

**CIVIL LEGAL AID
OVERSIGHT COMMITTEE**

**MEETING OF
MARCH 29, 2024**

MATERIALS

**CIVIL LEGAL AID OVERSIGHT
COMMITTEE MARCH 28, 2024
MEETING MATERIALS**

Tab 1: Meeting Agenda

Tab 2: Draft Minutes of December 15, 2023

**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 Revised and
Compensation Policy-NEW**

**Tab 6: Equitable Access to the Courts
Materials**

**7: OCLA Director's Report (including
attachments)**

TAB 1

CIVIL LEGAL AID OVERSIGHT COMMITTEE

March 29, 2024

11:30 a.m. – 1:00 p.m.

Via [Zoom Link](#)

AGENDA

1. Welcome and Introductions
2. Occupied Land Acknowledgment and Recognition of Responsibility (TBD)
3. Approval of Minutes of December 15, 2023 Meetings (Chair Stallings-Ala'ilima)
4. Update on Oversight Committee Composition (Director, Sara Robbins)
5. Oversight Committee Policies Update
 - a. Operating Rules and Procedures- Revised
 - b. Compensation Policy- New
6. Director's Quarterly Report (Director, Sara Robbins)
7. Equitable Access to the Courts Workgroup Update (Sarah Augustine)
8. Public Comment/New Business
9. Adjourn

TAB 2

**CIVIL LEGAL AID OVERSIGHT
COMMITTEE MEETING OF
DECEMBER 15, 2023
DRAFT MINUTES**

Pursuant to notice duly provided in advance the quarterly meeting of the Civil Legal Aid Oversight Committee was held virtually through [Zoom.us](https://zoom.us) on Thursday, September 28, 2023.

Members Participating: Chair Chalia Stallings-Ala'ilima, Alejandro (Ale') Sanchez, Judge Rebecca Pennell, Judge Faye Chess, Senator June Robinson, Rep. My-Linh Thai, Senator Drew MacEwen, Megan Johnston,

Members Not Participating: Margaret MacRae, Rep. Peter Abbarno

OCLA Staff: Jim Bamberger (OCLA Director), Hope Hough (OCLA Support Team), Bailey Zydek (OCLA Children's Representation Program Manager), Sean Hendrickson (OCLA Support Team), Philippe Knab (OCLA Eviction Defense/Reentry Programs Manager), Ali Kingston (OCLA Eviction Defense Program Counsel), Sara Robbins (OCLA Director Appointee); Annalise Martucci (OCLA DV/Crime Victims/Civil Legal Aid Programs Manager); Renee Villa (OCLA Support Team); Gabriel Robinson

Other Participants: Alex Deas (LFW/Equal Justice Coalition), César Torres (Northwest Justice Project (NJP), Abigail Daquiz (NJP); Kara Masters (Equal Justice Coalition); Michael Terasaki (Pro Bono Council), Erin Shea McCann (Legal Counsel for Youth and Children)

The meeting convened at 11:05 a.m.

1. Welcome and Introductions

Chair Chalia Stallings-Ala-ilima welcomed members and invited them to introduce themselves. She then invited guests to introduce themselves.

She noted that this is the first meeting for new member Megan Johnston and invited her to share a little bit about herself and why she applied to serve on the Oversight Committee. Megan introduced herself and offered thoughts about the role she hoped to play as a representative from the dispute resolution community.

2. Occupied Land Acknowledgment and Recognition of Responsibility

OCLA staff member Annalise Martucci provided the land acknowledgment and recognition of responsibility. Annalise spoke from her home in Mt. Vernon, Skagit County, which is located on involuntarily ceded lands of the Upper Skagit, Swinomish, Samish, and other Coast Salish nations who lived for thousands of years in and near the Skagit and Samish River valleys. She explained that these lands were stolen under authority of the Treaty of Port Elliott, which dispossessed

multiple Coast Salish nations of their lands and related rights from Snohomish County north to the Canadian border. She explained that a clear understanding of how settler colonialism has destroyed people, culture, and the environment is critical for survival of all of us and our Earth. It is only through an understanding and appreciation of this history that we can act to prevent the further decimation of Indigenous people, culture, and wisdom from these lands.

Annalise reminded members of OCLA's commitment to restorative justice for people and indigenous nations that have suffered genocidal harms over more than 250 years. She described two new programs with the Lummi Nation and Women Spirit Coalition located in Sequim to address the harms of family violence within and near Indian Country. She provided brief overviews of both programs.

She closed by saying that OCLA's work is a small step toward acknowledging the harms of the past, the disproportionate harms Native people continue to experience, and the legacy of generational trauma that will extend into the future. Annalise shared that it is her sincere privilege as a program manager to work with these organizations and humbly explore how state resources for civil legal aid can be used to support services in Native communities.

3. Approval of Minutes of June 30, 2023 and September 28, 2023 Meetings

Chair Stallings-Ala'ilima reminded members that there was not a quorum at the September meeting and that the minutes of the June 30, 2023 meeting were not approved. Chair Stallings-Ala'ilima noted that the spelling of her name was wrong throughout and asked that it be corrected in the approved minutes. She invited a motion to approve both the minutes of the June 30th and the September 28, 2023 meetings.

Motion to Approve the June 30, 2023 and September 28, 2023 Meeting Minutes: By Judge Pennell

Second: By Rep. Thai

Action: Unanimous

4. Election of Alé Sanchez as Vice-Chair/Chair Elect

Chair Stallings-Ala'ilima reminded members that while there appears to be a consensus that Alé Sanchez serve as Vice Chair/Chair-Elect, no action could be taken at the September meeting due to lack of a quorum. She invited a motion to formally elect Alé's to serve as Vice Chair/Chair-Elect and then succeed her when she terms out at the end of June 2023. She invited Alé to share any thoughts he had. Alé spoke to his strong belief in OCLA and commitment to active leadership should he be elected Vice-Chair/Chair-Elect.

Motion to Elect Alé Sanchez as Vice Chair/Chair-Elect: By Judge Pennell

Second: By Judge Chess

Action: Unanimous

5. 2024 Meeting Schedule

Chair Stallings-Ala'ilima asked Jim Bamberger to provide an update on scheduling of meetings in 2024. Jim advised that he had polled members. Of those who responded, the following dates are preferred:

Spring Meeting: Either March 29 or April 5

Summer Meeting: June 21

Fall Meeting: Either September 20 or 27

Winter Meeting: December 6

Members were asked their preference for the spring and fall meetings. After short discussion, it was decided that members would be polled on the spring and fall dates.

6. Introduction and Initial Comments from OCLA's Next Director (and current Director Appointee) Sara Robbins

Chair Stallings-Ala'ilima re-introduced Sara Robbins who was appointed by the Washington state Supreme Court to succeed the agency's founding and to date only Director, Jim Bamberger. She shared that terms of compensation have been agreed to and that as of today Sara is officially an employee (at 10%) of the Office of Civil Legal Aid. Sara assumes full executive leadership responsibilities on January 2nd. She referred members to the press release issued by the Supreme Court on Tuesday of this past week announcing Sara's appointment.

Chalia invited Sara to share some initial comments on her first few weeks following her appointment and her thoughts about the opportunities and challenges ahead. Sara shared that she is truly excited and a bit overwhelmed by the tasks ahead. She said that her top priority is to get to know that staff and hear from them on the status of OCLA's operating infrastructure – what's working well, where are there gaps or areas for improvement, and how the team might move forward to address these. She noted that the Legislature convenes in January and that she anticipated making contact with key members and staff. She will also spend extensive time meeting and gaining input from external interest holders. She shared that she was pleased to have Jim Bamberger stay on in a transitional role. This will help her acquire necessary institutional knowledge and history, gain insight into what may be working well and what is not, and being able to immerse herself into the what's and why's that guide the agency.

Chalia indicated that Sara can look to the Oversight Committee to help with the transition as well.

7. 2024 Legislative Agenda

Jim Bamberger referred members to Section 4 of his Director's Report (under Tab 7) outlining the three matters that will take most of the focus of the agency's efforts this session. He invited Philippe Knab and Ali Kingston to speak to the emergency supplemental funding request for the appointed counsel program for indigent tenants.

Ali provided an overview of the eviction defense appointed counsel program, highlighting its successes following nearly two full years of operation. She spoke to the general day-to-day operational challenges contractors are experiencing. Attorneys are now faced with extremely high caseloads that go well beyond their ethical carrying capacity. The eviction defense team is working to bring remote capacity to address some of the significant hot spots and areas that have experienced significant turnover creating gaps in tenant representation capacity. She shared how clients in several rural areas are being represented by attorneys in Thurston, Pierce, and King Counties. She and Philippe are working directly with courts to ensure access to remote representation and protect continuity of representation.

Philippe shared recent data documenting a more than 100% increase in unlawful detainer filings since April of this year. He reported that in King County, the number of filings had tripled since April. He said that attorneys there and elsewhere cannot keep up with the pace. Philippe said that OCLA needed now less than 10 new lawyers to enable the program to keep operating effectively. He explained that OCLA submitted an emergency supplemental funding request (links to which are included in the Director's Report) for about \$3M for the remainder of FY 24 and all of FY 25 and the legal consequences of failure to fund the request.

Philippe explained that OCLA wants to avoid suspending certification in any county, but that absent the full funding requested by OCLA, there will be a fundamental change in the operational capability of the appointed counsel program, which would effectively transform it into a conditional as opposed to mandatory tenant representation program that provides effective assistance of counsel for tenants threatened with the loss of their housing. He noted that OCLA is communicating directly with the Superior Court Judges' Association and leading legislative members to advise them of the crisis and the consequences of OCLA's inability to provide attorneys for tenants who have been screened and found eligible and whom the courts have directed that counsel be appointed. Ali Kingston spoke about the day-to-day challenges of ensuring continuity of representational capacity in all 37 judicial districts, and the critical need for additional capacity now if the agency is to be able to avoid suspension of certification of availability of counsel to accept appointments. Philippe invited questions.

Chalia asked about what the prediction is regarding the new normal. Philippe said that at this time nobody really knows. We are not seeing normal seasonal decreases that have characterized eviction filings in past. Ali noted that the current spike in filings in Washington appears to be a national trend, one driven by the combination of economic circumstances coupled with the loss of federal and state rent assistance.

Jim Bamberger invited Philippe to provide an overview of the request for continued funding for the Blake Civil Consequences program. He reminded members of OCLA's role in enforcing the right of all affected people to full civil relief for harms resulting from their unconstitutional criminal convictions – including vacation of those convictions and refund of all payments made on legal financial obligations (LFOs) because of the same. He noted that the FY 25 request continues current levels of program activity with the addition of two attorneys needed to undertake appeals from the newly established Blake Refund Bureau operated by the Administrative Office of the Courts.

He explained that OCLA-funded contractors are focusing their efforts on Blake-affected individuals who are out of custody. The focus is on ensuring accuracy of refund amounts. While Blake convictions have been vacated without adjudication, there are real questions about the amounts that are being calculated by courts, clerks, and prosecuting attorneys. He described examples of improper calculations and improper policies developed by local clerks that substantially and wrongfully limit the amount that people are eligible to receive. He invited questions.

Jim Bamberger introduced Bailey Zydek, Manager of OCLA's Children's Representation Programs. He asked Bailey to speak to the origins and focus of SB 5805, a prefilled bill sponsored by Senator Noel Frame (D-36) and co-sponsored by Senator Matt Boehnke (R-8) to extend the time period to fully implement the new statewide Children's Representation Program established in RCW 13.34.212(3) (often referred to as the HB 1219 program).

Bailey reminded members that OCLA was asked to come up with a revised implementation schedule that would smooth out the implementation effort so that no new cohort would exceed 1250 new cases per year. She said that OCLA submitted a proposed revised approach to the Legislature in October, and this serves as the basis of the revised schedule outlined in SB 5805. She described some of the increasing challenges facing the OCLA CRP team in identifying, recruiting, training, and executing contracts with CRP contractors as the program expands to larger counties, such as Pierce County, which comes online in January 2025. She spoke to the challenges of identifying, recruiting, and training new attorneys and to address retirements that are likely to occur in the coming years. She invited questions.

Jim Bamberger advised that there may be interest in running a bill to eliminate an unnecessary section of the RCW which authorizes counties to issue declarations of necessity and establish and fund "Legal Aid Bureaus". He explained that this section of Ch. 2 of the RCWs has been on the books since 1939. It has not been amended since then, and not been used since the state began funding civil legal aid services in 1992. The suggestion is to simply repeal RCW 2.50 of the RCW, leaving OCLA's statute (RCW 2.53) as the means by which legal aid funding is made available through the state. He further explained that many local jurisdictions have funded legal aid services through several means without having to declare the necessity to establish a legal aid bureau.

8. Reflections from Outgoing Director Jim Bamberger

Chair Stallings-Ala'ilima invited outgoing Director Jim Bamberger the opportunity to share a few thoughts and reflections. Jim spoke briefly about four important words that have guided him throughout his career and especially during his time at OCLA. He spoke about honor, privilege, trust, and “why”, explaining the multiple dimensions of these words and how they apply in the context of OCLA’s mission and core values, and the work of the OCLA team. He thanked Oversight Committee members – and all their predecessors – for their trust. He expressed great confidence in Sara Robbins’ commitment and leadership moving forward; and he expressed gratitude in the passion and commitment shown every day by the OCLA team.

Chair Stallings-Ala'ilima thanked Jim for his dedication and service to the work of the agency. At her invitation, other Oversight Committee members and guests shared their thoughts and expressed their appreciation for Jim’s work over the 18.5 years he served as Director.

9. New Business

There being no new business, the meeting adjourned at 12:33

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 (September 2023)

Position 1 (BJA 1):

Name: Hon. Rebecca Pennell
Address: Court of Appeals, Div. 3
500 N Cedar St
Spokane, WA 99201-1905
Phone: 509-456-3920
E-mail: j_r.pennell@courts.wa.gov
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 2024; not eligible for reappointment

Position 2 (BJA 2):

Name: Hon. Faye Chess
Address: Seattle Municipal Court
600 5th Ave.
Seattle, WA 98104
Phone: 206-684-5600
E-mail: faye.chess@seattle.gov
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 2025; not eligible for reappointment

Position 3 (Supreme Court 1):

Name: Megan Johnston
Address: P.O. Box 6188
Olympia, WA 98507-6188
Phone: (360) 628-9560
E-mail: mjohnston@resolutionwa.org
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2026; eligible for reappointment

Position 4 (Supreme Court 2):

Name: Appointment Pending
Address:

Phone:
E-mail:
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2026; eligible for reappointment

Position 5 (Supreme Court 3 – Client Eligible):

Name: Margaret MacRae
Address:

Phone:
E-mail: mjmacrae@gmail.com
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2025; eligible for reappointment

Position 6 (Senate Republican Caucus):

Name: Senator Drew MacEwen
Address: 115 Legislative Modular Building
PO Box 40435
Olympia, WA 98504
Phone: (360) 786-7668
E-mail: Drew.MacEwen@leg.wa.gov
Appointing Entity: Senate Republican Caucus
Term Expires: June 30, 2026; eligible for reappointment

Position 7 (Senate Democratic Caucus):

Name: Senator June Robinson
Address: 236 John Cherberg Building
PO Box 40433
Olympia, WA 98504-0443
Phone: 360-786-7674
E-mail: june.robinson@leg.wa.gov
Appointing Entity: Senate Democratic Caucus
Term Expires: June 30, 2024; eligible for reappointment

Position 8 (House Republican Caucus):

Name: Representative Greg Cheney
Address: 406 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7812
E-mail: greg.cheney@leg.wa.gov
Appointing Entity: House Republican Caucus
Term Expires: June 30, 2025; eligible for reappointment

Position 9 (House Democratic Caucus):

Name: Representative My-Linh Thai
Address: 424 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 206-333-4107
E-mail: My-linh.thai@leg.wa.gov
Appointing Entity: House Democratic Caucus
Term Expires: June 30, 2025; eligible for reappointment

Position 10 (Office of the Governor):

Name: Alejandro (Ale') Sanchez
Address: WA St. Department of Licensing
1125 Washington Street SE - HLB, FL 4 - MS: 48002
Olympia, WA 98501
Phone: (360)634-5252
E-mail: alejandro.sanchez@gov.wa.gov
Appointing Entity: Office of the Governor
Term Expires: June 30, 2024; eligible for reappointment

Position 11 (Washington State Bar Association):

Name: Chalia Stallings-Ala'ilima
Address: Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Phone: 206-326-5480
E-mail: chalia.stallingsalailima@atg.wa.gov
Appointing Entity: Washington State Bar Association
Term Expires: June 30, 2024; 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 ~~Washington State Supreme Court's~~ ~~a~~Access to ~~j~~Justice ~~b~~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 ~~B~~board for ~~j~~Judicial ~~a~~Administration;
- (c) Two senators, one from each of the two largest caucuses, appointed by the president of the ~~S~~enate; and two members of the ~~H~~ouse of ~~r~~Representatives, one from each of the two largest caucuses, appointed by the ~~S~~peaker of the ~~h~~House of ~~r~~Representatives;
- (d) One person appointed by the Washington ~~s~~State ~~b~~Bar ~~a~~Association; and
- (e) One person appointed by the ~~g~~Governor.

III. Terms and Conditions 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. A member shall serve a three-year term with the ability to renewal for one additional three year term.

Formatted: No underline

Formatted: No underline

~~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)~~

Formatted: No bullets or numbering

Formatted: Bullets and Numbering

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0"

~~BJA 2 _____ Initial term — 2 years, expiring June 30, 2007
Eligible for one full additional term (through June 30,
2010)~~

Formatted: Indent: Left: 0"

Supreme Court 1 (attorney) — Initial term — 3 years, expiring June 30, 2008
Eligible for one full additional term (through June 30, 2011)

Formatted: Indent: Left: 0"

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

Formatted: Indent: Left: 0"

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

Formatted: Indent: Left: 0"

B. Legislative Branch

Formatted: Bullets and Numbering

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

Formatted: Bullets and Numbering

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.~~

A member may resign from the Oversight Committee by forwarding a written or electronic communication to the Chair, the Director of the Office of Civil Legal Aid, and the chair or equivalent of the entity that appointed them.

If 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 Senator or Representative or in the event of their resignation from the Oversight Committee prior to the end of their term, such legislator shall submit their resignation to the Chair of the Oversight Committee, the Director of the Office of Civil Legal Aid, and the legislative caucus that appointed them.

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

Formatted: Indent: Left: 0"

legislative members. The legislative member of the executive committee shall be selected by the four legislative members of the Oversight Committee. Should the legislative member no longer serve on the Civil Legal Aid Oversight Committee for whatever reason, the legislative members shall designate a successor member to serve on the executive committee.

Among other duties, 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.

Formatted: Indent: Left: 0"

A. Appointment of Legislative Member; Succession

Formatted: Bullets and Numbering

~~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.A. Responsibilities

Formatted: Bullets and Numbering

~~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 and related 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 who shall serve as the Oversight Committee Secretary. The Director or their designee shall provide notices of and maintain minutes of meetings, prepare meeting materials, and maintain documents and records related to the activities of the Oversight Committee.

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 at least 30 days in advance to the Chief Justice of the Supreme Court, the member co-

chair of the Board for Judicial Administration, the State Court Administrator, the Director of the Office of Public Defense, the Access to Justice Board's designated liaison, the Chairs of the judiciary committees of the Washington State Legislature, the Office of the Governor and the Washington State Bar Association's designated liaison. Notice of meetings shall also be posted on the ATJ Community listserv or other similar platforms. Notice of meetings and ~~and shall also be~~ published in the Washington 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 sending an electronic notice via e-mail ~~delivering personally or by mail written notice~~ to each member of the Oversight Committee. Such notice must be sent 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. Meetings may be held in person or virtually. All meetings shall provide for virtual attendance and participation of members and interested members of the public. Materials for regular meetings shall be sent to members and posted on the Oversight Committee's website at least 7 business days prior to the meeting.

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;
- C-D. To address confidential personnel matters, including but not limited to matters relating to the selection of the Director of the Office of Civil Legal Aid; and
- D-E. 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.~~

Formatted: Bullets and Numbering

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. If a member becomes aware of their inability to attend a meeting, they should advise the Chair and the Director of the Office of Civil Legal Aid of their inability to do so.

In the event that a member misses two consecutive meetings without sufficient cause, the Chair shall attempt to discuss the member's lack of attendance directly with the member. If the member is unresponsive or 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~~ is 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.

POLICY RE: STIPENDS FOR PARTICIPATION OF LOW-INCOME MEMBERS OF THE CIVIL LEGAL AID OVERSIGHT COMMITTEE

The purpose of this policy is to facilitate interest and the ability of diverse low-income individuals eligible for appointment by the Washington State Supreme Court to meaningfully participate in the work of the Civil Legal Aid Oversight Committee (Oversight Committee) established by RCW 2.53.010 to share relevant lived experience on matters relevant to the work of the Oversight Committee. This policy is adopted in service of the Oversight Committee's and the judicial branch's commitment to diversity, equity, and racial justice.

The activities of the Oversight Committee are underwritten and staffed by the Office of Civil Legal Aid (OCLA). The Oversight Committee is a "board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity". In accordance with RCW 43.03.220(2), OCLA is authorized by this policy to provide stipends to low-income members of the Oversight Committee who have been appointed by the Washington State Supreme Court to provide authentic voice and perspectives on matters falling within the scope of the Oversight Committee's authority.

Persons eligible for receipt of stipends must have an income that is at or below 200% of the federal poverty level (FPL) at the time of appointment (RCW 2.53.010(a)). If, after appointment, the member's income exceeds 200% of the FPL, the Oversight Committee Chair may authorize continued payment of stipends as appropriate to enable the member to contribute the lessons and wisdom of their lived experience to the Oversight Committee's work. Individuals who otherwise receive compensation for their participation on the Oversight Committee are not eligible to receive stipends under this policy and RCW 43.03.220(2)(a).

A member qualifying for a stipend under this policy shall be entitled to receive \$200 per regular and special meeting for which the member prepares and in which the member participates. On approval of the Oversight Committee Chair, the member may be eligible for stipends for other activities undertaken in the member's capacity as a representative of the Oversight Committee. Members eligible to receive meeting stipends shall also be entitled to reasonable allowances for child and adult care reimbursement, lodging, and travel expenses as provided in RCW [43.03.050](#) and [43.03.060](#) in addition to stipend amounts.

Consistent with RCW 43.03.220(2)(d), nothing in this subsection creates an employment relationship, or any membership or qualification in any state or other publicly supported retirement system, for this or any other title due to the payment of a

stipend, lodging and travel expenses, or child care expenses provided under this section where such a relationship, membership, or qualification did not already exist.

The OCLA Director will inform the member of (a) the potential federal tax implications of the member's receipt of cumulative stipends in excess of \$599 in any calendar year, and (b) any potential impact of authorized stipends and reimbursements on the member's public assistance eligibility and benefit amounts.

OCLA shall budget appropriately to ensure sufficient funding to cover stipends and other support authorized under this policy.



Approved by the Civil Legal Aid Oversight Committee at its meeting of March 28, 2024.
Effective upon approval.

TAB 6

Washington State Judicial Branch 2024 Supplemental Budget Reduce Barriers to Appellate Access

Agency: Supreme Court

Decision Package Code/Title: AB – Reduce Barriers to Appellate Access

Agency Recommendation Summary Text:

The Supreme Court requests \$144,500 for a study to identify barriers to the appellate justice system for unrepresented appellants.

Currently, there are substantial expenses associated with filing an appeal, and no effective mechanism for waiving those expenses for low-income individuals. These (and many other) barriers are compounded for appellants with limited English proficiency and those with disabilities requiring accommodation to enable them to effectively participate in the appellate proceeding. The right to appellate review is therefore illusory for many thousands of people aggrieved by and who wish to seek appellate review of trial court decisions.

The full extent of the problems of and solutions to address the systemic and institutional obstacles is unknown, and that effectively prevents access to justice for unrepresented litigants in our appellate courts. The logical first step is an intensive and inclusive research and discovery phase – one that not only seeks input from representatives from trial and appellate courts, but also significant and meaningful involvement of and engagement with individuals who may seek or have sought review in our appellate court system without the assistance of legal counsel. (General Fund-State)

Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
Staffing						
FTEs	0.0	0.5	0.3	0.0	0.0	0.0
Operating Expenditures						
Fund 001-1	\$0	\$144,500	\$144,500	\$0	\$0	\$0
Total Expenditures						
	\$0	\$144,500	\$144,500	\$0	\$0	\$0

Package Description:

Currently, there are substantial expenses associated with filing an appeal, and no effective mechanism for waiving those expenses for low-income individuals. There are no studies of or means available to assess the number of pro se appeals filed or allowed to proceed at public expense. Absent the ability to proceed at public expense, the door to the appellate court system is effectively closed to unrepresented litigants, especially those who meet applicable indigency standards under GR 34 or [RCW 10.101.010](#). Other barriers include:

- Rules of Appellate Procedure expressly limit the rights of indigent and unrepresented litigants;
- Standards for submission of written materials are difficult to understand and comply with (leading to rejection of motions and briefs);
- Cost of filing, production and transmittal of records of proceedings can be substantial for individuals without financial means; and
- The near-absolute lack of meaningful self-help information or resources to help unrepresented appellants navigate the labyrinthine appellate process.

Supreme Court

Policy Level – AB – Reduce Barriers to Appellate Access

Together, these barriers work together to bar unrepresented appellants from accessing the appellate justice system. These barriers are even higher for appellants with limited English proficiency and those with disabilities requiring accommodation to enable them to effectively participate in the appellate proceeding. The right to appellate review is therefore illusory for many thousands of people aggrieved by and who wish to seek appellate review of trial court decisions.

Addressing these barriers is no simple feat. Costs associated with an appeal include not only the filing fee, but also the charges from the superior court for preparing clerk's papers and the charges from the court reporter for preparing transcripts. The appellate courts cannot authorize waiver of fees charged by other entities. In addition, to make the system fully accessible, a solution must address barriers beyond fees. Making the system accessible to people with disabilities, people who are illiterate, and people with limited English proficiency, requires consulting with those communities and learning how to best facilitate their access.

Identifying barriers to accessing appellate courts will require funding for staff and research over a period of 12 months. Once staff compile the initial findings, those findings will be evaluated with non-lawyer community members who have lived experience in poverty-law related matters, are recipients of civil legal aid, and/or are individuals who have attempted to navigate the appellate process without representation to test research findings and form our approach. While focus groups will have informed research findings, *it is essential to include those with lived experience* in interpreting results and framing how to report them. The goal is to reality-test findings by bringing together diverse perspectives in an environment that supports respect for differences and commitment to group initiatives. The Pathways to Action Model problem-solving steps will be used with identified issues, further forming and refining conclusions. This step will engage research staff and a facilitator along with a team of 6 community members over the course of four to six two-hour meetings.

The total cost including staffing, discovery, development of the RFP, testing research findings and forming the approach is \$144,500.

Fully describe and quantify expected impacts on state residents and specific populations served:

The outcome of the research study will allow the appellate courts to systematically address the current barriers to low-income and unrepresented litigants attempting to access the appellate courts. The primary people affected by this work will be those who cannot afford a private attorney. This will disproportionately include BIPOC individuals.

Explain what alternatives were explored by the agency and why they were rejected as solutions:

The appellate courts have not previously undertaken this type of focused effort regarding access for low-income individuals. In order to comprehensively address the barriers, we must first identify the barriers. The best practice for identifying the barriers is to work with the impacted communities to help identify those barriers.

What are the consequences of not funding this request?

The current barriers to the appellate systems will continue to exist, and the system will remain inaccessible to unrepresented and low-income individuals, which will have a disparate impact on BIPOC people.

Is this an expansion or alteration of a current program or service?

This is not an expansion or alteration of a current program or service. This is a new effort to tackle a historical problem that prevents individuals from accessing their right to appeal in an equitable manner.

Decision Package expenditure, FTE and revenue assumptions:

Staffing Assumptions

Beginning July 1, 2024, The Court will contract with AOC for the following one-time salary, benefits, and associated standard costs for:

Administrative Secretary. Schedule interviews and focus groups, transcribe interviews, arrange travel, and proofing and finalize reports (0.15 FTE).

Senior Research Associate. Develop and revise the interview protocol, conduct interviews with court staff and attorneys for background information, conduct up to 45 interviews (or focus groups, all by phone or video) with unrepresented litigants who sought to appeal adverse trial court decisions, produce discovery results, and consult on developing research plan and RFRP (0.35 FTE).

Other Non-Standard Costs

Contracts (Object C)

Discovery and Development of the RFRP. Payments to survey/focus group participants: 60 participants * \$200 per participant = \$12,000.

Contract with Facilitator. We are projecting a contract amount of approximately \$3,200/month for 12 months for a total of \$38,400.

Community Member Engagement.

- Payments to community consultants with lived experience: 6 participants * \$600 per participant = \$3,600.

Travel (Object G)

Travel in addition to standard costs to support discovery and development of the RFRP and community member engagement = \$3,200.

Expenditures by Object	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
A Salaries and Wages		\$50,800				
B Employee Benefits		\$15,600				
C Personal Service Contract		\$54,000				
E Goods and Services		\$1,800				
G Travel		\$4,200				
J Capital Outlays		\$900				
T Intra-Agency Reimbursements		\$17,200				
Total Objects		\$144,500				

Staffing

Job Class	Salary	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
ADMINISTRATIVE SECRETARY	\$55,900		0.2				
SENIOR RESEARCH ASSOCIATE	\$111,500		0.3				
Total FTEs			0.5				

Explanation of standard costs by object:

Salary estimates are current biennium actual rates at Step L.
Benefits are the agency average of 30.59% of salaries.
Goods and Services are the agency average of \$3,600 per direct program FTE.
Travel is the agency average of \$2,000 per direct program FTE.
Ongoing Equipment is the agency average of \$1,800 per direct program FTE.
One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE.
Agency Indirect is calculated at a rate of 25.86% of direct program salaries and benefits.

How does the package relate to the Judicial Branch principal policy objectives?

The current structure of the Rules of Appellate Procedure creates substantial barriers to low-income individuals attempting to access the appellate courts. Any barriers that apply to low-income communities will have a disparate impact on BIPOC individuals. The Supreme Court is dedicated to improving equity and access to the Courts. This effort proposes to conduct research, including a focus groups with impacted communities, to identify the specific barriers that need to be addressed in order to facilitate equitable access to the appellate courts. This work directly supports the Judicial Branch’s policy objectives of eradicating policies that result in disparate outcomes based on race.

Are there impacts to other governmental entities?

No

Stakeholder response:

The purpose of this project is to directly engage stakeholders from low-income communities in order to effectively identify barriers to accessing the appellate courts. We anticipate that unrepresented litigants, advocates for low-income people, and impoverished communities will support this effort to identify barriers on their access to the appellate courts. No opposition is expected to this effort.

Are there legal or administrative mandates that require this package to be funded?

No

Does current law need to be changed to successfully implement this package?

No

Are there impacts to state facilities?

No

Are there other supporting materials that strengthen the case for this request?

N/A

Are there information technology impacts?

No

Agency Contacts:

Christopher Stanley, 360-357-2406, christopher.stanley@courts.wa.gov

Example 1: Indigency Filings in Civil Appeals, RAP 15.2(c)

Anna: Anna is unable to work and currently receives Social Security Disability Insurance (SSDI) benefits and is a Medicaid recipient due to a disability. She shares custody of her 8-year-old daughter with her ex-husband, Eric. A parenting plan has been in place for 4 years but Eric has never been happy with the arrangement, and has continued to file for both major and minor modifications to the plan over the last few years. Eric's family is financially well off and Eric has had an attorney for the majority of the litigation. Anna is pro se.

Anna estimates that over the past 4 years, she has spent over 1,200 hours on the case and that around 18 different judges have been involved in the case in some way or another. Eric's relentless litigation has made it difficult for Anna to focus on parenting her child.

Recently, Anna's daughter disclosed to a teacher that Eric was sexually abusing her. Child Protective Services recommended to Anna that she file a Domestic Violence Protection Order (DVPO), and request a modification of the parenting plan. Anna requested a fee waiver for filing the request for modification to the parenting plan, but it was denied. Anna was able to borrow enough to pay the fee for the modification from her parents. Eric filed several counter motions requesting modifications to the parenting plan. The judge presiding over both the DVPO and modification case was a former law partner of Eric's. Anna asked the judge to recuse, but the judge refused, stating that he was currently the only judge available in the county to hear this matter and did not want the case to be continued again. Throughout the hearing, the trial judge appeared impatient with Anna, would not let her finish speaking, and made negative comments about her disability. The trial judge dismissed the DVPO and the modification and sanctioned Anna \$5,000 for filing without merit.

Anna wants to file an appeal but has no financial resources. The trial court clerk's office told her that she would be unable to file her notice of appeal without either paying a filing fee (\$290) or filing an indigency waiver. For the indigency waiver, she has been told that she needs to first ask the trial court to find her indigent, and then to go to the Supreme Court to file a motion for public expenditure. Anna has also been told that if she misses the 30-day appeal deadline, she loses her chance to appeal. Anna doesn't know what to do and feels hopeless.

Debbie: Debbie shares custody of her 4-year-old daughter with her ex-wife Karen. They had a 5-day parenting plan trial where Debbie requested that both domestic violence and substance abuse limitations to be imposed against Karen. Debbie was unrepresented and Karen had an attorney. After trial, despite the judge making oral rulings acknowledging that Karen had a history of domestic violence, and despite Debbie asking that restrictions be put in place according to the statute, the trial judge granted mutual decision-making rights to Debbie and Karen.

Debbie wanted to appeal and went to the superior court clerk's office to get more information. Debbie had not previously been found indigent by the trial court but she was now unemployed and was receiving public benefits. Debbie heard from a friend that she could ask for a fee waiver for the appeal. The clerk's office gave her the superior court fee waiver form. Debbie filed a notice of appeal at the trial court and did not pay the filing fee (\$290). Debbie filed the fee waiver request with the ex parte court, and it was denied. The order stated that Debbie needed to address the issue of an appellate fee waiver with the trial court judge and provided her with a copy of the Rules of Appellate Procedure (RAP) Title 15.

Debbie looked up RAP Title 15 and re-filed her fee waiver request via motion for indigency using the templates provided on the court of appeals website. Debbie was confused because her parenting plan case did not seem to fit any of the situations on the form but did her best to fill out the form, along with the proposed orders. Next she was told by the clerk's office that she would need to file both a set of clerk's papers and a verbatim report of proceedings. Debbie was shocked to discover that clerk's papers cost anywhere from \$.25 - \$.50/page. She counted the number of pages in her case docket and estimated these would cost her about \$300.

She called several transcriptionists to ask how much it would cost to have her parenting plan trial transcribed. They said she needed to tell them exactly how long the trial was (how many days/hours). Debbie read through the rules again but still wasn't sure about how to figure out the exact length of her trial. Debbie went back to the superior court clerk's office and the helpful clerk showed her the "Minutes" written by the clerk during each day of trial which included the start and end times of the trial. The clerk's office suggested that she pay for the recordings of the trial so she could have it for her own files. A copy of the recordings would have set her back \$25 per CD, so she declined to purchase them. Debbie emailed the transcriptionist with the information requested and she was quoted \$8,000 to transcribe the 7-day trial.

Debbie put all of this information into her motion for indigency and re-filed it with the superior court. Debbie's motion was rejected by the superior court clerk. Debbie was told that it was rejected because the motion was not properly scheduled before the same judicial officer whose order(s) she disagreed with and wanted to appeal.

Debbie began receiving letters from the court of appeals warning her that her case was scheduled to be dismissed for failure to pay the filing fee. Debbie called the clerk at the court of appeals to explain that she could not afford the filing fee, and that she had filed a motion for indigency at the superior court. The appellate clerk told her they had not yet received anything from the superior court.

Debbie, worried that the Court of Appeals would dismiss her case and scrounged together the \$290 to pay the filing fee. Debbie then re-filed her motion for indigency with the judge who had previously heard her case. This time, she scheduled the hearing in the right place and the motion for indigency was placed on the judge's motion calendar. The opposing party opposed her motion, and she spent many sleepless nights writing a reply. The trial court signed the proposed findings of indigency that Debbie filed. Although she assumed that she was done, Debbie received a letter two days later from the Supreme Court of Washington. The letter stated that her motion for indigency was received and that a motion for public expenditure would be set before a department of the Court in two months' time. Debbie was disappointed and confused as she thought that the process was over and that she would be able to move forward with her appeal. The letter from the Supreme Court further requested that Debbie provide the Court with supplemental information explaining why her appeal had "merit" and whether it had been "brought in good faith."

Debbie did not respond to the Supreme Court's letter. Her motion for indigency was ultimately denied. The court of appeals sent her more letters stating that her case was set to be dismissed for failing to meet the filing deadlines. Debbie had used the last of her savings to pay the \$290 filing fee and could not afford to pay for either the clerk's papers or transcript, so Debbie felt she had no choice but to abandon her appeal.

Hypothetical 2: Clerk's Papers/Transcripts

Benjamin: Benjamin was denied a DVPO which was filed against his ex-wife Tammy. Both he and his ex-wife were pro se. Benjamin testified at his DVPO hearing regarding the physical violence and stalking inflicted on him by Tammy. Benjamin submitted medical reports of injuries that he sustained during the relationship, and submitted witness declarations from his friends regarding the stalking incidents and threatening comments they observed and overheard. Tammy requested that the court have the witnesses testify and the court granted the request. The witnesses testified over zoom. What Benjamin anticipated to be a quick and simple special proceeding ended up being a formal 4-day-long hearing. Both Benjamin and Tammy required interpreters as neither were proficient in English.

The superior court denied the protection order and did not find it clear and convincing that Benjamin had experienced domestic violence based on the fact that the county prosecutors declined to file criminal charges. Benjamin's advocate connected him to a civil legal aid attorney who, based on the information provided, indicated that the judge may have applied the wrong standard, because the lack of criminal charges alone was not generally a basis to deny a protection order. Benjamin qualifies for civil legal aid representation, but the programs are either at capacity or restricted from representing individuals on appeal. With limited assistance from a civil legal aid program, Benjamin was able to file the notice of appeal and paid the filing fee. Benjamin asked the Court if the hearing was being recorded and found out that the court used a court reporter. Benjamin spent the remainder of the money left in his checking account to pay for the court reporter's transcript (\$988) and clerk's papers (\$79). After paying for the transcript and clerk's papers Benjamin was told that the court reporter no longer worked for the county and did failed to file the transcript with the appellate court within the 60-day deadline. The clerk's papers were also never transmitted by the superior court clerk's office to the appellate court. The appellate court has been sending Benjamin notices threatening sanctions and dismissal of the case if the transcript and clerk's papers are not filed. The court rules and court communications are all in English, and Benjamin is having a hard time understanding what he can do about the unresponsive court reporter and superior court clerk.

Pat: Pat and their ex-spouse Jamie had a 1-day parenting plan modification trial regarding their son. Both parties were unrepresented. Pat wanted to regain custody of their son, and alleged that Jamie had a drug relapse. Because the trial was held during the COVID-19 pandemic, the trial was held via Zoom. Pat followed the trial judge's instructions in preparing for the trial and put together an electronic trial binder and submitted it to the court. On the morning of trial, the parties were notified that they had a new judge. Pat was not sure if the new judge saw their exhibits, and after inquiring, was repeatedly told that the exhibits would be dealt with later in the day.

Late in the afternoon, Pat was involuntarily kicked off of Zoom due to a technical issue. They contacted the clerk and was told that the trial had concluded. Pat did not hear any oral ruling from the trial judge, and only found out about the ruling after receiving the final orders in the mail.

Pat did not agree with the orders. Pat felt that they should have been given custody of their son based on the documentary proof that they submitted to the court proving that Jamie had tested positive for methamphetamine a week before trial. Pat decided to appeal.

Pat filed the notice of appeal and paid the filing fee. The court of appeals then sent a letter setting a deadline for the filing of the clerk's papers and statement of arrangements just 30 days later. Pat had no idea what clerk's papers or statement of arrangements were. Pat tried asking for legal aid help with their appeal, but none of the civil legal aid organizations would take their case because Pat's income was at 250% of the federal poverty guidelines.

Pat went online to see if they could find materials which might explain the requirements of clerk's papers and statement of arrangements. The Washington Court's website said that there was a self-help page related to filings at the Court of Appeals. Pat followed the link and only found a disappointing list of additional links that were not written in a way that they could understand.

Pat called the clerk's offices both at the superior court and at the court of appeals to try to find out how to comply with the deadlines provided in the court's letter. Pat decided to first try and tackle the clerk's papers. Pat was able to find a template on the internet and not wanting to miss anything, marked every document in their case as relevant. Pat was told that the documents, or "papers," would cost them \$.50/page. Pat could not afford to get all of their case documents but could not find any information online about what exactly needed to be included. Therefore, Pat hoped for the best and limited the number of documents designated so it would be more affordable.

Next Pat needed to get their statement of arrangements together. Eventually, a friend who had some experience with the Court system told Pat that they needed to get the recording of the trial so that it could be transcribed. Pat discovered from the trial court clerk that only half of the day-long Zoom trial had been captured on the recording. The clerk's office wasn't sure what had happened to the rest. Pat requested a recording of the captured portion of the trial (which was very hard to hear and understand). Pat asked the clerk's office what to do about the other part of the trial recording, and the clerk said they didn't know.

Pat then filled in the statement of arrangements template that they found linked on the court of appeals website. The website explained that Pat needed to work with a transcriptionist to create a written transcript of the trial proceedings. Eventually, after searching online, Pat found some links with phone numbers for transcriptionists in Washington. Pat was quoted \$4,000 for a transcript due to its poor sound quality.

Pat wondered what to do about the missing portion of the recording of the trial. Pat remembered reading something online on the "self-help" website about narrative reports of proceedings. Pat wasn't present during the unrecorded portion of the trial because they were kicked off of Zoom due to technical issues.

While looking at their docket, Pat saw the list of exhibits for trial. It appeared that everything that they had included in their trial binder was listed, but nothing was marked in the column for "admitted" or "denied."

At this point, Pat realized that even if they were able to gather as much information as they could, it may not be enough for the court of appeals to review. Pat is at a loss for how to proceed.

Hypothetical 3: Legal Fees & Costs

Caroline: Caroline works as a part-time cashier at Safeway. She is also a mother to a 4-year-old son and 2-year-old daughter. Caroline just finished her family law trial for a

dissolution and parenting plan with her ex-husband Chris. During the marriage, Chris controlled the finances and was the primary breadwinner as he worked in IT for a large corporation. During trial, Chris was represented and Caroline was pro se. She already had a DVPO against Chris for past physical and sexual assaults which occurred during the relationship. Since the birth of their son, Caroline was the primary caretaker of both kids. However, the judge just issued a new parenting plan giving Chris primary custody and granting Caroline visits only four days a month with her children. The trial court seemed to rely heavily on the evidence introduced by opposing counsel related to Caroline receiving inpatient mental health treatment once, three years before their son was born. The trial judge mentioned that a parent raising domestic violence allegations during a relationship is an abusive use of conflict, and can be interpreted as efforts at parental alienation (which has been proven to be an outdated legal theory).

Caroline made an appointment with a local legal clinic. The volunteer attorney told her that she may have a strong basis for appeal but that the filing fee would cost \$290 and must be paid within 30 days. She was also told that obtaining the transcript and clerk's papers would cost her another \$4,895, and must be paid within 60 days. Caroline does not understand what the volunteer lawyer is explaining to her about de novo and abuse of discretion but she does understand that if she wants to be successful on appeal, she is going to need a lawyer. Caroline called a few appellate lawyers but they all require a minimum retainer of \$10,000 to start, and estimated that it would cost her another \$15,000-\$50,000 for the appeal. Money is the only barrier from her being able to appeal a decision that significantly restricts her parental rights and access to her children.



Washington State Supreme Court Gender and Justice Commission

Justice Sheryl Gordon McCloud, Co-Chair
Washington State Supreme Court

Judge Rebecca Glasgow, Co-Chair
Court of Appeals, Division II

Victoria Blumhorst
Spokane Counsel for Defense

Karla Carlisle
Northwest Justice Project

Professor Lynn Daggett
Gonzaga University School of Law

Quinn Dalan
Yakima County Attorney Services

Judge Michael Finkle
King County District Court

Lillian Hawkins
King County District Court, West Division

Elizabeth Hendren
Sexual Violence Law Center

Shannon Kilpatrick
Stritmatter Kessler Koehler Moore

Honorable Raylene King
Whatcom County Clerk

Commissioner Jonathon Lack
King County Superior Court

Irene Motles
Washington Women Lawyers

Javier Ortiz
Seacoma Law

Dr. Dana Raigrodski
University of Washington School of Law

Jennifer Ritchie
King County Prosecuting Attorney's Office

Barbara Serrano
Office of the Governor

Chief Judge Cindy K. Smith
Suquamish Tribal Court

Carlyn Sampson
Rebuilding Hope!

Allison Tjemsland
Jenner & Block LLP

Judge Josephine Wiggs
King County Superior Court

December 12, 2023

Re: Support for Appellate Court Access Study

Dear Sarah Augustine, Erin Lennon, and Francis Adewale:

On behalf of the Supreme Court's Gender and Justice Commission please accept this letter as an expression of formal support for the 2024 Supplemental Budget Request regarding Reducing Barriers to Appellate Court Access.

One of the overall goals in the Commission's [2021: How Gender and Race Affect Justice Now](#) report is to improve access to the courts. Our study found that women, and particularly women of color, face a myriad of obstacles in accessing our courts. These litigants may face limitations on remote access to court processes, challenges relating to childcare/caregiving responsibilities, financial barriers relating to filing fees/transcripts, barriers relating to limited English proficiency or disability accommodations, and lack of access to legal advice and representation.

Appellate court processes should be accessible to all, but are effectively "illusory" for unrepresented litigants, as was noted in the budget request. The Commission supports your efforts to identify and address barriers to accessing appellate courts and bridging this justice gap within our state.

Thank you for your work on this very important issue.

Sincerely,

Justice Sheryl Gordon McCloud
Co-Chair
Washington Supreme Court

Judge Rebecca Glasgow
Co-Chair
Division II Court of Appeals

Cc: Crissy Anderson

WASHINGTON STATE BAR ASSOCIATION

Board of Governors

Hunter M. Abell, President

December 18, 2023

VIA email

Senator June Robinson, Chair
Senate Ways and Means Committee
303 J.A. Cherberg Bldg.
P.O. Box 40423
Olympia, WA 98504

Representative Timm Ormsby, Chair
House Appropriations Committee
315 John L. O'Brien Bldg.
P.O. Box 40600
Olympia, WA 98504

Dear Chair Robinson and Chair Ormsby:

On behalf of the Washington State Bar Association Board of Governors, I am writing in support of the judicial branch budget proposal as it is reflected in the Governor's budget proposal. In particular, we agree with the Equitable Appellate Working Group's support of the crucial research study on barriers to accessing the appellate courts.

In January 2022, Chief Justice González requested that the Access to Justice Board and the Office of Civil Legal Aid form a workgroup to address barriers to full participation for pro se appellants and indigent parties in the appellate process. This workgroup is a result of the Washington State Supreme Court's public letter dated June 4, 2020 committing to supporting rules that bring greater racial justice to the legal system because policies that affect people of lower income backgrounds have a disproportionate impact on Black, Indigenous, and people of color.

The workgroup was asked to identify the barriers to accessing appellate courts and propose solutions to those barriers. The workgroup is currently moving into the research phase where they will explore the various barriers to accessing the appellate courts. For example, there are substantial costs associated with filing an appeal and no effective means to appeal at public expense for low-income people which prevents them from ever accessing the appellate courts. There are also barriers related to language access and disability access. There are no studies available to assess the number of pro se appeals filed or completed. The valuable research that this workgroup provides will then be interpreted and compiled into a report on the various barriers to accessing the appellate courts. The Pathways to Action model will then be utilized to guide the workgroup to solutions for equitable access to the appellate courts. The Pathways to Action model centers the people with first-hand experience with the appellate courts. The workgroup, led by and focused on those with lived experience, will evaluate the results of the research study and the current appellate system, and propose meaningful solutions to equitable access to the appellate courts.

All people in Washington should have a realistic and equitable ability to access the appellate courts. This research project is crucial to making that a reality. Please support the judicial branch budget as reflected in the Governor's budget proposal, and in particular, the research study on barriers to accessing the appellate courts.

Sincerely,

A handwritten signature in black ink, appearing to read "Hunter Abell". The signature is fluid and cursive, with a prominent loop at the end.

Hunter Abell
President, Washington State Bar Association

Cc: Terra Nevitt, Executive Director, Washington State Bar Association
Senator Joe Nguyen, Vice Chair, Senate Ways and Means Committee
Senator Lynda Wilson, Ranking Minority Member, Senate Ways and Means Committee
Representative Steve Bergquist, Vice Chair, House Appropriations Committee
Representative Drew Stokesbary, Ranking Minority Member, House Appropriations Committee

The Court of Appeals
of the
State of Washington

LORI K. SMITH, JUDGE
ONE UNION SQUARE
600 UNIVERSITY STREET
SEATTLE, WASHINGTON 98101-4170
(206) 464-6047
lori.smith@courts.wa.gov



January 25, 2024

Sent via E-mail & Regular Mail

Senator June Robinson
Chair of the Senate Ways & Means
Committee
303 J.A. Cherberg Bldg.
P.O. Box 40423
Olympia, WA 98504
june.robinson@leg.wa.gov

Representative Timm Ormsby
Chair of the House Appropriations
Committee
315 John L. O'Brien Bldg.
P.O. Box 40600
Olympia, WA 98504
timm.ormsby@leg.wa.gov

Re: Access to Appellate Courts study

Dear Chair Robinson and Chair Ormsby:

In January 2022, Chief Justice González requested that the Access to Justice Board and the Office of Civil Legal Aid form a workgroup addressing barriers to full participation in the appellate process for pro se appellants and indigent parties. Everyone in Washington should be able to access the appellate courts. We are writing in support of this crucial research project which is included as part of the judicial branch's budget proposal, as reflected in the Governor's budget proposal, because it is a necessary step towards making that access a reality.

While we are certainly aware of the difficulties and challenges for pro se parties in the appellate courts, only anecdotal evidence is available regarding how circumstances affect the number of appeals filed or completed. To address the matter, information is needed regarding how issues such as the substantial costs associated with filing an appeal, the limited ability for low-income people to appeal at public expense, the lack of attorneys who serve low-income individuals involved in appeals, and barriers related to language access, physical access or mental health conditions affect litigants in the appellate court. We also recognize that these issues often have a disproportionate impact on Black, Indigenous, and people of color. This study would provide objective data to use to work toward ensuring justice for everyone in Washington by providing more and better access to the appellate courts.

Re: Access to Appellate Courts study
January 25, 2024
Page 2

The workgroup is currently moving into the research phase where they will explore the various barriers to accessing the appellate courts and the data will then be interpreted and compiled into a report. The Pathways to Action model will be used to guide the workgroup to solutions regarding access to the appellate courts. This workgroup, led by and focused on those with lived experience, will evaluate the results of the research study and the current appellate system, and propose meaningful changes to accomplish equitable access.

Please support the judicial branch budget as reflected in the Governor's budget proposal, and in particular, this crucial research study on barriers to accessing the appellate courts.

Sincerely,



Lori K. Smith
Presiding Chief Judge
Washington State Court of Appeals

cc: Judge Rebecca Glasgow, Chief Judge, COA Division II
Judge George Fearing, Chief Judge, COA Division III

LKS:kmw

TAB 7



Washington State Office of Civil Legal Aid

PO Box 41183
Olympia, WA 98504
sara.robbins@ocla.wa.gov
360-485-1544

Sara Robbins, Director

To: Oversight Committee

From: Sara Robbins

Re: Directors Report

Date: March 29, 2024

I am happy to be writing my very first quarterly report to relay on all that is happening here at the Office of Civil Legal Aid. I have now been at OCLA as the Director for about 3 months and it has been a whirlwind of information, meetings, meeting wonderful new people, problem-solving, legislative session, and all things civil legal aid! One of my top priorities coming into this role, was to get to know the staff at OCLA, meet with each staff member and hear what is working well and where we need to shift focus and capacity. Much of my thinking about our internal work is intertwined with funding and the next biennial budget.

Oversight Committee Recruitment

There is currently active recruitment for two positions on the OCLA Oversight Committee. The Washington Supreme Court position is currently vacant. This is the position appointed by the Washington Supreme Court upon recommendation of the Access to Justice (ATJ) Board. The ATJ Board is actively recruiting for this position. The term will begin immediately upon appointment. This position is reserved for individuals with lived experience from communities most harmed by the legal system and who are eligible to receive civil legal aid services.

The other position with open recruitment is the WSBA position that is currently filled by Chair Chalia Stallings-Ala'ilima. Chalia's term will come to an end on June 30, 2024 and the new committee member will start July 1, 2024 with the term ending June 30, 2027.

We just learned that the other Washington Supreme Court position has been vacated and we are working with the Court and the ATJ Board to begin recruitment for this position.

OCLA Staffing

January 8th was Maggie Yates' last day with OCLA. Maggie was Program Counsel for the Community Reinvestment program. Maggie's new position is as Assistant City Manager for the

Re: March 2024 OCLA Director's Report

3/18/2024

Page 2 of 3

City of Spokane, appointed by Spokane's Mayor Lisa Brown. OCLA does not intend to rehire for this position due to the time limited nature of the funding.

RaShelle Davis will be leaving OCLA as the Director of Operations. RaShelle has been appointed by Governor Inslee as the Chief Administrative Law Judge and will begin that position on May 1st. OCLA will be recruiting for this position soon.

Bonnie Rosinbum joined OCLA on February 26th as a second Eviction Defense Program Counsel to assist Philippe Knab and Ali Kingston in administering the program.

New staffing positions: As former Director Jim Bamberger outlined in his memo in December, 2023 the OCLA team is understaffed. In meeting with staff and doing my own assessment, I have come to the same conclusion that the agency needs additional staffing and infrastructure. OCLA is currently hiring for two new positions that you can see [here](#). First, we are hiring for a third Program Counsel for the Children's Representation Program to start at the beginning of the fiscal year when the funding for this position begins. The other position is a Program Counsel/Administrator that will help oversee the Civil Legal Aid contract with Northwest Justice Project and the Domestic Violence contracts. The funding for this position is split between these two funding sources and will ideally also start at the beginning of the fiscal year.

Legislative Session

OCLA submitted two requests for supplemental funding this session. Both appeared in the Governor's budget, and both were fully funded!

Address Emergent Need for Increased Attorney Capacity in Tenant Defense Program: As previously reported, eviction filings remain at unprecedented levels, consistently exceeding 2000 filings per month. This significant uptick in filings substantially outpaces pre-pandemic levels, indicating a sustained and considerable demand for tenant defense services. In response to this ongoing challenge, OCLA's enacted supplemental budget request funds 10 additional attorney positions to address indigent tenant defense capacity needs. Our appointed counsel tenant defense program continues to represent every eligible tenant. Through the end of 2023, over 15,000 low-income Washington State residents received the assistance of court-appointed tenant defense attorneys. The additional funding demonstrates sustained legislative support for the program and the Legislature's commitment to protecting the rights of low-income renters and prevent them from being displaced and becoming homeless.

Continue *State v. Blake* Civil Consequences Efforts: OCLA has received *State v. Blake* civil consequences funding since FY 22. Working through three primary contractors, the funding is used to provide information, advice, and legal representation to individuals entitled to civil relief (vacation of convictions, refund of legal financial obligations (LFOs)). The Legislature has funded this effort on a year to-year basis, to respond to the Supreme Court's 2021 decision that determined the state's prior drug possession laws unconstitutional. Estimates are that more than 250,000 people are eligible for civil relief from these unconstitutional convictions. OCLA requested biennial funding for these services in the FY 2023-25 operating budget. The

Legislature elected to provide one year of funding, with instruction to resubmit any request for year 2 funding in the supplemental budget. OCLA's supplemental funds will continue existing programs and add two attorneys who will handle appeals from determinations made by the Refund Bureau established and administered by the Administrative Office of the Courts. This continues to be one-time funding, and OCLA will have to ask for continuing support in the FY 2025-27 biennial budget request.

Foreclosure Fairness (Inter-Agency Agreement with Commerce): The Department of Commerce receives money to fund the Foreclosure Fairness safety net, including legal aid, housing counseling and the foreclosure hotline. The funds for legal aid are passed through to OCLA via an inter-agency agreement with Commerce. The funds OCLA receives are subcontracted in full to the Northwest Justice Project to provide services through their specialized Foreclosure Prevention Unit (FPU). This is the only foreclosure specialized legal aid unit of its type in the state. This was partially funded in the budget. The ask was for approximately \$6 million per year and \$3.6 million per year was funded. OCLA is working with Commerce and the FFA partners to determine how these funds will be invested and what portion will be allocated to FPU services.

Senate Bill 5805 Developing a schedule for court appointment of attorneys for children and youth in dependency and termination proceedings: This bill passed and the Governor signed it on March 13th (CRP Program Manager Bailey Zydek and I had the privilege to attend the bill signing). The bill extended the schedule for full statewide implementation of RCW 13.34.212(3) which directs that courts appoint attorneys to represent children and youth aged 8 and above in dependency cases and all children regardless of age upon the filing of parental rights termination proceedings. This bill requires that no more than 1,250 new dependency cases are added to the program each fiscal year which extends the implementation of the program to achieve full statewide implementation by January 1, 2028, from the prior date of 2027.

Biennial Budget and Stakeholder Engagement:

We have begun the process of planning for the 2025-2027 biennial budget. We are committed to an interactive process with stakeholders that will result in budget proposals that allow us to meet critical agency needs and responsibilities, maintain meaningful levels of support for the basic civil legal aid program, address new/urgent needs, and operate within the fiscal framework that we will be presented with. Attached is a memo that was sent to the Equal Justice Coalition outlining initial thoughts on the biennial budget. This was followed by a meeting with the EJC on March 14th. While we know basic needs of the agency and existing programs, we also know that much will be changing in the funding landscape prior to that legislative session including a) a new Governor and executive administration; b) changes in the composition of the legislature; and c) a range of unknowns regarding the continuation of important funding streams at both the state and federal levels.

Re: March 2024 OCLA Director's Report

3/15/2024

Page 2 of 3

City of Spokane, appointed by Spokane's Mayor Lisa Brown. OCLA does not intend to rehire for this position due to the time limited nature of the funding.

RaShelle Davis will be leaving OCLA as the Director of Operations. RaShelle has been appointed by Governor Inslee as the Chief Administrative Law Judge and will begin that position on May 1st. OCLA will be recruiting for this position soon.

Bonnie Rosinbum joined OCLA on February 26th as a second Eviction Defense Program Counsel to assist Philippe Knab and Ali Kingston in administering the program.

New staffing positions: As former Director Jim Bamberger outlined in his memo in December, 2023 the OCLA team is understaffed. In meeting with staff and doing my own assessment, I have come to the same conclusion that the agency needs additional staffing and infrastructure. OCLA is currently hiring for two new positions that you can see [here](#). First, we are hiring for a third Program Counsel for the Children's Representation Program to start at the beginning of the fiscal year when the funding for this position begins. The other position is a Program Counsel/Administrator that will help oversee the Civil Legal Aid contract with Northwest Justice Project and the Domestic Violence contracts. The funding for this position is split between these two funding sources and will ideally also start at the beginning of the fiscal year.

Legislative Session

OCLA submitted two requests for supplemental funding this session. Both appeared in the Governor's budget, and both were fully funded!

Address Emergent Need for Increased Attorney Capacity in Tenant Defense Program: As previously reported, eviction filings remain at unprecedented levels, consistently exceeding 2000 filings per month. This significant uptick in filings substantially outpaces pre-pandemic levels, indicating a sustained and considerable demand for tenant defense services. In response to this ongoing challenge, OCLA's enacted supplemental budget request funds 10 additional attorney positions to address indigent tenant defense capacity needs. Our appointed counsel tenant defense program continues to represent every eligible tenant. Through the end of 2023, over 15,000 low-income Washington State residents received the assistance of court-appointed tenant defense attorneys. The additional funding demonstrates sustained legislative support for the program and the Legislature's commitment to protecting the rights of low-income renters and prevent them from being displaced and becoming homeless.

Continue *State v. Blake* Civil Consequences Efforts: OCLA has received *State v. Blake* civil consequences funding since FY 22. Working through three primary contractors, the funding is used to provide information, advice, and legal representation to individuals entitled to civil relief (vacation of convictions, refund of legal financial obligations (LFOs)). The Legislature has funded this effort on a year to-year basis, to respond to the Supreme Court's 2021 decision that determined the state's prior drug possession laws unconstitutional. Estimates are that more than 250,000 people are eligible for civil relief from these unconstitutional convictions. OCLA requested biennial funding for these services in the FY 2023-25 operating budget. The



Washington State Office of Civil Legal Aid

PO Box 41183
Olympia, WA 98504
sara.robbins@ocla.wa.gov
360-485-1544

Sara Robbins, Director

To: Equal Justice Coalition

From: Sara Robbins

Re: FY 2025-2027 Budget Development Process and Timeline

Date: February 5, 2024

We have not even reached the halfway point of the current supplemental budget session, but it is already time to start planning for the upcoming FY 25-27 biennial budget session. This will be my first as the OCLA Director, and it is my hope that this memo provides transparency about what OCLA is anticipating. While we know basic needs of the agency and existing programs, we also know that much will be changing in the funding landscape prior to that legislative session including a) a new Governor and executive administration; b) changes in the composition of the legislature; and c) a range of unknowns regarding the continuation of important funding streams at both the state and federal levels. There is much that is unknown.

It is in this environment that OCLA must develop its budget proposals for the FY 25-27 biennial budget. While some components are known and driven by agency needs and statutory mandates, others are at this time either unknown or unclear. For these reasons, I believe it benefits all of us to start the budget development process early. This will allow for meaningful engagement with interest holders, time to monitor and assess the changing political and economic landscapes, and time to prioritize tentative budget-related initiatives. I am committed to an interactive process that will result in budget proposals that allow us to meet critical agency needs and responsibilities, maintain meaningful levels of support for the basic civil legal aid program, address new/urgent needs, and operate within the fiscal framework that we will be presented with.

Here are the biennial funding needs that we know must be addressed:

- Address critical agency staffing and infrastructure needs
- Funding the expansion of the Children's Representation Program (CRP) (RCW 13.34.212(3))
- Vendor rate adjustments for current contracts
- Ensuring sufficient funding for the court-appointed counsel program for eviction defense (RCW 59.18.640)

Re:
2/5/2024
Page 2 of 2

- Funding for the next assessment of civil legal problems experienced by low-income people and the unmet need in Washington State.

We expect that the total of these budget requests will be over twenty-five million dollars. This is a substantial request for the agency, even in the best economic times. However we also know there are also many compelling needs about which OCLA should be informed and consider as part of our budget development thinking. I want to create an environment where Alliance members and interest holders have a meaningful opportunity to share their thoughts and ideas with us. This feedback also helps OCLA to better understand the priorities of those closest to the work and to community needs, and assess how those priorities might be furthered by state funding initiatives.

To this end, OCLA and the EJC are planning for a virtual listening session during which interest holders can share ideas, perspectives and needs. This will be scheduled for a time in early March. It is likely that a second virtual listening session will be held in May once OCLA has further developed the proposed budget. Beginning this process so early is important given the uncertainty of the funding landscape We look forward to meeting with you and hearing your thoughts in March.