand the legal nature of the problems they experience and make informed decisions about whether, when and from whom they should seek legal help; and

Whereas, the Civil Legal Aid Oversight Committee is a bipartisan body established by the Legislature in 2005 to oversee the activities of the Office of Civil Legal Aid, review the performance of the OCLA Director and make recommendations to the Supreme Court, the Access to Justice Board and the Legislature regarding the provision of state funded legal aid services; and

Whereas, the Civil Legal Aid Oversight Committee has received, reviewed and unanimously endorsed the draft Civil Justice Reinvestment Plan developed by the Office of Civil Legal Aid in response to the 2015 Civil Legal Needs Study Update; and

Whereas, the Civil Legal Aid Oversight Committee believes urgent and significant action is required to address the remediate the situation documented in the 2015 Civil Legal Needs Study Update and provide a system that provides meaningful access to and the ability to secure just outcomes within the civil justice system and that fosters trust and confidence in that system.

Whereas, the Civil Legal Aid Oversight Committee believes the time has come for the Legislature to commit and sustain funding necessary to achieve minimum access client service capacity for low-income people throughout Washington State.

NOW THEREFORE, the Civil Legal Aid Oversight Committee established pursuant to RCW 2.53.010:

1. Accepts the findings of the 2015 Civil Legal Needs Study Update as a reliable representation of the civil legal problems experienced by low-income Washington residents in 2014, the serious degree to which low-income people do not understand the legal nature of the problems they experience, the disproportionate experiences of members of certain subgroups of the low-income community with regard to the problems they experience, and the systemic lack of access to necessary legal assistance to help low-income Washington residents solve important civil legal problems; and
2. Endorses the Civil Justice Reinvestment Plan developed by the Washington State Office of Civil Legal Aid;
3. Endorses the budget requests developed by the Office of Civil Legal Aid and respectfully requests that they be funded by the Washington State Legislature; and
4. Respectfully requests that the Washington State Legislature enact a dedicated surcharge or tax on purchased outside legal services to raise sufficient and stable revenues to fully fund the civil legal aid system consistent with the Civil Justice Reinvestment Plan.

Dated this 30th day of September.



Jennifer A. Greenlee, Chair

TAB 3

CIVIL LEGAL AID OVERSIGHT COMMITTEE

MISSION STATEMENT

To ensure that all people in Washington share in the fundamental right to civil justice, the Civil Legal Aid Oversight Committee, consistent with its statutory authority, shall oversee and support the Office of Civil Legal Aid and shall periodically make recommendations to the Supreme Court, the Access to Justice Board and the Legislature as to the most efficient and effective use of state-appropriated civil legal aid funds on behalf of low-income people.

TAB 4

CIVIL LEGAL AID OVERSIGHT COMMITTEE ROSTER
(As of September 2016)

Position 1 (BJA 1):

Name: Hon. Michael Spearman
Address: Court of Appeals, Div. 1
600 University St.
One Union Square
Seattle, WA 98101-1176
Phone: 206-464-6047
E-mail: j_m.spearman@courts.wa.gov
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 2018; not eligible for reappointment

Position 2 (BJA 2):

Name: Hon. Greg Tripp
Address: Spokane County District Court
1100 W. Mallon
PO Box 2352
Spokane, WA 99210-2352
Phone: 509-477-2965
E-mail: gtripp@spokanecounty.org
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 2019; not eligible for reappointment

Position 3 (Supreme Court 1):

Name: Hon. Ellen Kalama Clark, Chair
Address: Spokane County Superior Court
1116 W. Broadway
Spokane, WA 99260-0350
Phone: 509-477-6006
E-mail: eclark@spokanecounty.org
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2017; not eligible for reappointment

Position 4 (Supreme Court 2):

Name: Hon. Martin C. Bohl
Address: 821 Kaiser Rd NW
Apt. 3D
Olympia, WA 98502
Phone: (509) 465-2995
E-mail: mtncbohl@msn.com
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2017; not eligible for reappointment

Position 5 (Supreme Court 3 – Client Eligible):

Name:
Address:

Phone:
E-mail:
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2019

Position 6 (Senate Majority Coalition Caucus):

Name: Senator Ann Rivers
Address: 405 Legislative Building
Olympia, WA 98504
Phone: 360-786-7634
E-mail: ann.rivers@leg.wa.gov
Appointing Entity: Senate Republican Caucus
Term Expires: June 30, 2017; eligible for reappointment

Position 7 (Senate Democratic Caucus):

Name: Senator Jamie Pedersen
Address: 226 John Cherberg Building
PO Box 40433
Olympia, WA 98504-0443
Phone: 360-786-7628
E-mail: jamie.pedersen@leg.wa.gov
Appointing Entity: Senate Democratic Caucus
Term Expires: June 30, 2018; not eligible for reappointment

Position 8 (House Republican Caucus):

Name: Representative Drew Stokesbary
Address: 426 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7846
E-mail: drew.stokesbary@leg.wa.gov
Appointing Entity: House Republican Caucus
Term Expires: June 30, 2016; reappointment pending

Position 9 (House Democratic Caucus):

Name: Representative Laurie Jinkins
Address: 311 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7930
E-mail: laurie.jinkins@leg.wa.gov
Appointing Entity: House Democratic Caucus
Term Expires: June 30, 2017; eligible for reappointment

Position 10 (Office of the Governor):

Name: Taylor (“Tip”) Wonhoff
Address: Office of the Governor
PO Box 40002
Olympia, WA 98504-0002
Phone: 360-902-4132
E-mail: taylor.wonhoff@gov.wa.gov
Appointing Entity: Office of the Governor
Term Expires: June 30, 2018; eligible for reappointment

Position 11 (Washington State Bar Association):

Name: Jennifer Greenlee
Address: PO Box 55295
Shoreline, WA 98155
Phone: 206-397-4328
206-841-6142
E-mail: jagreenlee@comcast.net
Appointing Entity: Washington State Bar Association
Term Expires: June 30, 2018; not eligible for reappointment

TAB 5

CIVIL LEGAL AID OVERSIGHT COMMITTEE OPERATING RULES AND PROCEDURES

(Revised 4-23-07)

I. Name

The name of this body shall be the Civil Legal Aid Oversight Committee (hereafter Oversight Committee)

II. Membership

The membership of the Committee is established by RCW 2.53.010 and includes:

- (a) Three persons appointed by the supreme court from a list of nominees submitted by the access to justice board, one of whom at the time of appointment is income eligible to receive state-funded civil legal aid;
- (b) Two persons appointed by the board for judicial administration;
- (c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;
- (d) One person appointed by the Washington state bar association; and
- (e) One person appointed by the governor.

III. Terms of Membership

Pursuant to RCW 2.53.010, the terms of membership of the Oversight Committee shall be staggered so that, after the first three years of the committee's existence, the terms of one-third of the members expire each year. To this end, a term of membership shall be allocated to each position as follows:

A. Judicial Branch

BJA 1	Initial term -- 1 year, expiring June 30, 2006 Eligible for two full additional terms (through June 30, 2012)
BJA 2	Initial term -- 2 years, expiring June 30, 2007 Eligible for one full additional term (through June 30, 2010)
Supreme Court 1 (attorney)	Initial term -- 3 years, expiring June 30, 2008 Eligible for one full additional term (through June 30, 2011)

Supreme Court 2 (attorney) Initial term -- 1 year, expiring June 30, 2006
Eligible for two full additional terms (through June 30, 2012)

Supreme Court 3 (client eligible) Initial term -- 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30, 2010)

B. Legislative Branch

Senate Republican Caucus Initial term -- 3 years, expiring June 30, 2008
Eligible for one full additional term (through June 30, 2011)

Senate Democratic Caucus Initial term -- 1 year, expiring June 30, 2006
Eligible for two full additional terms (through June 30, 2012)

House Republican Caucus Initial term -- 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30, 2010)

House Democratic Caucus Initial term -- 3 years, expiring June 30, 2008
Eligible for one full additional term (through June 30, 2011)

C. Other

WSBA Initial term -- 1 year, expiring June 30, 2006
Eligible for two full additional terms (through June 30, 2012)

Office of the Governor Initial term -- 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30, 2010)

IV. Officers

There shall be a Chair and a Vice-Chair/Chair-Elect. The Chair and Vice-Chair/Chair-Elect shall be selected by the full membership of the oversight committee.

A. Term

The term of the Chair and Vice-Chair/Chair-Elect shall run commensurate with the state fiscal calendar, commencing on July 1st of the odd numbered year and ending on June 30th of the succeeding odd numbered year. The Chair and Vice-Chair/Chair-Elect shall not be eligible to serve more than one biennial term, *provided that*, the initial Chair and Vice-Chair/Chair Elect may serve up to one additional biennial term.

B. Authority/Responsibility of Officers

1. Chair

The Chair shall preside over all meetings of the Civil Legal Aid Oversight Committee. The Chair shall also serve as the spokesperson for the Oversight Committee, execute official documents (including, but not limited to, statutorily required reports) and represent the Oversight Committee on matters relevant to the Oversight Committee's work as circumstances require. The Chair shall be the primary point of contact for the Director of the Office of Civil Legal Aid. The Chair shall serve as the chair of the Executive Committee.

2. Vice-Chair/Chair-Elect

In the event of the Chair's absence or unavailability, the Vice-Chair/Chair-Elect shall perform all functions of the chair on an as-needed basis. The Vice-Chair/Chair-Elect shall serve as a member of the Executive Committee.

V. Committees

There shall be an Executive Committee. The Executive Committee shall consist of three members, the Chair, the Vice-Chair/Chair-Elect and one of the Oversight Committee's legislative members.

A. Appointment of Legislative Member; Succession

The legislative member of the Executive Committee shall be selected by the four legislative members of the Oversight Committee. The first legislative member shall serve from the date of the first meeting through June 30, 2007. In the event that a legislative member is no longer eligible to serve on the Civil Legal Aid Oversight Committee by reason that he or she no longer serves as an elected state senator or representative, such legislator shall submit his or her resignation to the Chair of the

Oversight Committee and the legislative caucus that appointed him or her to the Oversight Committee. Upon appointment of a successor by the appropriate legislative caucus, the legislative members shall meet and select a member to serve on the Executive Committee.

B. Responsibilities

The Executive Committee shall develop procedures and criteria to review the performance of the Director of the Office of Civil Legal Aid and perform such other responsibilities as the Oversight Committee deems appropriate.

The Oversight Committee may establish such other committees as it determines appropriate to perform its statutory functions.

VI. Staffing

The Oversight Committee, the Executive Committee and any other committees established by the Oversight Committee shall be staffed by the Director of the Office of Civil Legal Aid.

VII. Regular and Special Meetings, Notice, Committee Member Attendance

The Oversight Committee shall meet not less than quarterly at dates and times determined in advance by the Committee. Notice of regular meetings of the Oversight Committee shall be provided to the Supreme Court, the Access to Justice Board, the Chairs of the judiciary committees of the Washington State Legislature, the Office of the Governor and the Washington State Bar Association, and shall also be published in the State Register in manner that substantially conforms to the requirements of RCW 42.30.075.

A special meeting may be called at any time by the Chair or by a majority of the members of the Oversight Committee by delivering personally or by mail written notice to each member of the Oversight Committee. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. Notice of a special meeting may be supplemented by an electronic notice transmitted via e-mail to all members of the Oversight Committee. Such notice shall not be deemed a substitute for the personal notice or mailed notice otherwise required by this section. The call and notice shall specify the time and place of the special meeting and the business to be transacted. The Oversight Committee shall limit its business in any special meeting to those matters included in the call and notice.

Regular meetings of the Oversight Committee shall be open and public and all persons shall be permitted to attend any meeting of the Oversight Committee. The Oversight Committee may adjourn to executive session for the following purposes:

- A. To receive and evaluate complaints or charges brought against the Director of the Office of Civil Legal Aid. However, upon the request of the Director of the Office of

- Civil Legal Aid, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;
- B. To review the performance of the Director of the Office of Civil Legal Aid; or
 - C. To review the status of investigations carried out by the Director of the Office of Civil Legal Aid which involve matters protected by the attorney-client privilege and where public disclosure could substantially prejudice the interests of client(s) being represented by a legal aid provider that receives funding from the Office of Civil Legal Aid; and
 - D. To discuss with legal counsel representing the Oversight Committee or the Office of Civil Legal Aid matters relating to litigation or potential litigation to which the Oversight Committee or the Office of Civil Legal Aid or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the Oversight Committee or the Office of Civil Legal Aid.

All members are expected to attend regular meetings of the Civil Legal Aid Oversight Committee unless they have good cause not to attend and have been excused from attendance by the Chair. In the event that a member misses two consecutive meetings without sufficient cause, the Chair shall discuss the member's lack of attendance directly with the member. If the Chair determines that the member is not likely to meaningfully and regularly participate in the work of the Oversight Committee, the Chair may notify the appointing entity of the member's lack of attendance and request the appointment of a replacement member.

VIII. Quorum

The presence of six (6) voting members of the Oversight Committee shall constitute a quorum for the purpose of enabling the Oversight Committee to take official action. Upon establishment of a quorum, the Oversight Committee shall have full power to conduct the scheduled business of the meeting even if a member whose presence was necessary to establish the quorum in the first instance subsequently becomes unavailable.

IX. Voting

Each member of the Oversight Committee shall have one vote. All decisions of the Oversight Committee shall be made by majority vote of those present and voting. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

X. Amendment or Repeal

Amendments and/or repeal of any or all of these Operating Rules and Procedures shall be made by majority vote at a regular or special meeting of the Oversight Committee. The notice of the meeting shall include a statement of proposed action to amend or repeal these Operating Rules and Procedures and shall include an interlineated version of the full text of any section subject to proposed amendment or repeal.

TAB 6

Number	Date	Subject Matter	Status	Further Action Required
2008-01	18-Jan-08	Regarding Recommendations Relating to the Provision of State Funded Civil Legal Aid	approved	
2008-02	21-Feb-08	Acceptance of Tull Report and Related Recommendations	approved	
2009-01	27-Mar-09	Endorsing Temporary Surcharge on Attorney License Fees	approved	
2009-02	11-Dec-09	Endorsing ATJ Board Performance Standards	approved	
2009-03	11-Dec-09	Endorsing JusticeNet	approved	
2010-01	10-May-10	Endorsing Judicial Branch Whistleblower Policy	approved	
2010-02	3-Dec-10	Relating to Oversight Committee Meeting Expenditures	approved	
2010-03	3-Dec-10	Resolution Urging Adequate Funding of the Judicial Branch Regarding the Importance of the Office of Civil Legal Aid and Funding for Essential Civil Legal Aid Services in Washington State	approved	
2010-04	10-Dec-10	Regarding Funding for the Federal Legal Services Corporation	approved	
2011-01	7-Sep-11		approved	Annual Report to the Oversight Committee detailing destination, costs, and purpose of each trip taken in the prior fiscal year the total cost of which exceeded \$100 and which was incurred at agency expense.
2011-02	7-Oct-11	Affirming the Authority of the Director of the Office of Civil Legal Aid to Engage in Travel Necessary or Appropriate to the Discharge of the Director's Official Responsibilities	approved	
2015-01	12-Jun-15	Regarding Funding for the Federal Legal Services Corporation	approved	
Policy Directions and Statements				
	8-Jun-12	Policy Regarding OCLA Involvement in Promoting or Opposing Bills Before the Washington State Legislature	approved	Notice to OC before taking positions on policy bills not directly affecting OCLA or judicial branch budgets or statutes
	18-Apr-13	Endorsing Policy on Use of State Owned Mobile Telecommunications Devices	endorsed via e-mail	
2016-01	25-Mar-16	Resolution Re: OCLA Director's Travel -- Revising Resolution 2011-02	approved	Increased threshold for reporting from \$100 per travel event to \$500 per travel event
2016-02	30-Sep-16	Endorsing the Civil Justice Reinvestment Plan and Recommending Legislative Funding of the Same	approved	Encourages Legislature to establish tax or surcharge to generate dedicated funding for civil legal aid

TAB 7

To: Civil Legal Aid Oversight Committee

From: Jim Bamberger, Director

Re: Quarterly Report From the OCLA Director

Date: December 2016

Please find below my quarterly report to the Civil Legal Aid Oversight Committee. Agency activities focused mostly in the following areas:

- a. Meeting with stakeholders about the Oversight Committee's September 30, 2016 Resolution
- b. Refining OCLA's Budget submissions for FY 2017-19
- c. Implementation of the VOCA Crime Victims Legal Aid Program
- d. Site Visits to Northwest Justice Project offices in Bellingham and Vancouver

1. Response to the Oversight Committee's September 30, 2016 Resolution

On September 30, the Oversight Committee adopted Resolution 2016-02 which states in relevant part:

NOW THEREFORE, the Civil Legal Aid Oversight Committee established pursuant to RCW 2.53.010:

1. Accepts the findings of the 2015 Civil Legal Needs Study Update as a reliable representation of the civil legal problems experienced by low-income Washington residents in 2014, the serious degree to which low-income people do not understand the legal nature of the problems they experience, the disproportionate experiences of members of certain subgroups of the low-income community with regard to the problems they experience, and the systemic lack of access to necessary legal assistance to help low-income Washington residents solve important civil legal problems; and
2. Endorses the Civil Justice Reinvestment Plan developed by the Washington State Office of Civil Legal Aid;
3. Endorses the budget requests developed by the Office of Civil Legal Aid and respectfully requests that they be funded by the Washington State Legislature; and

4. Respectfully requests that the Washington State Legislature enact a dedicated surcharge or tax on purchased outside legal services to raise sufficient and stable revenues to fully fund the civil legal aid system consistent with the Civil Justice Reinvestment Plan.

Shortly after the meeting, Chair Greenlee and Vice-Chair Spearman sent letters to the Chief Justice, leadership of the Washington State Bar Association, the Access to Justice Board and the Equal Justice Coalition advising of the action taken by the Oversight Committee and inviting further conversations with the justices of the Supreme Court and the other organizations. A meeting is scheduled with the justices of the Supreme Court on Monday, December 9th. While a meeting has yet to be scheduled, the Board of Governors of the Washington State Bar Association unanimously adopted a resolution expressing its lack of support for a tax or surcharge on lawyers or legal services in order to fund essential civil legal aid services (Attachment 1). In response to a November 23rd Facebook post by Justice Yu, a number of other attorneys and organizations have expressed interest in and opposition to any suggestion that attorneys or clients be taxed to fund civil legal aid. Finally, meetings were held with the leadership of the King County Bar Association, at which the concept and rationale for a small civil justice surcharge were discussed.

In the interest of having a full and fair discussion about the issue, notice was sent out broadly advising recipients of the action taken by the Oversight Committee and inviting individuals and organizations to attend the December 9th meeting during which the committee will continue to the conversation about whether, and if so, what alternatives might be explored in the event that there is no general fund money to underwrite the Civil Justice Reinvestment Plan and other critical needs of the civil legal aid system.

During this period additional work was done to refine the suggested idea of a civil justice surcharge. As currently envisioned, a .005 surcharge would be added to the fee charged for legal services in Washington State. Legal services providers would elect from among three approaches in determining whether services were provided in Washington and subject to the surcharge. They would choose one of the three for the totality of their billing activities: (i) all transactions where the invoice for legal services provided originates in the state of Washington; (ii) all transactions where the person or entity that receives the legal services is resident in the state of Washington; or (iii) all transactions where the person providing the legal services is resident in the state of Washington. Finally, in response to concerns about the regressive nature of the surcharge, the current idea is to allow those with incomes at or below 400% the federal poverty level to secure a full exemption from the surcharge.¹ This will protect moderate and lower income people from the surcharge.

¹ Federal poverty levels by household size are listed below:

Household Size	100%	133%	150%	200%	250%	300%	400%
1	\$11,880	\$15,800	\$17,820	\$23,760	\$29,700	\$35,640	\$47,520
2	16,020	21,307	24,030	32,040	40,050	48,060	64,080
3	20,160	26,813	30,240	40,320	50,400	60,480	80,640
4	24,300	32,319	36,450	48,600	60,750	72,900	97,200

According to the Department of Revenue, a .005 surcharge (without an income-based exemption) will raise about \$21-\$22 million per year or \$42-\$44 million per biennium. This is enough to fully fund implementation of the Civil Justice Reinvestment Plan and replace about 3/4 of the current state general fund appropriation. There is no way to estimate the impact of the income-based exemption.

2. Refining OCLA’s Budget Submissions for FY 2017-19

OCLA’s FY 2017-19 budget proposals were submitted to the Office of Financial Management in late October. In mid-November, OCLA met with non-partisan House and Senate budget staff who suggested a number changes in the presentation of the budgets and the inclusion of a new proposal to address significant recruitment and retention issues that NJP is experiencing as a consequence of its lack of salary comparability with other governmental and non-profit legal services providers. While OCLA recast its budget proposals consistent with direction received from legislative staff, the Office of Financial Management was unable to load them into the system in time. We will ask House and Senate budget writers to consider them as revised.

As revised, OCLA seeks a total of \$14,302,600. The request breaks down as follows:

Vendor Rate Adjustment – Leasehold Increases	\$336,000
Vendor Rate Adjustment – Salaries and Benefits (current scale)	\$696,100
Vendor Rate Adjustment – COLA (2%, 2%, 2%)	\$525,000
Vendor Rate Adjustment – Recruitment/Retention Comparability (5%)	\$733,000
Civil Justice Reinvestment Plan – Phase I Pro Bono, Staff, Support	\$11,212,500
Civil Justice Reinvestment Plan – Phase I Self-Help/Technology Initiatives	\$800,000

Beginning in January, OCLA will work with legislative Oversight Committee members and others to effectively present the budget requests to the Legislature.

3. Implementation of the Statewide Civil Legal Aid to Crime Victims Plan

Effective October 31, 2016, Dana Boales was hired as OCLA’s new Program Manager for the Civil Legal Aid to Crime Victims Program. An attorney, Ms. Boales brings a wide range of professional experience to this position, most recently as the Deputy Director of Tacoma Community House, a multi-service non-profit serving low income people and immigrants in Tacoma and Pierce County. Because she lives in Tacoma, OCLA secured space for Ms. Boales at the Center for Dialogue and Resolution in Tacoma. She will travel extensively to ensure effective implementation of the statewide Civil Legal Aid to Crime Victims Program. Ms. Boales will manage and oversee all aspects of the new Legal Aid to Crime Victims Program. She will attend the December 9th meeting.

In November, OCLA signed a \$7.82 million agreement with the Department of Commerce, Office of Crime Victims Advocacy to provide legal assistance to persons who are victims of crime. The agreement runs from September 15, 2016 through June 30, 2018. The program is

designed to assist victims of all crimes address collateral civil problems that arise from their victimization. This may include efforts to secure legal protection for victims, assist with related housing, consumer, debt collection or other problems and to ensure that legal and other institutions are responsive to the problems experienced by crime victims. While much of this work will be related to issues arising from domestic violence, sexual assault, child abuse and the like, OCLA funded staff will also help victims of a broader range of criminal behaviors including, but not limited to, consumer-related crimes, elder abuse, hate crimes, identity theft and human trafficking. Criminal charges need not be filed in order for victims to be eligible for civil legal aid services.

Also in November, OCLA entered into sub-grant agreements with seven organizations that, collectively, will be working to implement the [Civil Legal Aid to Crime Victims State Plan](#). These organizations include:

- Northwest Justice Project
- Northwest Immigrant Rights Project
- YWCA of King and Snohomish County, Sexual Violence Legal Services
- King County Bar Association Pro Bono Services
- Snohomish County Legal Services
- Eastside (King County) Legal Services
- Tacoma Pierce County Bar Association Volunteer Legal Services Program

These programs are in the process of hiring 37 FTE attorneys, 2 legal navigators and 4 legal advocates across the state to help victims of crime address important civil legal problems arising from or related to their criminal victimization.

A detailed report on the Civil Legal Aid to Crime Victims Report will be provided at the June 2017 meeting.

4. 2016 Election -- Implications

It is too early to know whether and to what degree the results of the federal election will affect funding for the federal Legal Services Corporation (LSC), which provides about \$6.5 million in funding each year (\$13M per biennium) for the Northwest Justice Project. If history is a guide, we might expect efforts to either eliminate or significantly reduce funding for LSC from a Republican Administration working with a Republican Congress. I will keep the Oversight Committee informed as events unfold.

At the state level, things look the same on the surface, but there have been a number of changes that may affect how our budget requests are received. First, Senator Andy Hill lost his battle with lung cancer in November. Sen. Hill was the lead budget writer for the Majority Coalition Caucus, and lent a steady and thoughtful hand to the task. We also lost longtime champion and former Oversight Committee member Senator Linda Evans Parlette (R-Chelan County) as well as Senators Karen Fraser (D-Olympia) and Cyrus Habib (D-Bellevue), both of whom were

strong supporters. The Senate remains closely split, with the Majority Coalition Caucus holding a 25-24 majority.

The House remains almost evenly divided at 50-48 with the Democrats maintaining control. A number of key members have either retired or moved up, while many longtime supporters in both parties will continue to serve the people of the state and the cause of justice in the coming years.

There is no question that the federal election will have a significant negative fiscal impact on the state (and all states). Attachment 2 is a November 21, 2016 report highlighting areas of federal support that, on the basis of prior proposals, are likely to be targeted for cuts, block grants or elimination in the next Congress. States will be challenged to pick up the pieces or live with the consequences of the cuts.

Congratulations to all three of our Oversight Committee members who stood for and were reelected – Rep. Drew Stokesbary, Rep. Laurie Jinkins and Sen. Ann Rivers. We look forward to your continued thoughtful counsel and wise leadership.

5. Site Visits to Northwest Justice Project Offices in Bellingham and Vancouver

In October, OCLA conducted site visits to NJP's Vancouver and Bellingham offices during the week of October 17th. The scope and purpose of the visits are set forth in a detailed Site Visit Protocol (previously shared with the Oversight Committee). OCLA engaged the assistance of Tom Mlakar, Deputy Director for Advocacy at the Legal Aid Society of Cleveland to take the lead role in these visits. At each location we met with the office staff and then met with a number of community based representatives of organizations that work with NJP and its clients. We also consulted with members of the bench and staff of the local/regional volunteer attorney programs. We were well-received by staff, judicial representatives, delivery partners and representatives of community organizations, all of whom expressed the hope that there be more funding and expanded legal aid staff given the gravity of the needs that they see in their communities. OCLA will share its observations and offer its recommendations to NJP by the end of the year.

ATTACHMENT 1



WSBA

OFFICE OF LEGISLATIVE AFFAIRS

MEMORANDUM

TO: WSBA Board of Governors

FROM: Mario Cava, BOG Legislative Committee Chair, and Alison Phelan, WSBA
Legislative Affairs Manager

DATE: November 18, 2016

RE: WSBA Resolution re: 2017-19 Civil Justice Reinvestment Plan (**ACTION ITEM**)

ACTION: Approve the resolution drafted by the Board of Governors Legislative Committee regarding 2017-19 civil legal aid funding in Washington state.

OVERVIEW:

The Washington State Civil Legal Aid Oversight Committee (Oversight Committee) recently approved a resolution endorsing the funding of civil legal aid through a dedicated surcharge or tax on outside legal services purchased by a consumer.

The detail below provides background regarding the issue of state civil legal aid services as well as a resolution drafted by the Board of Governors (BOG) Legislative Committee to inform interested parties of the position of the WSBA Board of Governors on the issue.

BACKGROUND:

Office of Civil Legal Aid

The Office of Civil Legal Aid (OCLA), an independent judicial branch agency, is responsible for the administration and oversight of state-funded civil legal aid services to low-income residents in Washington. Through contracts with the Northwest Justice Project (NJP), eligible low-income clients receive legal services related to family law, housing, consumer fraud, wills and estates, guardianships, and other matters. The NJP operates a statewide toll-free advice and referral system, provides direct legal services in 17 locations across the state, and supports staff attorneys and participating volunteer attorneys through training and other means.

The OCLA has created a Civil Justice Reinvestment Plan (Reinvestment Plan) to address key findings in the 2015 Civil Legal Needs Study (Study). The Study, commissioned by the state Supreme Court as an update to the 2003 Civil Legal Needs Study, found that significant barriers to legal assistance continue to exist for low-income Washington residents based on race, immigration status, youth, disability, and other factors.

The OCLA approximates that fully funding the Reinvestment Plan will require \$25 million; an increase in current state-funded appropriation levels of \$24 million. Phase 1 of the Reinvestment Plan submitted to the Governor and Legislature as the 2017-19 OCLA biennial budget request includes:

- Expanding the ability of low-income people to self-diagnose their legal problems, self-refer for legal help, and gain access to essential self-help tools and resources;
- Expanding volunteer delivery of civil legal aid by 25 percent over four years;
- Achieving “minimum access” client service capacity of one full-time equivalent (FTE) legal aid attorney to every 5,000 people at or below 125 percent of the federal poverty level (current levels are 1 FTE equivalent legal aid attorney to every 9,200 people); and
- Ensuring effective support for high quality legal assistance and contemporaneous assessment of the impact of increased investment in state-funded civil legal aid services, including outcomes achieved for low-income people, net return on investment, and public costs avoided.

The OCLA estimates that by fully funding Phase 1 of the Reinvestment Plan, legal aid services will be provided to an additional 7,300 Washington households per year and 16,000 additional low-income Washington residents per year.

Civil Legal Aid Oversight Committee

The Oversight Committee is a bipartisan 11-member committee established by the Washington State Legislature (RCW 2.53.010) to oversee the OCLA and to make recommendations to the Washington Supreme Court and Legislature regarding state-funded civil legal aid services.

With 2017-19 biennial state budget constraints and financial obligations related to recent court decisions, the Oversight Committee discussed alternative revenue sources to fund civil legal aid this past year. On September 30, 2016, the Oversight Committee approved a resolution to endorse the Civil Justice Reinvestment Plan and recommend that the Washington State Legislature provide adequate funding through a dedicated surcharge or tax on outside legal services purchased by a consumer.

Board of Governors Legislative Committee action

During the June 2016 BOG meeting, OCLA Executive Director Jim Bamberger and Equal Justice Coalition (EJC) Communications and Advocacy Director Jay Doran, presented information related to the Reinvestment Plan.

During the September 2016 BOG meeting, the Board tasked the BOG Legislative Committee with discussing the issue further. The BOG Legislative Committee convened on October 21 and 31, 2016, to discuss a draft resolution clearly outlining the position of the WSBA Board of Governors pertaining to state-funded civil legal aid services.

Committee members voted unanimously to approve the resolution as drafted and recommend that the Board of Governors approve it during the November 2016 meeting.

RECOMMENDED ACTION:

The BOG Legislative Committee recommends that the Board of Governors approve the resolution as drafted regarding the 2017-19 Civil Justice Reinvestment Plan.

WSBA Resolution re: 2017-19 Civil Justice Reinvestment Plan

Whereas, access to the civil justice system and the ability to secure fair outcomes for all Washingtonians regardless of income, race, gender, language, age and other characteristics are core commitments of the state's legal system; and

Whereas, the 2015 Washington State Civil Legal Needs Study, commissioned by the Washington Supreme Court, shows significant disparities in the experiences of low-income Washington residents dealing with legal issues. In particular, more than 75 percent of low-income Washingtonians do not receive any legal assistance; and more than 60 percent of Study respondents who are low-income, expressed limited trust and/or confidence with the state civil justice system; and

Whereas, the Washington State Bar Association (WSBA) is part of the judicial branch, exercising a governmental function authorized by the Washington Supreme Court to license the state's approximately 39,000 legal professionals; that WSBA's mission is to serve the public and members of the Bar, ensure the integrity of the legal profession, and to champion justice; and that WSBA is committed to equal justice under the law.

NOW THEREFORE BE IT RESOLVED that the Washington State Bar Association Board of Governors:

1. Accepts the findings of the 2015 Civil Legal Needs Study and recognizes the civil legal problems experienced by low-income Washington residents are disproportionate; acknowledges that there is a systemic lack of access to necessary legal assistance to help Washington residents solve important civil legal problems and that these problems must be addressed; is committed to continued discussions and cooperative partnerships with any and all stakeholders to identify appropriate solutions; and
2. Supports the following policy elements contained in the 2017-19 Civil Justice Reinvestment Plan developed by the Washington State Office of Civil Legal Aid:
 - Expand the ability of low-income Washingtonians to self-diagnose their legal problems including self-referrals by accessing appropriate legal tools and resources;
 - Expand volunteer delivery of civil legal aid services across the state;
 - Achieve minimum access client service capacity of one full-time equivalent legal aid attorney to every 5,000 people at or below 125 percent of the federal poverty level;
 - Ensure effective support for high-quality legal assistance and assessment of the impact of increased state investment in state-funded civil legal aid services; and
3. Recognizes the state's significant budgetary constraints, but does not support funding these critical civil legal aid services through a dedicated surcharge or tax on

outside legal services; nor does it support funding these services through a tax, surcharge and/or fee on legal professionals, clients or residents of Washington; and

4. Respectfully requests that the Washington State Legislature appropriate necessary general-fund state dollars to meet emergent legal needs as civil legal aid remains a core governmental function of the Washington state civil justice system.

Dated this ____ day of _____.

Executive Director

ATTACHMENT 2



Budget Brief 16-11, November 21, 2016

Past Proposals Could Foreshadow Changes to Come

Marcia Howard • 202-624-5848 • mhoward@ffis.org

Summary

The outcome of the presidential election increases the likelihood that next year will bring big changes to state grant programs. One party will control the administration, House, and Senate, increasing the likelihood that legislation will move through the legislative process and to the president's desk.

Any legislation will be informed by past efforts. Specifically, the House budget committee has released a series of budget documents that recommend precedent-setting changes to state grant programs. More recently, the speaker of the House released six policy reform documents, two of which focus on health care and poverty. Both have implications for grant programs.

The following themes are prominent in these recommendations:

- Controlling entitlement spending
- Eliminating and consolidating programs
- Measuring results
- Trading flexibility for funding
- Focusing on work and employment

This *Budget Brief* uses these documents to flag proposals that could gain currency in the coming months and years. It focuses on policies that would have the biggest impact on state and local governments.

Reconciliation Proposals

The Senate can filibuster legislation, and 60 votes are required to shut down a filibuster. This prevents many proposals from moving through the Senate. However, a process known as "reconciliation" provides an expedited procedure to consider mandatory and tax legislation, with no allowance for filibuster and limited opportunity for amendment.

Analysts have identified two areas where reconciliation may be used in 2017:

1. Repealing and replacing the Affordable Care Act (ACA)
2. Implementing tax reform and possibly an infrastructure program

Media reports suggest that the House might resurrect its fiscal year (FY) 2017 budget resolution (which never made it to the House floor last spring), and amend it to accommodate reconciliation instructions to repeal the ACA. That would allow the FY 2018 budget resolution to address tax reform.

**Repealing and Replacing
ACA**

Congress most recently used reconciliation to repeal portions of the ACA in late 2015, but the bill was vetoed. Repealing and replacing the ACA is reportedly a top priority for the new Congress and administration, but few details are currently available. The repeal and replace will likely move in tandem, and some parts of the ACA may be retained. Moreover, a transition period will be part of any legislation.

Previous proposals shed light on the types of reforms that might be considered. For example, last year's reconciliation bill to repeal the ACA ([H.R. 3762](#)) eliminated the following:

- Prevention and Public Health Fund
- premium assistance tax credit and cost-sharing reductions
- penalties for failing to comply with the individual and employer mandates
- Medicaid expansion
- reductions in Medicaid disproportionate share hospital (DSH) payments
- various taxes and fees

Moreover, health reform proposals from the speaker of the House (described in a subsequent section) provide insight into a possible replacement.

**Tax Reform/
Infrastructure Investment**

No details have been released on what tax reform might look like; speculation is that Congress will use tax policy to help finance infrastructure investments. Proposals could include new tax credits and other incentives to spur privately funded infrastructure improvements, while reducing other tax credits and "loopholes" to increase the federal resources available for infrastructure investment and other tax changes.

Ironically, some analysts believe the federal tax exemption for interest on municipal bonds (which fund public infrastructure) could be at risk in this exercise, even as an increased private investment in infrastructure is pursued.

**Other Recurring
Proposals**

While budget resolutions do not include specific policy recommendations, they often are accompanied by reports and other documents that spell out the changes being sought. That has been true over the last several years, and many of the proposals have been recurring.

The following sections describe the policies implicit or explicit in recent House budget resolutions. (For more detail on some of these proposals, see [Budget Brief 12-03](#), [Budget Brief 15-03](#), and [Budget Brief 15-08](#).) Table 1 at the end of this brief lists the FY 2016 funding associated with some of the programs identified in major policy proposals.

Mandatory Several mandatory proposals have been released over the years. Those with the largest potential impact involve Medicaid and the Supplemental Nutrition Assistance Program (SNAP). These are described in more detail below. The next table lists past proposals that would affect mandatory grant programs.

Mandatory Spending Proposals in Past House Budget Resolutions	
Agriculture	<ul style="list-style-type: none"> -Reduce fixed payments to farmers -End "open-ended" nature of crop insurance
Education	<ul style="list-style-type: none"> -Reduce Pell grant eligibility and freeze awards
Health	<ul style="list-style-type: none"> -Repeal ACA Prevention and Public Health Fund -Repeal ACA, including Medicaid expansion -Convert Medicare to premium support; other reforms -Reform medical liability insurance -Convert Medicaid to "State Flexibility Fund" -Apply work requirements to Medicaid -Convert Medicare and Medicaid DSH payments into a single flexibility fund -Reform Medicaid eligibility to eliminate waste, fraud, and abuse -Reform section 1115 Medicaid waiver process -Reduce Medicaid provider tax threshold -Eliminate ACA's enhanced matching rate for Children's Health Insurance Program (CHIP)
Nutrition	<ul style="list-style-type: none"> -Convert SNAP to "State Flexibility Fund" -Eliminate SNAP's broad-based categorical eligibility -Restrict eligibility for SNAP via Low Income Home Energy Assistance Program (LIHEAP) -Shift SNAP outreach funding to job-training programs
TANF/Human Services	<ul style="list-style-type: none"> -Strengthen work requirements under Temporary Assistance for Needy Families (TANF); allow pilot projects for work-based reforms -Eliminate the Social Services Block Grant (SSBG) -Increase state flexibility in child welfare, including privatization -Modernize Child Support Enforcement (increase user fee for non-TANF families, modify matching rate and incentive program) -Reform Supplemental Security Income
Transportation	<ul style="list-style-type: none"> -Pilot transportation program whereby states would opt out of federal taxes and spending -Align trust fund spending with revenues

Medicaid. Major reforms to Medicaid will likely be considered; whether the reforms will be part of the ACA "repeal and replace" proposal remains uncertain. Some of the recent proposals provide states the option of choosing a block grant or a per capita cap. Most proposals have provided a general framework and not specific design features. Alternative financing reform proposals are summarized in the next table.

Medicaid Financing Proposals
Block grant <ul style="list-style-type: none"> • fixed, state-specific allotments • indexing mechanism • state flexibility • maintenance-of-effort (MOE) requirement • no matching requirement
Per capita caps <ul style="list-style-type: none"> • per enrollee limits on federal payments • indexing mechanism • states pay for spending above cap • state flexibility
Capped allotments <ul style="list-style-type: none"> • cap on federal contribution • state-specific allotments • federal matching funds provided up to cap • similar to CHIP
Shared savings <ul style="list-style-type: none"> • maintains Federal Medical Assistance Percentage (FMAP), establishes per enrollee spending targets • states with lower per capita costs share in savings • states above cost trend pay a higher share of costs

SNAP. Reforming SNAP may also be a priority. Past House reconciliation proposals have included a variety of proposed changes, ranging from restricting outreach and automatic enrollment to converting the entire program to a block grant, as described below.

SNAP Reform Proposals
Block grant <ul style="list-style-type: none"> • allotment tailored for each state's low-income population • states must meet work targets and program integrity requirements
Work requirements <ul style="list-style-type: none"> • eliminate waivers from work requirements
Eligibility determinations <ul style="list-style-type: none"> • eliminate broad-based categorical eligibility • restrict eligibility for SNAP via LIHEAP
Account balances <ul style="list-style-type: none"> • Limit SNAP account balances to three months' worth of benefits

Discretionary The table below summarizes proposals for discretionary programs that have appeared once or more in House budget resolution materials. Discretionary programs can be changed through reauthorization or through the appropriations process.

Discretionary Spending Proposals in Past House Budget Resolutions	
Commerce	-Eliminate Economic Development Administration -Eliminate Hollings Manufacturing Extension Program and Advanced Manufacturing Technology Consortia
Disaster Relief	-Include under Budget Control Act (BCA) discretionary spending caps
Education	-Eliminate "unsuccessful and duplicative" K-12 programs -Prioritize Individuals with Disabilities Education Act (IDEA) funding -Eliminate Institute of Museum and Library Services -Eliminate funding for National Endowment for the Arts, National Endowment for the Humanities, Corporation for Public Broadcasting, and Corporation for National and Community Service
Environment	-Reduce EPA funding
Early Childhood	-Phase out or reform ineffective early childhood programs, such as Head Start
Homeland Security	-Provide Urban Areas Security Initiative (UASI) grants to fewer cities -Reform Federal Emergency Management Administration (FEMA) state and local programs -Reform disaster relief to update eligibility indicators, cost-share levels, and waivers -Eliminate or consolidate Intercity Passenger Rail Grant Program and Intercity Bus Security Grant Program -Eliminate Emergency Food and Shelter National Board Program (EFS)
Housing and Urban Development	-Reform Community Development Block Grant (CDBG) to introduce poverty element and exclude communities with high average incomes -Reform housing programs
Justice	-Consolidate grant programs
Labor	-Further consolidate job training programs
Transportation	-Eliminate Transportation Investment Generating Economic Recovery (TIGER) grants -Eliminate high-speed rail funding -Phase out Capital Investment Grants (CIG)

Other Past budget resolutions have included other proposals, such as changes to the federal budget process, as described below.

Other Proposals in Past House Budget Resolutions	
Budget Process	<ul style="list-style-type: none">-New point of order for long-term spending increases-Forbid offsetting new mandatory spending with tax increases-New point of order against advance appropriations-Long-term projections beyond current 10-year window-Reform baseline estimates to omit inflation-Implement dynamic scoring-Regular congressional review of mandatory programs-Rescind unobligated balances-Require authorizing committees to annually identify programs that are "duplicative, wasteful, outmoded, or excessively expensive for the benefits received"

Task Force Reports

In addition to past budget resolutions, the speaker of the House released six task force reports that provide a broad framework for addressing:

1. The Constitution
2. The economy
3. National security
4. Tax reform
5. Poverty
6. Health care

Collectively titled, [*A Better Way*](#), these reports are broad policy documents rather than specific proposals, although some specifics are included. FFIS focused on the two reports that address state grant programs. Table 2 and Table 3 summarize the task force proposals related to poverty and health.

Next Steps

A continuing resolution (CR) is currently in force for FY 2017, but will expire on December 9. Recent reports indicate that congressional leadership will pursue another CR that extends through March 31, 2017. This will delay final FY 2017 appropriations until a new administration is sworn in, and could allow a reconciliation package to move as part of the FY 2017 budget process.

To say that much remains uncertain is an understatement, but it seems clear that big changes for state grants programs could be in store. FFIS will continue to monitor and report on budget developments as the FY 2017 process proceeds and plans for FY 2018 begin to take shape.

Copyright © 2016 FFIS Federal Funds Information for States. All rights reserved.

Table 1**Funding Associated with Programs Identified in
Recent House Budget Proposals**

(dollars in millions)

Program	FY 2016 Estimate
Agriculture	
SNAP Benefits	\$70,124
SNAP Administrative Costs	5,085
Commerce	
Economic Development Assistance Programs	365
Education	
Federal K-12 Grants	41,473
Environmental Protection Agency	
State and Tribal Assistance Grants	3,768
Health and Human Services	
Grants to States for Medicaid	367,229
Social Services Block Grant	1,771
Head Start	9,168
Homeland Security	
State and Local Programs	2,730
Emergency Food and Shelter	121
Housing and Urban Development	
Community Development Block Grant	3,000
Justice	
State and Local Law Enforcement Assistance	1,281
Labor	
Training and Employment Services Grants	2,844
Transportation	
Capital Assistance for High Speed Rail Corridors	2,065
Capital Investment Grants	2,177
Other Independent Agencies	
Corporation for Public Broadcasting	485
National Endowments for the Arts	49
Office of Museum and Library Services: Grants and Administration	213
Operating Expense, Corp. for National and Community Services	280

Source: Office of Management and Budget, FFIS Database

Copyright © 2016 FFIS Federal Funds Information for States. All rights reserved.

Table 2

A Better Way Anti-Poverty Proposals

Type	Proposal
Recipients	<ul style="list-style-type: none"> -Reauthorize TANF to strengthen work requirements -Better connect child support enforcement to workforce development -Use waivers to get unemployment insurance (UI) to target effective reemployment strategies -Reform Supplemental Security Income (SSI) to focus on needed services in lieu of cash assistance -Require work for work-capable SNAP adults -Align housing benefits with TANF benefits for all work-capable recipients
Incentives	<ul style="list-style-type: none"> -Remove incentives for states to enroll people in solely federally funded programs -Provide state flexibility in exchange for greater accountability -Reform federal matching rates to encourage automation and coordination, and providing more services initially -Enhance the portability of housing vouchers -Consolidate or streamline overlapping or duplicative programs
Results	<ul style="list-style-type: none"> -Create a culture of evidence-based policymaking -Require social programs to use a three-tiered funding model to build evidence -Develop and implement common metrics (pay-for-outcomes) -Base funding on evaluation and results -Expand data availability -Implement Social Impact Financing (SIF)
Targeting	<ul style="list-style-type: none"> -Use better information technology to align program data and reduce error rates
Workforce	<ul style="list-style-type: none"> -Support research into pre-K services that work -Re-examine 45 overlapping or duplicative early childhood programs -Include faith-based programs in array of options for parents
At-Risk Youth	<ul style="list-style-type: none"> -Better training to understand needs of at-risk youth -Hold states accountable for meeting grant requirements -Allow state and local innovation -Expand state and local educational choice
Technical Ed	<ul style="list-style-type: none"> -Allow flexibility in how states spend federal funds -Streamline duplicative reporting requirements -Align spending with in-demand jobs -Restrict federal involvement
Higher Ed	<ul style="list-style-type: none"> -Improve information about schools and financial aid options -Simplify and improve financial aid -Reduce federal red tape and support innovation (e.g., online learning) -Repeal unnecessary federal reporting requirements
Nutrition	<ul style="list-style-type: none"> -Update one-size-fits-all nutrition requirements -Provide more flexibility for summer meals and reduce red tape -Explore new delivery methods
Retirement	<ul style="list-style-type: none"> -Prevent taxpayer bailout of Pension Benefit Guarantee Corporation -Ensure plans are well-funded and employers stay in system -Protect access to retirement advice -Improve ability of employers to band together to offer 401(k)s -Reduce red tape
Banking	<ul style="list-style-type: none"> -Change focus from compliance and regulation to expanding new credit

Source: A Better Way, June 7, 2016

Table 3

A Better Way Health Proposals

Type	Proposal
Health Care Reform	<ul style="list-style-type: none"> -Repeal ACA -Expand health savings account -Make support for coverage portable -Cap tax exclusion on employer-sponsored insurance for most generous plans (includes cost-of-living adjustments) -Allow purchasing across state lines -Expand opportunities for pooling for small businesses and voluntary organizations -Preserve employee wellness programs -Protect employers' flexibility for self-insurance -Reform medical liability system -Maintain pre-existing condition protections -Maintain provision to allow dependents up to age 26 to stay on parents' plan -Implement various coverage protections -Set default age-rating ratio for premium adjustments at five-to-one, allow states flexibility to modify -Provide \$25 billion for State Innovation Grants for developing effective reforms that make health care more affordable and accessible -Provide \$25 billion for high-risk pools
Medicaid	<ul style="list-style-type: none"> -Eliminate open-ended entitlement by giving states option of per capita allotment or block grant <ul style="list-style-type: none"> Per capita allotment: <ul style="list-style-type: none"> • states draw down funds based on FMAP • cap provided for four major groups (aged, blind and disabled, children, and adults), and adjusted for inflation; certain categories of spending (such as DSH payments) would be excluded • phases down enhanced FMAP for expansion adult population to regular FMAP; maintains CHIP (eliminates ACA matching rate increase) • increases state flexibility • modernizes waiver process Block grant: maximum flexibility
Medicare	Several reforms including premium support and structural changes
Other	Repeal the Center for Medicare and Medicaid Innovation

Source: A Better Way, June 22, 2016