



Washington State Office of Civil Legal Aid

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To: Interested Persons and Organizations

From: Jim Bamberger, Director

Re: FY 2019-21 Budget Development

Date: February 9, 2018

This is an update on the FY 2019-21 budget development process.

OCLA worked with Alliance leaders to generate a scoping survey designed to solicit input and ideas regarding the magnitude and focus of the agency's budget request in the next biennium. The survey closed on February 1st. Sixteen (16) individuals responded to the survey. Of these, nine (9) disclosed their name and organizational affiliation, and seven (7) were submitted anonymously.

Of the responses received, 73.3% identified "making significant progress on minimum access" as the top priority for OCLA's FY 2019-21 biennial budget request. Development of self-diagnostic, self-help resources was second, with 18.3% identifying this as a first tier objective. Enhancement of pro bono (6.67%) and expanding statewide support and training capacity (6.25%) came in third and fourth. Average scores were:

- Make significant progress on minimum access – 4.47 out of 5
- Expand statewide training and support capacity – 3.25 out of 5
- Develop self-diagnostic and self-help tools – 3.25 out of 5
- Enhance pro bono capacity – 2.93 out of 5
- Other – 1.67 out of 5

Sixty percent (60%) of respondents identified one or more specific populations for which they recommended that increased state funding be targeted to serve. Forty percent (40%) said that we should focus on secure a general increase in funding for civil legal aid.

A number of comments, observations and suggestions were offered in response to questions 2 through 5. The balance of this memo restates some of these and includes OCLA's comments in response.

1. Some responses suggested that OCLA should seek funding targeted to addressing legal problems experienced by members of populations that have been targeted by the federal administration for differential treatment and denial of rights and/or services.

OCLA notes that under applicable law – even as it may be amended this session – state appropriated funding will not be allowed to provide services to persons in the United States without legal authority. Some of these individuals can, are, and will continue to be served by NJP with funding from the Legal Services Corporation and VOCA funding administered by OCLA. LFW and other private funding is made available to provide legal assistance to others who do not fall within the eligibility guidelines of either LSC or VOCA.

2. Some responses identified specific client populations for targeted focus. Among those identified include adults and youth who identify as LGBTQ, immigrants and individuals who identify as members of racial or ethnic minority groups. Another survey respondent questioned whether race equity work was permissible under the restrictions that govern OCLA funding.

Under applicable law – even as it may be amended this session – members of the mentioned groups (with the exception of immigrants in the US without legal authority) are eligible for state funded legal aid services. OCLA expects that the programs that receive state funding are working to identify the needs of these and members of other groups that experience unfair, unjust or discriminatory treatment or disparate barriers to equity and justice. These expectations are grounded in the Hallmarks, State Plan and Performance Standards, and the Race Equity and Justice Initiative’s Acknowledgments and Commitments. Does it make sense to invite the Legislature to differentiate among these or other groups in an appropriation? What if they choose not to prioritize certain groups or leave others out? How will this affect our work? Perhaps this is a better internal strategy?

3. Some responses suggested that OCLA seek funding that will allow programs to engage in activities (i.e., legislative, administrative or other policy advocacy) currently prohibited by RCW 2.53.030 as it currently exists or as it may be changed this session.

OCLA’s statute currently prohibits such activities. The proposed amendments pending in the legislature would not change this prohibition. Consequently, OCLA is not in a position to seek funding for these purposes.

4. One response suggested that we seek funding for systemic advocacy. Another suggested that we seek targeted funding to support development of holistic advocacy approaches.

RCW 2.53.030 prohibits the use of state funding for certain types of systemic advocacy including class actions, lobbying and administrative rule making. Because of the statutory prohibition, OCLA cannot ask the Legislature for funding to underwrite these activities.

Other than these, the State Plan expects all programs to be involved in efforts to identify and address systems that operate to create or perpetuate disparate outcomes for low-income people or sub-segments of the low-income population. The State Plan also encourages holistic approaches to client service delivery. As such, OCLA expects that all state-funded entities be engaged in systemic advocacy work and develop holistic approaches to the delivery of services. Because systemic advocacy is a central component of the scope of client services funded with state dollars and because systemic advocacy most often originates with and through individual client representation, OCLA is not inclined to seek a specific amount of funding for this work.

We will likely discuss the pros and cons of asking the Legislature to direct funding to specific advocacy approaches at the February 23rd conversation. Inviting the Legislature to target funding for systemic, holistic, or other specific types of advocacy may invite them to get too deeply involved in client service operations that interferes with program prerogatives and might lead to unanticipated negative outcomes. Let's talk about this.

5. One respondent suggested that OCLA seek dedicated funding to help establish three to five pilot courthouse based self-help centers to assist unrepresented litigants.

Self-help centers might be part of a targeted ask to implement that part of the Civil Justice Reinvestment Plan focused on expanding the ability of individuals to self-diagnose their legal problems and secure access to expanded self-help resources. OCLA looks forward to more discussion on this topic at the February meeting.

6. One respondent suggested that OCLA replace the hours-based approach to quantifying the FTE equivalent of services generated through pro bono programs with a more outcome-based approach. This individual noted that in many rural locations there is a lack of alternative resources and that the pro bono program staff often play a role in helping low-income people secure access even though there might not be a volunteer attorney involved. The suggestion is that we identify a way to track the magnitude and value of this service and incorporate it into the FTE analysis.

OCLA agrees that VLP's deliver valuable services to low-income people with legal problems beyond the number of hours of volunteer attorney services. OCLA includes in-house VLP staff attorneys in its calculation of regional attorney FTE's. OCLA welcomes discussion about (a) how non-attorney staff services might be quantified into the minimum access analysis and (b) whether and if so why VLP non-attorney staff contributions should be calculated differently than non-attorney staff contributions at NJP or other staffed legal aid providers.

7. A number of survey respondents suggested a focus on low-income people living in rural areas. Comments noted that these people not only face a lack of resources – including a lack of alternative legal aid related resources more generally available in urban areas – but also significant geographic barriers to regional centers where legal aid services are physically situated.

Geographic equity is a statutory requirement. In allocating client service resources, OCLA developed a Client Demographics/Client Service Resources Matrix. This tool allows us to assess relative client service capacity by region. It also allows us to make adjustments in favor of rural and remote regions that lack legal aid resources other than the VLP and NJP staff who are supported with state funds. OCLA recognizes the geographic challenges facing low-income residents of rural areas as well as legal aid providers in these areas. Acknowledging the substantial non-state resources available in the Puget Sound corridor (Everett to Olympia) and Spokane, we have historically worked with NJP to over-allocate staffed legal aid capacity to rural areas to ensure some equity of access. Should we continue to do so?

8. One survey respondent suggested that increased state funding be targeted to addressing unfair debt collection practices.

If the suggested changes to OCLA's statute that are pending before the Legislature are enacted, state-funded programs will be able to use state funding to support a wide range of consumer related legal services including, but not limited to, unfair debt collection practices. Any increase in state funding will provide more resources available for this work. At this moment, OCLA is inclined to leave it to the state-funded programs to determine, on the basis of client need, the level of resources that should be devoted to this or any other substantive area of work. Should we? Let's talk about this on the 23rd.