



Washington State Office of Civil Legal Aid

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To: Civil Legal Aid Oversight Committee

From: Jim Bamberger

Re: Supplemental Memo Re: COVID-19 Related Activities

Date: March 24, 2020

Over the past week and continuing for the foreseeable future, OCLA has turned its attention to the impacts of the COVID-19 public health emergency on client needs, client service capacity, essential court operations, and maintenance of core agency operations. This memo briefly outlines the areas of current focus.

- 1. Agency Operations.** All staff are home-based. Everyone has the necessary technology to perform core functions. Jill Malat and I have been principally focused on issues arising in the child welfare system (more below), while Dana has been keeping the VOCA crime victims project moving forward. Hope continues to provide necessary support for all of us. We meet via Zoom on a regular basis to identify and prioritize tasks and to keep connected as a team.
- 2. Children's Representation/Child Welfare Order.** The Chief Justice has issued a number of orders directing local courts and court operations during the COVID-19 public health emergency. The most recent order is attached. (Attachment 1). She invited OCLA and the Office of Public Defense (which operates the statewide Parents Representation Program) to offer additional suggestions for rules that should govern dependency and termination proceedings during the emergency. Early Monday evening, we submitted a proposed supplemental Order regarding the processes that should govern dependency and termination proceedings during the emergency (Attachment 2). The goal is to protect the substantive and procedural due process rights of parents and children while protecting the health, safety, and security of all involved in the child welfare system – court employees, children, parents, social workers, foster parents, kinship providers, etc. Pending Supreme Court action, we are working to make sure that our Children's Representation attorneys have the support they need in light of the wide ranging practices adopted by individual courts as a result of the public health emergency.

- 3. Civil Court Practices Order.** In addition to the direct impact the current emergency has on dependency and termination court cases, it is also having significant and prejudicial impacts on the ability of low-income people, including victims of domestic violence and sexual assault – to secure the legal protections they need. This is particularly true for limited English proficient individuals and those who do not have access to technology needed to enable them to communicate with and participate in virtual hearing in court. The problems are compounded by the wide divergence in local court responsiveness, technology capability, and sensitivity to the needs of court users (especially those without resources to pay a wide range of court user fees that are now being imposed).

Northwest Justice Project and others worked together to document the problems that were being experienced by low-income people in need of judicial protection and the barriers that courts were imposing on access. They developed and submitted a separate proposed rule to the Supreme Court to address these and ensure that equity of access and fairness prevail in our civil justice system despite the mandatory distancing requirements imposed as a result of the public health emergency. OCLA signed off in support of both the proposed rule and the explanatory memorandum that accompanied it. (Attachment 3).

- 4. Ensuring Continuity of Civil Legal Aid Client Services.** In response to the Governor's emergency orders, staff at nearly every legal aid program – from Northwest Justice Project to the smallest of our pro bono service providers – has been moved to home-based virtual operations. OCLA and the Legal Foundation of Washington have worked closely to ensure that those unable to do so receive support and resources necessary to complete the transition. To that end, OCLA entered into an agreement with LFW to expand funding for LFW's Grantee Support Fund which will be used to help programs complete the transition to home-based operations. OCLA has committed up to \$10,000 in administrative funding for this effort.

While every program has been affected, NJP has experienced the greatest impact. NJP continues to operate the CLEAR hotline, provide client services through its 17 staffed legal aid offices (conducted now on a virtual basis), established a new COVID-19 self-help information page on Washington Law Help, and worked to address systemic issues that have arisen in response to the public health emergency, the Governor's orders, and various judicial orders. NJP Director of Advocacy Vanessa Hernandez was kind enough to take a few minutes from her schedule to provide me with a brief snapshot of life at NJP these days. (Attachment 4)

- 5. Emergency Legal Aid Deployment – Unemployment Insurance Representation.** As a consequence of the massive dislocation of workers in response to the Governor's emergency orders, there has been an historic number of unemployment insurance claims filed with the Employment Security Department (ESD). As an initial response, OCLA worked with Northwest Justice Project (NJP) and the Legal Foundation of Washington (LFW) to redirect the deployment of Civil Justice Reinvestment Plan attorneys funded by the Legislature in the FY 2019-21 operating budget. Specifically, we provided for the emergency assignment of 2 FTE attorneys to the statewide Unemployment Law Project

(ULP) effective April 1, 2020. We are grateful for NJP's and LFW's willingness to work with us to shore up ULP's very limited capacity in the face of extraordinary new demand.

We all recognize that 2 FTE's will not make a significant dent in the demand for UI claimant representation driven by the crisis. Consequently, OCLA has initiated efforts to establish an Emergency UI Rapid Response Team composed of private attorneys able and willing to provide representation in UI cases on referral from NJP/CLEAR or ULP. As envisioned, these attorneys will be engaged by OCLA on a direct contract basis to handle a specific number of cases over the course of the next six months. OCLA is working with ESD Commissioner Suzi LeVine and Deputy Commissioner and Chief Operating Officer Cami Feek to position ourselves to enter into an interagency agreement through which a portion of the massive federal emergency investment in unemployment benefits could be directed to support for this short-term emergency project. We are coordinating with ULP, the Washington Employment Lawyers Association (WELA) and the Washington State Association for Justice to develop an aggressive recruitment and contracting effort once we have a better sense of the potential funding availability.

- 6. Emergency Legal Aid Deployment – Other.** OCLA has reached out to the Emergency Management Division's State Emergency Operations Center (SEOC) to ensure they are aware of the profound expansion of need for civil legal aid services for people directly affected by the COVID-19 emergency and the resulting emergency orders. We will work with them to identify potential sources of emergency funding (e.g., FEMA, federal stimulus) that may be available to provide short term emergency legal assistance.

OCLA has communicated with Department of Commerce Secretary Lisa Brown to advise of the likely increase in demand for emergency legal aid for renters who will have accumulated substantial arrears during the statewide eviction moratorium ordered by Governor Inslee. The intent is to ensure that civil legal aid is included in the strategies they are developing for the expenditure of federal emergency funding to protect renters and homeowners who have been unable to work or otherwise experienced economic hardships that rendered them unable to pay rent or meet mortgage obligations during the crisis.

- 7. Emergency Legal Aid – Federal.** The third and most massive federal stimulus bill (which finally should pass today) includes \$50M in emergency funding for the Legal Services Corporation to enable its grantees to address COVID-19 related civil legal problems. OCLA estimates that this will result in a one-time additional LSC grant award \$900,000 to NJP.

As you can see, things are moving swiftly but thoughtfully. We greatly appreciate the collective efforts of the Alliance, the collaborative leadership of the Legal Foundation of Washington, and the amazing work of the staff at NJP, pro bono and other civil legal aid organizations to maintain services to clients during these terribly difficult times. These front line workers are truly doing heroic work for which we must all be grateful.

BE SAFE, STAY HOME, BE WELL

ATTACHMENT 1

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE) AMENDED ORDER
BY WASHINGTON STATE COURTS TO THE)
COVID-19 PUBLIC HEALTH EMERGENCY)
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WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the novel coronavirus disease (COVID-19) outbreak across the United States; and

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee has barred gatherings of more than fifty people and ordered all schools, businesses, faith-based organizations, and other public venues to close during the ongoing public health emergency, and the CDC has recommended restricting gatherings to no more than 10 people; and

WHEREAS, many court facilities in Washington are ill-equipped to effectively comply with social distancing and other public health requirements and therefore

continued in-person court appearances jeopardize the health and safety of litigants, attorneys, judges, court staff, and members of the public; and

WHEREAS, pursuant to this Court's March 4, 2020 order, many Washington courts have already taken important steps to protect public health while ensuring continued access to justice and essential court services; however, the crisis is increasing daily and it may become necessary for courts to close, suspend in-building operations or otherwise significantly modify their operations, and

WHEREAS, the increasingly aggressive spread of COVID-19 across Washington requires a uniform, coordinated response from Washington courts to prevent further outbreak and to maintain consistent and equitable access to justice; and

WHEREAS, this Court's consultation with trial court judges, justice partners and coordinate branches of government confirms the need for further direction from this Court; and

WHEREAS, the presiding judges across Washington need direction and authority to effectively administer their courts in response to this state of emergency, including authority to adopt, modify, and suspend court rules and orders as warranted to address the emergency conditions.

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of court personnel, litigants, and the public,

IT IS HEREBY ORDERED:

1. All civil jury trials shall be suspended until after April 24, 2020. Trials already in session where a jury has been sworn and social distancing and other public

health measures are strictly observed may proceed or, at the discretion of the trial court or agreement of the parties, be continued to a later date.

2. All non-emergency civil matters shall be continued until after April 24, 2020, except those motions, actions on agreed orders, conferences or other proceedings that can appropriately be conducted by telephone, video or other means that does not require in-person attendance.
3. All emergency matters, including civil protection and restraining order matters, that must be heard before April 24, 2020, must be heard by telephone, video, or other means that does not require in-person attendance, unless impossible. Where court matters must be heard in person, social distancing and other public health measures must be strictly observed. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.
4. All criminal jury trials are suspended until after April 24, 2020. Trials already in session where a jury has been sworn and social distancing and other public health measures are strictly observed may proceed or be continued if the defendant agrees to a continuance. For all criminal trials suspended under this provision, April 25, 2020 will be the new commencement date under CrR 3.3.
5. All **out of custody** criminal matters already pending shall be continued until after April 24, 2020 except those motions, actions on agreed orders, conferences or other proceedings that can appropriately be conducted by telephone, video or other means that does not require in-person attendance.

Arraignment on **out of custody** cases filed between today's date and April 24, 2020 or the first appearance in court after that date shall be deferred until a date 45 days after the filing of charges. Good cause exists under CrR 4.1 and CrRLJ 4.1 and JuCR 7.6 to extend the arraignment dates. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial under CrR 3.3(c)(1), CrRLJ 3.3(c)(1) and JuCR 7.8(c)(1). Nothing in this section requires suspension of therapeutic court proceedings that can appropriately be conducted by telephone, video or other means that does not require in-person attendance.

6. Courts may enter ex parte no contact orders pursuant to RCW 10.99.040, RCW 10.99.045, RCW 10.14.040, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation, or complaint is filed with the court and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Ex parte orders may be served upon the defendant by mail. This provision does not relieve the prosecution of proving a knowing violation of such an ex parte order in any prosecution for violating the order. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.
7. All **in custody** criminal matters shall be continued until after April 24, 2020, with the following exceptions:
 - a. Scheduling and hearing of first appearances, arraignments, plea hearings, criminal motions, and sentencing hearings.

- b. Courts retain discretion in the scheduling of these matters, except that the following matters shall take priority:
 - i. Pretrial release and bail modification motions.
 - ii. Plea hearings and sentencing hearings that result in the anticipated release of the defendant from pretrial detention within 30 days of the hearing.
 - iii. Parties are not required to file motions to shorten time in scheduling any of these matters.
8. Juvenile court jurisdiction in all pending offender proceedings and in all cases in which an information is filed with the juvenile court prior to April 24, 2020, in which the offender will reach the age of 18 within 120 days of April 24, 2020, shall be extended to the offender's next scheduled juvenile court hearing after April 24, 2020.
9. A continuance of these criminal hearings and trials is required in the administration of justice. Based upon the court's finding that the serious danger posed by COVID-19 is good cause to continue criminal jury trials, and constitutes an unavoidable circumstance under CrR 3.3(e)(8), CrRLJ 3.3(e)(8), and JuCR 7.8(e)(7), the time between the date of this order and the date of the next scheduled trial date are EXCLUDED when calculating time for trial. CrR 3.3(e)(3), CrRLJ 3.3(e)(3), JuCr 7.8(e)(3).
10. The Court finds that obtaining signatures from defendants for orders continuing existing matters places significant burdens on attorneys,

particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, for all matters covered in Sections 4 and 5, this Order serves to continue those matters without need for further written orders. Additionally:

- a. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters through April 24, 2020.
- b. Courts shall provide notice of new hearing dates to defense counsel and unrepresented defendants.
- c. Defense counsel shall provide notice to defendants of new court dates.

11. Bench warrants may issue for violations of conditions of release from now through April 24, 2020. However, courts should not issue bench warrants for failure to appear in-person for court hearings and pretrial supervision meetings unless necessary for the immediate preservation of public or individual safety.

12. Motions for Pre-Trial Release:

- a. Courts shall hear motions for pretrial release on an expedited basis without requiring a motion to shorten time, but only if victims or witnesses can participate on an expedited basis. Const. Art. 1 (section 35).
- b. The Court finds that for those identified as part of a vulnerable or at-risk population by the Centers for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to supply additional briefing on COVID-19 to the court. For all other

cases, the COVID-19 crisis may constitute a “material change in circumstances” under CrR/CrRLJ 3.2(k)(1) and “new information” allowing amendment of a previous bail order or providing different conditions of release under CrR or CrRL or J 3.2(k)(1), but a finding of changed circumstances in any given case is left to the sound discretion of the trial court. Under such circumstances in the juvenile division of superior court, the court may conduct a new detention hearing pursuant to JuCR 7.4.

- c. Parties may present agreed orders for release of in-custody defendants, which should be signed expeditiously.
- d. If a hearing is required for a vulnerable or at-risk person as identified above, the court shall schedule such hearing within five days. The court is strongly encouraged to expedite hearings on other cases with due consideration of the rights of witnesses and victims to participate.

13. Courts must allow telephonic or video appearances for all scheduled criminal hearings between now and through April 24, 2020, unless impossible. For all hearings that involve a critical stage of the proceedings, courts shall provide a means for the defendant to have the opportunity for private and continual discussion with his or her attorney. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.

14. The Court recognizes that there are procedural issue in juvenile, dependency, involuntary commitment, child support, and other matters that may not be

encompassed in this Order. Nothing in this Order limits other interested parties in submitting similar orders tailored to the unique circumstances of those matters and any other matters not contemplated by this Order; however, parties are strongly encouraged to contemplate the issues addressed in this order. Nothing in this order prevents courts from following specific emergency plans for such matters, including for Involuntary Treatment Act and dependency matters.

15. Nothing in this order limits the authority of courts to adopt measures to protect health and safety that are more restrictive than this order, as circumstances warrant, including by extending as necessary the time frames in this order.
16. The Supreme Court may extend the time frames in this order as required by continuing public health emergency, and if necessary, will do so by further order. This order and other applicable emergency orders may be deemed part of the record in affected cases for purposes of appeal without the need to file the orders in each case. This amended order supersedes the Supreme Court's March 18, 2020 order (as corrected March 19, 2020).

DATED at Olympia, Washington this 20th day of March, 2020.

For the Court


CHIEF JUSTICE

I write to express my disagreement with paragraphs 11 and 12 of this order. In this time of grave state emergency, bench warrants should not issue for violations of conditions of release without a specific finding that the alleged violation poses a serious threat to public safety. There are so many varied conditions of release that would not jeopardize public safety. Issuing bench warrants without such a finding of serious threat to public safety only serves to funnel more people into detention or for individuals to have outstanding warrants on their record. Outstanding warrants are also a basis for stopping and detaining individuals. I would prohibit such bench warrants absent a specific finding.

I also disagree with the conditions placed on pre-trial release in paragraph 12 that are *conditioned* on a victim or witnesses' participation. The Chief Justice misreads this important Constitutional provision. CrR 3.2 governs pre-trial release and this order, as written, undermines the presumption of release in noncapital cases. At most, notice to a victim or witness of release may be warranted but a victim or witness's participation has never been a condition of release and is not what our state Constitution requires. I object to this requirement which has no basis in the law.

Finally, I disagree with paragraph 12(b)'s statement that COVID-19 constitutes a change in circumstances for only a small portion of our Washington population. I believe it constitutes a change in circumstances for all.

Sp. J. 3-18-20
Robt McAd, J.
Gonzalez, J (by spm)
Montoya-Lewis, J (by spm)

ATTACHMENT 2

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE)
BY WASHINGTON STATE COURTS TO THE) ORDER RE: DEPENDENCY
COVID-19 PUBLIC HEALTH EMERGENCY) AND TERMINATION CASES
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) NO.
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WHEREAS, on March 18, 2020, the Court entered Order No. 25700-B-606, and said it would consider additional proposals regarding dependency and termination matters under paragraph 14; and

WHEREAS, requests have been submitted by the Office of Public Defense and the Office of Civil Legal Aid to adopt this Order to ensure consistency of practice and due process rights of parents and children during the present COVID-19 public health emergency; and

WHEREAS, the Court finds the suggested additions to its March 18, 2020 Order to be responsive to the rights and needs of parents, children, caregivers, social workers, and others during the present public health emergency;

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of the courts, personnel, litigants, and the public, it is hereby ORDERED:

1. Courts and all parties in shelter care hearings shall make their best efforts to make it possible for the shelter care emergency matter to be heard by telephone, video, or other means that do not require in-person attendance. These efforts shall include working together to address alternative means of providing and accepting discovery, client contact information, and pleadings. Shelter care hearings must be heard within 72 hours whether agreed or contested, unless waived by the parent(s).

2. In order to protect the right of parents to have a meaningful hearing, Courts must strictly comply with RCW 13.34. Attorneys for the parent(s) and the child(ren) must be given contact information for the client and a copy of the dependency petition in order to allow an opportunity to review the supervising agency records prior to the hearing.
3. Juvenile courts shall undertake an individualized determination as to whether early appointment of an attorney is indicated under the criteria and considerations set forth in *In re Dependency of E.H.*, 191 Wn.2d 872 (2018) and shall enter findings on the record regarding decisions of whether to appoint attorneys for children in such cases.
4. Appropriate safety and social distancing requirements must be maintained in any out-of-home placement of dependent children.
5. When contested matters are not heard in person, the Court must allow the parents and children the opportunity to speak confidentially with their attorneys prior to cross-examination of witnesses.
6. Courts have the authority to determine that any hearing in a dependency case is an emergency matter, depending on the facts and circumstances of that case, subject to shelter care hearings, which are emergent per Section 1 of this order.
7. No default orders for dependency fact-findings, termination fact-findings, or Title 13 guardianship fact-findings shall be entered until after April 24, 2020, because personal service and in-person court appearances jeopardize public health and safety.
8. Child and parent visitation shall continue, pursuant to RCW 13.13.160, subject to appropriate emergency-based frequency, time place, and manner considerations. Due to COVID-19 safety concerns, visitation shall be conducted by video, though in appropriate cases involving very young children face to face visitation may be maintained.

9. As the COVID-19 emergency has caused services delivery to be disrupted, a court shall not find parents to be out of compliance with their services plans, and such plans shall be extended for an amount of time proportionate to the emergency.
10. Exceptional reasons pursuant to RCW 13.34.070(1) exist to continue all dependency fact-finding hearings that are set between now and April 24, 2020, unless an agreed order of dependency is entered consistent with Section 2 of this order.
11. For hearings set between now and April 24, 2020, juvenile courts may find that the COVID-19 pandemic is a basis to find a good cause exception under RCW 13.34.145(5)(a) not to order the Department of Children, Youth, and Families to file a petition to terminate parental rights.

DATED at Olympia, Washington this _____ of March, 2020.

For the Court

ATTACHMENT 3

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE) BY
WASHINGTON STATE COURTS TO THE) COVID-
19 PUBLIC HEALTH EMERGENCY)
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O R D E R
No. 25700-B-

WHEREAS, on February 29, 2020, Governor Inslee proclaimed a state of emergency due to the novel coronavirus disease (COVID-19) outbreak in Washington; and on March 13, 2020, President Trump declared a national emergency due to the novel coronavirus disease (COVID-19) outbreak across the United States; and

WHEREAS, during this state of emergency, the Centers for Disease Control and Prevention and the Washington State Department of Health have recommended increasingly stringent social distancing measures of at least six feet between people, and encouraged vulnerable individuals to avoid public spaces; and

WHEREAS, consistent with these recommendations, Governor Inslee has barred gatherings of more than fifty people and ordered all schools, businesses, faith-based organizations, and other public venues to close during the ongoing public health emergency, and the CDC has recommended restricting gatherings to no more than 10 people; and

WHEREAS, many court facilities in Washington are ill-equipped to effectively comply with social distancing and other public health requirements and therefore

continued in-person court appearances jeopardize the health and safety of litigants, attorneys, judges, court staff, and members of the public; and

WHEREAS, pursuant to this Court's March 4, 2020 order, many Washington courts have already taken important steps to protect public health while ensuring continued access to justice and essential court services; however, the crisis is increasing daily and it may become necessary for courts to close, suspend in-building operations or otherwise significantly modify their operations, and

WHEREAS, the increasingly aggressive spread of COVID-19 across Washington requires a uniform, coordinated response from Washington courts to prevent further outbreak and to maintain consistent and equitable access to justice; and

WHEREAS, this Court's consultation with trial court judges, justice partners and coordinated branches of government confirms the need for further direction from this Court; and

WHEREAS, the presiding judges across Washington need direction and authority to effectively administer their courts in response to this state of emergency, including authority to adopt, modify, and suspend court rules and orders as warranted to address the emergency conditions.

WHEREAS, it is contrary to the principles of equitable access to justice to impose fees or costs on people who are indigent under General Rule 34 and RCW 10.01.010(3), and seeking to access the courts remotely during this emergency, and such fees and costs may also undermine public health by functionally mandating indigent people to file emergency matters in person.

NOW, THEREFORE, pursuant to the Court's authority to administer justice and to ensure the safety of court personnel, litigants, and the public,

IT IS HEREBY ORDERED:

General Civil Matters:

1. All civil jury trials shall be suspended until after April 24, 2020. Trials already in session where a jury has been sworn and social distancing and other public health measures are strictly observed may proceed or, at the discretion of the trial court or agreement of the parties, be continued to a later date.
2. All non-emergency civil matters shall be continued until after April 24, 2020, except those motions, actions on agreed or orders, conferences, or other proceedings that can appropriately be conducted by telephone, video, or other means that does not require in-person attendance. **Show cause hearings in unlawful detainer proceedings and default judgments cannot be appropriately conducted by telephone.**
3. All emergency matters that must be heard before April 24, 2020, must be heard by telephone, video, or other means that does not require in-person attendance, unless impossible. **Courts shall provide for access to telephone, video, or other means that do not require in-person attendance at no cost to indigent litigants or parties.** Where court matters must be heard in person, social distancing and other public health measures must be strictly observed. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.
4. **Courts must enable both remote and in-person filing of petitions or complaints in civil emergency matters, at no cost to indigent parties. To the maximum extent possible, courts should enable filing by E-file, email, fax, and via an in-person drop box that permits personal filing while maintaining social distancing. No indigent person shall be required to pay a fee for electronic, email, or fax filing, or shall be required to pay a presentment or other fee to**

ensure consideration of matter ex parte. Courts shall prominently post information about available filing methods on the court webpage.

5. Courts shall take all possible steps to ensure that people using interpreter services, including but not limited to limited-English proficient and Deaf individuals, have meaningful access to telephone, video, and other means that do not require in-person attendance.
 - a. Courts shall ensure that people who rely on interpreter services are able to schedule timely hearings or motions in all case types currently being considered by the court.
 - b. Courts shall translate information about scheduling emergency court hearings into the top 15 languages in their county.
 - c. Court clerks shall use telephonic interpreter services when communicating with limited English proficient litigants about court services.
 - d. Courts shall comply, to the maximum extent possible, with the American Bar Association Standards for Language Access in the Courts, when providing telephonic, video, or remote appearances for people using interpreters.
6. Emergency civil matters are those necessary to protect the safety, health, or basic welfare of individuals. This includes, but is not limited to:
 - a. Protection orders, including vulnerable adult protection orders (RCW 74.34), sexual assault protection orders (RCW 7.90), domestic violence protection orders (RCW 26.50), stalking protection orders, (RCW 7.92), extreme risk protection orders (RCW 7.94) and anti-harassment protection orders (RCW 10.14)..

- b. Return hearings on temporary restraining orders where personal safety is at risk
- c. Restraining orders in family law cases involving an immediate risk of harm to a person
- d. Motions for temporary orders or adequate cause in family law cases involving a risk to child safety, child abduction, or a party's basic financial survival (including the ability to maintain housing, basic necessities, and critical health care).
- e. Return on warrant hearings.
- f. Writs of habeus corpus, mandamus, or prohibition, and returns on writs.
- g. Orders involving the surrender of weapons.
- h. Temporary restraining orders or emergency orders to prevent termination of or secure access to critical public benefits (such as medical care, nursing care).
- i. Child in Need of Services petitions, when a child's safety is paramount
- j. Emancipation petitions, when the petition would further a child's access to housing or medical care, or protect the child from parental abuse.
- k. Actions seeking to prevent a landlord from summarily evicting, or "locking out", a tenant.
- l. Proceedings where a party is seeking findings for Special Immigrant Juvenile Status, including motions for default, motions to serve by publication, dependency petitions, vulnerable youth guardianships, motions for Special Immigrant Juvenile Status findings, and other necessary motions; and
 - i. the child will turn 18 or 21 before July 31, 2020, or

- ii. an immigration authority has scheduled a hearing or appointment with the child between today's date and July 31, 2020.

Protection Orders

7. Courts may enter ex parte no contact orders pursuant to RCW 10.99.040, RCW 10.99.045, RCW 10.14.040, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation, or complaint is filed with the court and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Ex parte orders may be served upon the defendant by mail. This provision does not relieve the prosecution of proving a knowing violation of such an ex parte order in any prosecution for violating the order. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.

8. Courts may enter ex-parte civil protection orders pursuant to RCW chapters 73.34, 7.90, 26.50, 7.92, 7.94, and 10.14 when a petition or motion is made and the court finds that the requirements of the respective statute are met. The trial court shall schedule the return hearing on an ex parte order under these chapters no sooner than 35 days after the issuance of the ex parte order or April 24, 2020, whichever is later. All reissuances of temporary ex parte orders shall also be extended to 35 days. Orders continuing and reissuing temporary orders may be served by mail on the parties.

Criminal and Juvenile Offender Matters

9. All criminal jury trials are suspended until after April 24, 2020. Trials already in session where a jury has been sworn and social distancing and other public health measures are strictly observed may proceed or be continued if the defendant agrees to a continuance. For all criminal trials suspended under this provision, April 25, 2020 will be the new commencement date under CrR 3.3.
10. All **out of custody** criminal matters already pending shall be continued until

after April 24, 2020. Arraignment on **out of custody** cases filed between today's date and April 24, 2020 or the first appearance in court after that date shall be deferred until a date 45 days after the filing of charges. Good cause exists under CrR 4.1 and CrRLJ 4.1 and JuCR 7.6 to extend the arraignment dates. The new arraignment date shall be considered the "initial commencement date" for purposes of establishing the time for trial under CrR 3.3(c)(1), CrRLJ 3.3(c)(1) and JuCR 7.8(c)(1).

~~Courts may enter ex parte no contact orders pursuant to RCW 10.99.040, RCW 10.99.045, RCW 10.14.040, RCW 7.90.150, RCW 9A.46.085, and/or RCW 9A.46.040, when an information, citation, or complaint is filed with the court and the court finds that probable cause is present for a sex offense, domestic violence offense, stalking offense, or harassment offense. Ex parte orders may be served upon the defendant by mail. This provision does not relieve the prosecution of proving a knowing violation of such an ex parte order in any prosecution for violating the order. Good cause exists for courts to extend ex parte orders beyond the initial period until a hearing can be held.~~

11. All **in custody** criminal matters shall be continued until after April 24, 2020, with the following exceptions:
- a. Scheduling and hearing of first appearances, arraignments, plea hearings, criminal motions, and sentencing hearings.
 - b. Courts retain discretion in the scheduling of these matters, except that the following matters shall take priority:
 - i. Pretrial release and bail modification motions.
 - ii. Plea hearings and sentencing hearings that result in the

anticipated release of the defendant from pretrial detention within 30 days of the hearing.

iii. Parties are not required to file motions to shorten time in scheduling any of these matters.

12. Juvenile court jurisdiction in all pending offender proceedings and in all cases in which an information is filed with the juvenile court prior to April 24, 2020, in which the offender will reach the age of 18 within 120 days of April 24, 2020, shall be extended to the offender's next scheduled juvenile court hearing after April 24, 2020.

13. A continuance of these criminal hearings and trials is required in the administration of justice. Based upon the court's finding that the serious danger posed by COVID-19 is good cause to continue criminal jury trials, and constitutes an unavoidable circumstance under CrR 3.3(e)(8), CrRLJ 3.3(e)(8), and JuCR 7.8(e)(7), the time between the date of this order and the date of the next scheduled trial date are EXCLUDED when calculating time for trial. CrR 3.3(e)(3), CrRLJ 3.3(e)(3), JuCr 7.8(e)(3).

14. The Court finds that obtaining signatures from defendants for orders continuing existing matters places significant burdens on attorneys, particularly public defenders, and all attorneys who must enter correctional facilities to obtain signatures in person. Therefore, for all matters covered in Sections 1 and 2, this Order serves to continue those matters without need for further written orders. Additionally:

- a. Defense counsel is not required to obtain signatures from defendants on orders to continue criminal matters through April 24, 2020.
- b. Courts shall provide notice of new hearing dates to defense counsel

and unrepresented defendants. Defense counsel shall provide notice to defendants of new court dates.

15. Bench warrants may issue for violations of conditions of release from now through April 24, 2020. However, courts should not issue bench warrants for failure to appear in-person for court hearings and pretrial supervision meetings unless necessary for the immediate preservation of public or individual safety and shall allow any warrants issued prior to the date of this Order to be quashed or converted to CrR 2.2(b) summonses for after April 24, 2020 where the warrant is not necessary for the immediate preservation of safety.

16. Motions for Pre-Trial Release:

- a. Courts shall hear motions for pretrial release on an expedited basis without requiring a motion to shorten time, but only if victims or witnesses can participate on an expedited basis. Const. Art. 1 (section 35).
- b. The Court finds that for those identified as part of a vulnerable or at-risk population by the Centers for Disease Control, COVID-19 is presumed to be a material change in circumstances, and the parties do not need to supply additional briefing on COVID-19 to the court. For all other cases, the COVID-19 crisis may constitute a “material change in circumstances” under CrR/CrRLJ 3.2(k)(1) and “new information” allowing amendment of a previous bail order or providing different conditions of release under CrR or CrRL or J 3.2(k)(1), but a finding of changed circumstances in any given case is left to the sound discretion of the trial court. Under such circumstances in the juvenile division of superior court, the court may conduct a new detention hearing pursuant

to JuCR 7.

- c. Parties may present agreed orders for release of in-custody defendants, which should be signed expeditiously.
- d. If a hearing is required for a vulnerable or at-risk person as identified above, the court shall schedule such hearing within five days. The court is strongly encouraged to expedite hearings on other cases with due consideration of the rights of witnesses and victims to participate.

17. Courts must allow telephonic or video appearances for all scheduled criminal hearings between now and through April 24, 2020, unless impossible. For all hearings that involve a critical stage of the proceedings, courts shall provide a means for the defendant to have the opportunity for private and continual discussion with his or her attorney. Telephonic, video or other hearings required to be public must be recorded, with the recording preserved for the record.

18. The Court recognizes that there are procedural issue in juvenile, dependency, involuntary commitment, child support, and other matters that may not be encompassed in this Order. Nothing in this Order limits other interested parties in submitting similar orders tailored to the unique circumstances of those matters and any other matters not contemplated by this Order; however, parties are strongly encouraged to contemplate the issues addressed in this order.

19. Nothing in this order limits the authority of courts to adopt measures to protect health and safety that are more restrictive than this order, as circumstances warrant, including by extending as necessary the time frames in this order.

20. The Supreme Court may extend the time frames in this order as required by continuing public health emergency, and if necessary, will do so by further order.

DATED at Olympia, Washington this _____ of March, 2020.

For the Court

ATTACHMENT 4

To: Jim Bamberger, OCLA Director

From: Vanessa Hernandez, NJP Director of Advocacy

Re: Northwest Justice Project Response to COVID-19 Public Health Emergency

Date: March 23, 2020

Jim, thank you for asking me to help you inform the Civil Legal Aid Oversight Committee about efforts NJP is undertaking in response to the COVID-19 public health emergency. As with other similarly situated public and private entities, all hands are on deck to understand the gravity of and respond to the crisis within the limits of our legal and fiscal authority and resources and the limitations imposed by the public health emergency orders from the Governor and the Supreme Court. Below is a very brief overview of things that NJP staff are doing.

Changes to NJP Operations: As of March 16, NJP's offices are physically closed to walk-in traffic but remain virtually open. We have converted to telephonic or postponed all clinics and community education and outreach events. We continue to receive intakes via the CLEAR hotline and direct referrals from community partners. All NJP staff have transitioned or are in the process of transitioning to work remotely.

Community Education: NJP quickly published and continues to update a COVID-19 resource page on Washington Law Help. The resources on Washington Law Help are a critical lifeline of information for people who are homebound, especially when information is flying so rapidly. We are working diligently to create new resources, including a recently published resource on the immigration consequences of seeking COVID-19 testing or treatment. NJP is also working to pull together a series of short videos with legal information to address the most significant needs in our communities.

Substantive Advocacy: Highlights and What is to Come:

NJP advocates have already jumped to quickly begin addressing some of the urgent need created by COVID-19. A few highlights:

- NJP staff in nearly every one of our offices across the state pushed local courts and executives to issue moratoria on evictions, and pressured local sheriffs to stop service of eviction-related writs. In addition, NJP staff have prevented the eviction of individual clients, including a 78 year old man with underlying health conditions who was facing the prospect of eviction from his retirement home or forced personal appearance at a crowded unlawful detainer docket.
- NJP's Farmworker Unit worked in collaboration with local and national partners to send a letter to the Governor identifying the risks facing agricultural workers in this environment.

- NJP's Medical Legal Partnership is representing the families of children with disabilities seeking to obtain services that were previously provided in schools, who are now being denied critical services and at risk of significant harm to their safety with the closure of schools due to COVID-19
- Over 90 NJP advocates across the state attended a training with the Unemployment Law Project to quickly build our ability to address the spike in joblessness.
- NJP's Screening Unit and CLEAR hotline are tracking COVID-19 related intakes, to give us a picture of how the disease is impacting people across the state and to inform our analysis of priorities moving forward.

NJP is ready to shift its advocacy to respond to this crisis. We are tracking legal issues arising from state and federal legislative and executive actions, data about our intake and service delivery, and actively engaging with conversations across the program, the Alliance, and with national partners to ensure coordination and appropriate deployment of resources.

Court Closures and Modifications: Over the past two weeks, NJP staff have invested a significant amount of time in tracking the various modifications to court operations, working with members of the local judiciary to address problematic practices, and educating members of the public about the rapidly evolving situation. We supported efforts by the criminal defense bar to request a uniform statewide approach to court procedures, and were gratified that the Supreme Court issued an order creating more uniformity on March 18th. We worked with partners in the Alliance for Equal Justice to propose additional refinements to that order, including ensuring that low-income litigants can appear via telephone, video, or other remote means without cost. Copies of our March 23, 2020 submission to the Court are attached. We appreciate OCLA's support.

Conclusion: The past three weeks have been an extraordinarily stressful time for NJP and for our communities. The immediate impacts of COVID-19 will be most dramatically felt by low-income communities, and the pandemic will exacerbate and deepen existing social inequalities. That means NJP's work to combat injustice and strengthen community will be more important than ever. The disruptions to our ordinary practice have been significant, but I'm confident that NJP and its advocates will rise to the challenge and continue to provide necessary and impactful services to our communities.