



Washington State Office of Civil Legal Aid

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CIVIL LEGAL AID OVERSIGHT COMMITTEE

MEMBER ORIENTATION MATERIALS

DECEMBER 2020

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF DECEMBER 11, 2020**

MEETING MATERIALS

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Legal Aid**

TAB 1

CIVIL LEGAL AID OVERSIGHT COMMITTEE

December 11, 2020
10:30 a.m. – 1:30 p.m.
Via Zoom Link

AGENDA

1. Introductions of Members and Guests (10:30-10:40)
2. Approval of September 25, 2020 Virtual Meeting Minutes (10:40 – 10:50)
3. FY 2022-23 Biennial Legislative Session (10:50 – 11:20)
 - a. Context
 - b. OCLA budget submissions
 - i. Continue COVID-19 Efforts
 - ii. COVID-19 impact on Children's Representation Study
 - c. Substantive legislative proposals
4. Proposal Regarding Oversight Committee Role in Response to Complaints of Extraordinary Executive Action (11:20 – 11:40)
Break (11:40 – 11:50)
5. Race Equity Presentations – Action Efforts Within the Alliance (11:50 – 1:10)
 - a. JustLead WA (Jennifer Werdell, Lori Bashor-Sarancik, Danielle Alvorado)
 - b. TeamChild (Anne Lee, Reyna Rollolazo)
 - c. Northwest Justice Project (Vanessa Torres Hernandez, Kelsey Burazin)
 - d. Legal Foundation of Washington Race Equity Grants Program (Caitlin Davis, Sarah Augustine)
6. ATJ Board, Legal Foundation of Washington, and Equal Justice Coalition Updates (1:20 – 1:30)
7. New Business/Adjourn

TAB 2

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF SEPTEMBER 25, 2020
DRAFT MINUTES**

Pursuant to notice duly provided in advance and in response to the COVID-19 Public Health Emergency, the fall quarterly meeting of the Civil Legal Aid Oversight Committee was held virtually through Zoom.us Friday, September 25, 2020.

Members Participating: Chair Sarah Augustine, Taylor Wonhoff, Justice G. Helen Whitener, Judge Rebecca Pennell, Chalia Stallings-Ala’ilima, Judge Faye Chess, Rep. Christine Kilduff, Ted Grammount, Sen. June Robinson

Members Not Participating: Sen. Ann Rivers, Rep. Drew Stokesbary

OCLA Staff: James Bamberger, Director; Hope Hough (Senior Administrative Assistant); Dana Boales (Crime Victims Legal Aid Program Manager); Jill Malat (Children’s Representation Program Manager)

Other Participants: Will Livesley-O’Neil (LFW-EJC), Michael Terasaki (Pro Bono Council), Randy Pepple (Pepple Communications), Karine Joy (KJ) Williams (JustLead and RiseWithKJ Consulting), Judge Judith Ramseyer (President, SCJA), Jeff Even (AGO), Judge Fred Corbit (ATJ Board Liaison), Jennifer Werdell (JustLead WA), Erin Shea-McCann (Legal Counsel for Youth and Children), Anne Lee (TeamChild), César Torres (NJP)

Chair Sarah Augustine called the meeting to order at 11:01 a.m.

1. Welcome and Introductions

Sarah Augustine thanked members and guests for taking the time to participate in the meeting despite their very busy schedules and heightened responsibilities during the current public health emergency. She invited members and guests to introduce themselves.

Jim Bamberger explained the Zoom meeting protocols, noting that all members and guests would be muted, and that people should use the chat box or raised hand tool before they spoke.

2. Thoughts on the Passing of Justice Ruth Bader Ginsberg

Sarah Augustine asked members and guests for a moment of silence to reflect on Justice Ruth Bader Ginsberg’s passing and her service to the cause of justice for all people during her extraordinary career. She then invited members to publicly share any thoughts they had, noting that the purpose of this moment is to reflect on Justice Ginsberg’s life and contributions, and not the politics associated with the appointment and confirmation of her successor. A number of members shared personal perspectives on Justice Ginsberg’s life, legacy, and passing.

To summarize comments shared by members, “It is hard to believe that this is the first time not only that a woman, but a Jewish woman, has lain in state in this country, which demonstrates not only the honor bestowed upon Justice Ginsberg, but also how far we have yet to go” ... and “What is amazing is that for such a small person, she made such a big impact, and the legacy she leaves behind is that all of us can make a difference if we just put our minds to it.” A related thought shared was that “Justice Ginsberg was not only a giant in her time, she was a giant for all

times and her jurisprudence, both in the majority and the dissent, will carry as part of the memory that she leaves with us and the traditions that hopefully will continue to reflect the best of us, both in the judicial branch and broader society.” And finally, “She was a true trailblazer.”

3. Approval of June 19, 2020, Virtual Meeting Minutes

Sarah Augustine asked if there were any suggested changes to the draft minutes of the June 19, 2020, Zoom Oversight Committee meeting.

Jim Bamberger advised that the draft minutes sent out with the materials failed to include Sen. Robinson on the list of members attending the meeting, but that they had since been corrected.

Motion: By Taylor Wonhoff to approve the minutes of the June 19, 2020, meeting as revised to reflect Sen. Robinson’s participation.

Second: By Justice Whitener

Action: Approved unanimously

4. Race Equity Discussion – Next Steps for OCLA and the Oversight Committee following issuance of the July 16, 2020, Statement on Racism and White Supremacy

Sarah Augustine noted that, following up on the conversation at the June 19th meeting, the Oversight Committee had issued a statement on racism and white supremacy on July 16th. She thanked Mr. Wonhoff, Rep. Kilduff, Ms. Stallings Ala-ilima, and Mr. Bamberger for their assistance in creating the statement. She noted the July 16th Statement embraced not only the Supreme Court’s June 4th open letter but also reaffirmed the Oversight Committee’s embrace of the Race Equity and Justice Initiative’s Acknowledgments and Commitments that the Committee had unanimously adopted in 2018. At that time, the Committee agreed to reserve dedicated time at each meeting to the subject of race, race equity, and their relationship to the work of OCLA and state funded legal aid providers.

Sarah Augustine invited OCLA Director Jim Bamberger to introduce KJ Williams. Mr. Bamberger provided a brief introductory overview. He noted that KJ’s statement about her recent professional experiences is included in the materials under Tab 7.

KJ Williams thanked the Oversight Committee for the opportunity to share her recent personal and professional experiences working within an avowedly ‘woke’ law and justice organization (the Washington State Bar Association), and the disconnect between the organization’s declared strategic intent around race equity and diversity, and its conduct at both the governance and executive leadership level. KJ thanked the Oversight Committee for its embrace of the REJI Commitments and its Statement of July 16th, but cautioned that words alone are insufficient at this time. While they create the perception of commitment, they do not by themselves deliver on that commitment. KJ noted that the Oversight Committee and the Office of Civil Legal Aid play critical roles in guiding the work and focus of our state’s publicly funded civil legal aid system, and spoke to the urgency that both entities critically examine themselves in relation to their

stated commitments. KJ offered a number of suggestions as to where and how they might ensure that race equity and broader considerations of equity and justice are core values that guide the strategic direction of the state-funded legal aid effort, expectations of legal aid providers, and oversight and accountability systems employed to monitor and report on both the needs of communities and the work of state-funded legal aid providers.

Sarah Augustine thanked KJ for her compelling presentation and noted that these comments offered the Committee the perfect pivot point into the “what’s next” part of the conversation. She then read aloud the final portion of the July 16th statement: ‘In doing so, we pledge to listen, learn, and act as individuals, as a governmental body, and in setting our expectations for and oversight of the services funded through OCLA.’ She invited members’ thoughts about what the Oversight Committee’s next steps should be in terms of listening, learning, and acting.

Sarah Augustine observed that there is an element of risk to have intentional conversations about race and race equity, as these conversations can be viewed as political or divisive; but that they must occur if the Oversight Committee is going to hold itself accountable to its statement and to the urgency of the moment.

Sarah Augustine invited Jim Bamberger to speak to the application of the REJI Commitments and the Oversight Committee’s July 16th Statement to the work of the Office of Civil Legal Aid. Jim Bamberger spoke about efforts OCLA has undertaken to incorporate equity-based client service expectations into client service contracts with legal aid providers, engage minority and women- owned business for OCLA-contracted work, rethink its approach to equity-based oversight and site visits, and institute an internal continuing conversation about race and race equity within the staff. He then advised that he felt it time for OCLA to formally develop and adopt an internal equity plan to guide agency internal operations, client service contracting, execution of monitoring and oversight functions, data metrics and analysis, outcomes assessment, and other areas of agency operations. He promised to develop a working draft prior to the end of the year.

Sarah Augustine invited members to offer specific recommendations regarding how to move towards fully embodying the REJI commitments. Ideas suggested include:

- At a future meeting, hear from legal aid providers how contracts are being administered with an eye towards race equity and justice.
- Define expectations regarding outreach in an authentic way that helps people in disenfranchised communities feel like they can access and trust the legal system.
- Have OCLA staff work with providers to assess how equity principles are operationalized in case service priorities and community engagement.
- Have a statewide “listening tour” to hear directly from communities around the state regarding how state-funded civil legal aid providers can best serve them and OCLA can best support the organizations that do the legal work on the ground in the best manner possible.

5. OCLA COVID-19 Emergency Civil Legal Aid Programs Update

Jim Bamberger provided an update on OCLA's implementation of the COVID-19 emergency programs funded with state Disaster Response Account and federal CARES Act funding. He reported that he presented a report on OCLA's COVID-19 emergency programs to the House Civil Rights and Judiciary Committee on September 16th where he was joined by Vanessa Torres Hernandez, Advocacy Director at Northwest Justice Project. He also provided members with an outline of the Eviction Defense Resolution program developed under the auspices of the SJCA's Unlawful Detainer Work Group. He encouraged members to review the materials appended to his written report as Attachments 1 and 2.

6. FY 2021 Supplemental and FY 2021-23 Biennial Budget Request

Jim Bamberger provided an overview of six decision packages included in the materials and for which he sought the Oversight Committee's endorsement before sending them over for submission to the Office of Financial Management. These included:

- FY 2021 supplemental budget reduction of \$165,000 for the Children's Representation Program due to reductions in the legally free caseload
- FY 2022-23 biennial reduction of \$165,000 per fiscal year for the Children's Representation Program due to reductions in the legally free caseload
- FY 2021 supplemental budget reduction of \$100,000 to eliminate funding for the International Families Justice Coalition (IFJC)
- FY 2022-23 biennial budget reduction of \$150,000 per fiscal year to eliminate carryforward funding for IFJC
- FY 2022-23 re-appropriation of \$560,000 previously appropriated for the Eviction Defense Study that was terminated due to the COVID-19 eviction moratorium, with funding to be used to help support emergency eviction defense services
- FY 2022-23 request for \$10.44M to continue and begin winding down COVID-19 emergency civil legal aid programs during the next biennium.

Members discussed the substance of the decision packages, and Will Livesely-O'Neil provided input from the Equal Justice Coalition regarding the request for \$10.44M for the COVID-19 emergency civil legal aid programs.

Jim Bamberger asked that the Oversight Committee endorse the decision packages by group.

A. Children's Representation Program Decision Packages

Motion: By Taylor Wonhoff to endorse the supplemental and biennial decision packages reducing expenditures for the Children's Representation Program.

Second: By Judge Pennell

Action: Unanimously adopted

B. International Families Justice Coalition Decision Packages

Motion: By Chalia Stallings-Ala'ilima to endorse the supplemental and biennial decision packages eliminating funding for the International Families Justice Coalition

Second: By Judge Chess

Action: Unanimously adopted

C. COVID-19 Related Client Service Decision Packages

Motion: By Taylor Wonhoff to endorse the decision packages related to continuing and beginning to wind down the COVID-19 emergency civil legal aid programs.

Second: Ted Grammount

Action: Unanimously approved

7. Process for Oversight Committee Consideration and Review of Contractor Complaints Relating to Extraordinary Staff Action

Sarah Augustine invited Chalia Stallings Ala-ilima to provide context for this discussion. Chalia Stallings Ala-ilima explained that she had been contacted by representatives of the International Families Justice Coalition questioning and challenging the decision by the OCLA Director to terminate the organization's contract effective September 30, 2020. She inquired and was surprised to learn that the Oversight Committee had no set rules or procedures by which challenges to extraordinary actions by the OCLA Director – such as termination of a contract – might be received and reviewed by the Oversight Committee.

Jim Bamberger advised that he welcomes the idea of establishing a set policy and process defining the respective roles of OCLA staff and the Oversight Committee in the event of challenges to extraordinary executive action. He noted that while the Oversight Committee does not have authority to rescind operational decisions made by staff, it is appropriate for the Oversight Committee to entertain complaints about allegedly arbitrary and capricious behavior by staff and to express its approval or disapproval of challenged actions. He encouraged the Oversight Committee to develop a policy and outline a process that respects the executive

prerogative of staff while ensuring timely and objective review and response from the Oversight Committee.

Chalia Stallings Ala-ilima recommended that a small work group be assigned to work with Jim Bamberger to develop a draft process for the full Committee's consideration at the December meeting. Members agreed. The subcommittee includes Rep. Christine Kilduff, Chalia Stallings Ala-ilima, and Taylor Wonhoff

8. Election of Vice-Chair/Chair-Elect

Sarah Augustine called for the nomination of Vice-Chair and Chair-Elect.

Motion: By Sen. Robinson for the nomination of Chalia Stallings Ala-ilima to serve as Vice-Chair/Chair-Elect.

Second: By Justice Whitener

Action: Unanimously elected

There being no further business, the meeting was adjourned at 12:51 p.m.

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

(December 2020)

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, 2021; 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, 2022; eligible for reappointment

Position 3 (Supreme Court 1):

Name: Hon. G. Helen Whitener
Address: Washington State Supreme Court
Temple of Justice
415 12th Ave SW
Olympia, WA 98501-2314
Phone: 360-357-2025
E-mail: helen.whitener@courts.wa.gov
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2020; eligible for reappointment

Position 4 (Supreme Court 2):

Name: Sarah Augustine, Chair
Address: 132 North 1st Ave.
Yakima, WA 98902
Phone: 509-453-8949
E-mail: director@drcyakima.org
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2020; eligible for reappointment

Position 5 (Supreme Court 3 – Client Eligible):

Name: Theodore Grammount
Address: 2345 Beach Street
Longview, WA 98632
Phone: 360-355-4628
E-mail: theodoregrammount@rocketmail.com;
grammount@gmail.com
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)
Term Expires: June 30, 2022; not eligible for reappointment

Position 6 (Senate Republican Caucus):

Name: Senator Ann Rivers
Address: 204 Newhouse Legislative Building
Olympia, WA 98504
Phone: 360-786-7634
E-mail: ann.rivers@leg.wa.gov
Appointing Entity: Senate Republican Caucus
Term Expires: June 30, 2020; 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, 2021; eligible for reappointment

Position 8 (House Republican Caucus):

Name: Representative Drew Stokesbary
Address: 426 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7846
E-mail: drew.stokesbary@leg.wa.gov
Appointing Entity: House Republican Caucus
Term Expires: June 30, 2022

Position 9 (House Democratic Caucus):

Name: Representative Christine Kilduff
Address: 334 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
Phone: 360-786-7958
E-mail: christine.kilduff@leg.wa.gov
Appointing Entity: House Democratic Caucus
Term Expires: December 31, 2020

Position 10 (Office of the Governor):

Name: Taylor (“Tip”) Wonhoff
Address: Office of the Governor
PO Box 40002
Olympia, WA 98504-0002
Phone: 360-902-4132
E-mail: taylor.wonhoff@gov.wa.gov
Appointing Entity: Office of the Governor
Term Expires: June 30, 2021; not 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, 2021; eligible for reappointment

TAB 5

CIVIL LEGAL AID OVERSIGHT COMMITTEE OPERATING RULES AND PROCEDURES

(Revised 4-23-07)

I. Name

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

II. Membership

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

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

III. Terms of Membership

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

A. Judicial Branch

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

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

B. Legislative Branch

Senate Republican Caucus	Initial term -- 3 years, expiring June 30, 2008 Eligible for one full additional term (through June 30, 2011)
Senate Democratic Caucus	Initial term -- 1 year, expiring June 30, 2006 Eligible for two full additional terms (through June 30, 2012)
House Republican Caucus	Initial term -- 2 years, expiring June 30, 2007 Eligible for one full additional term (through June 30, 2010)
House Democratic Caucus	Initial term -- 3 years, expiring June 30, 2008 Eligible for one full additional term (through June 30, 2011)

C. Other

WSBA	Initial term -- 1 year, expiring June 30, 2006 Eligible for two full additional terms (through June 30, 2012)
Office of the Governor	Initial term -- 2 years, expiring June 30, 2007 Eligible for one full additional term (through June 30, 2010)

IV. Officers

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

A. Term

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

B. Authority/Responsibility of Officers

1. Chair

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

2. Vice-Chair/Chair-Elect

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

V. Committees

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

A. Appointment of Legislative Member; Succession

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

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

B. Responsibilities

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

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

VI. Staffing

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

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

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

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

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

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

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

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

VIII. Quorum

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

IX. Voting

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

X. Amendment or Repeal

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

TAB 6

CIVIL LEGAL AID OVERSIGHT COMMITTEE RESOLUTIONS

Number	Date	Subject Matter	Status	Further Action Required
2008-01	18-Jan-08	Regarding Recommendations Relating to the Provision of State Funded Civil Legal Aid	approved	
2008-02	21-Feb-08	Acceptance of Tull Report and Related Recommendations	approved	
2009-01	27-Mar-09	Endorsing Temporary Surcharge on Attorney License Fees	approved	
2009-02	11-Dec-09	Endorsing ATJ Board Performance Standards	approved	
2009-03	11-Dec-09	Endorsing JusticeNet	approved	
2010-01	10-May-10	Endorsing Judicial Branch Whistleblower Policy	approved	
2010-02	3-Dec-10	Relating to Oversight Committee Meeting Expenditures	approved	
2010-03	3-Dec-10	Resolution Urging Adequate Funding of the Judicial Branch	approved	
2010-04	10-Dec-10	Regarding the Importance of the Office of Civil Legal Aid and Funding for Essential Civil Legal Aid Services in Washington	approved	
2011-01	7-Sep-11	Regarding Funding for the Federal Legal Services Corporation	approved	
2011-02	7-Oct-11	Affirming the Authority of the Director of the Office of Civil Legal Aid to Engage in Travel Necessary or Appropriate to the Discharge of the Director's Official Responsibilities	approved	Annual Report to the Oversight Committee detailing destination, costs, and purpose of each trip taken in the prior fiscal year the total cost of which exceeded \$100 and which was incurred at agency
2015-01	12-Jun-15	Regarding Funding for the Federal Legal Services Corporation	approved	
2016-01	25-Mar-16	Resolution Re: OCLA Director's Travel -- Revising Resolution 2011-02	approved	Increased threshold for reporting from \$100 per travel event to \$500 per travel event
2016-02	30-Sep-16	Endorsing the Civil Justice Reinvestment Plan and Recommending Legislative Funding of the Same	approved	Encourages Legislature to establish tax or surcharge to generate dedicated funding for civil legal aid
2016-03	28-Dec-16	Endorsing the Civil Justice Reinvestment Plan and Recommending Legislative Funding of the Same -- Revised	approved	Encourages Legislature to fund the Civil Justice Reinvestment Plan, recommends state general fund, proposes alternative of tax or surcharge if general funds not available.
2017-01	5-Apr-17	Opposing Elimination of federal Legal Services Corporation and asking Congress to maintain funding	approved	Requests state congressional delegation to oppose administration's proposal to eliminate LSC effective FFY 2018
Policy Directions and Statements				
	8-Jun-12	Policy Regarding OCLA Involvement in Promoting or Opposing Bills Before the Washington State Legislature	approved	Notice to OC before taking positions on policy bills not directly affecting OCLA or judicial branch budgets or statutes
	18-Apr-13	Endorsing Policy on Use of State Owned Mobile Telecommunications Devices	endorsed via e-mail	
		Embracing the Race Equity and Justice Initiative	Approved by motion	
	15-Dec-17	Acknowledgments and Commitments and directing that race equity discussions be a standing agenda item in future meetings	in open meeting	Requires a standard agenda item for discussion and/or training

TAB 7



Washington State Office of Civil Legal Aid

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Olympia, WA 98504
MS 41183
360-704-4135
360-704-4003 (fax)

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POLICY REGARDING CIVIL LEGAL AID OVERSIGHT REVIEW OF COMPLAINTS ARISING FROM EXTRAORDINARY OFFICE OF CIVIL LEGAL AID EXECUTIVE ACTION

The Office of Civil Legal Aid (OCLA) is an independent judicial branch agency. The agency administers and oversees the use of state funding appropriated for the provision of civil legal aid services to eligible low-income people in Washington State. OCLA's authority is set forth in Title 2.53 RCW. OCLA does not provide civil legal aid services directly, but contracts for the provision of such services by non-profit professional civil legal aid provider organizations.

The Civil Legal Aid Oversight Committee (Oversight Committee), established by RCW 2.53.010, oversees that activities of the Office of Civil Legal Aid, reviews the performance of and provides guidance and feedback to the OCLA Director, and makes recommendations as appropriate to the Legislature and the Supreme Court's Access to Justice Board on matters relating to the delivery of state funded legal aid services. The Oversight Committee has no operational authority over day-to-day agency operations, but through its oversight functions ensures that the OCLA Director acts in a manner consistent with the agency's mission and statutory charge.

There have been, and are likely to be, times when OCLA takes extraordinary action that gives rise to complaints of agency overreach or arbitrariness. These can include, but are not limited to, actions to terminate ongoing client service contracts, and the conduct and extensiveness of OCLA monitoring and directing contractors to take corrective action. Where such actions occur, individuals and organizations who perceive themselves aggrieved as a result of such actions might reach out to members of, and ask that, the Oversight Committee review and/or override the actions with which they feel aggrieved. The purpose of this policy is to define the respective roles of the OCLA Director and the Oversight Committee in such circumstances.

- a) **Definition of Extraordinary Executive Action.** Extraordinary executive action is action taken by the OCLA Director or under direction of the OCLA Director that significantly deviates from operational norms and agency policy, practice, or protocol; are asserted to be outside agency authority or reflect the arbitrary exercise of discretion; or are undertaken with improper motive and have a significant negative impact on the entity affected.

OCLA Policy on Review of Complaints Relating

to Extraordinary Executive Action

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b) **Role of Oversight Committee Upon Receipt of Complaints Challenging**

Extraordinary Executive Action. Any member who receives a complaint contesting or challenging action asserted to constitute extraordinary executive action, shall forward the same to the Oversight Committee Chair. The Oversight Committee Chair shall share the complaint with members of the Executive Committee and schedule a meeting to review the complaint. The Executive Committee shall:

- i) Make a threshold determination of whether the action complained of, on its face as alleged, meets the definition of extraordinary executive action;
 - ii) If the determination is that such action involves extraordinary executive action, forward the complaint to the OCLA Director with a request for a written response;
 - iii) Review the Director's written response and determine whether further discussion with the OCLA Director is necessary or warranted and, if so, schedule a meeting with the OCLA Director to explore questions or review issues not addressed in the OCLA Director's response;
 - iv) Take one or more of the following actions:
 - (1) Endorse the action taken by the OCLA Director;
 - (2) Express its disapproval of the action taken by the OCLA Director and outline the reasons for such disapproval; and, if circumstances are appropriate, invite the OCLA Director to reconsider, rescind, or modify the action taken;
 - (3) Communicate with the complaining party the result of the Executive Committee's review, including whether the Committee determined the matter to meet the definition of extraordinary executive action.
 - v) Action taken by the Executive Committee in accordance with the procedures outlined in this policy shall be shared with the full Oversight Committee. Any member of the Oversight Committee may request that the matter be referred to the full Oversight Committee for further consideration.
- c) **Operational Effect of Oversight Committee Disapproval.** While the Oversight Committee, acting through the Executive Committee in accordance with this policy, may not mandate that the OCLA Director take one or more corrective actions in relation to the matter that is the subject of the complaint, the Oversight Committee may consider the OCLA Director's actions or lack thereof within the context of the Oversight Committee's periodic or non-routine reviews of the OCLA Director's performance.

TAB 8



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James A. Bamberger, Director
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To: Civil Legal Aid Oversight Committee
From: Jim Bamberger, Director
Re: December 2020 Quarterly Director's Report
Date: December 3, 2020

Consistent with the requirement of RCW 2.53.020(3)(c), I submit this memo highlighting the principal areas of OCLA engagement during the period since the September 25, 2020 meeting. As this meeting closely follows on the heels of the latter meeting, this report will be brief, and focus on the following:

- COVID-19 related activities
- FY 2021 Supplemental and FY 2022-23 biennial budget efforts
- Department of Justice Audit of the FY 2016-2019 VOCA Program and corrective action taken
- Closing out the Children's Representation Study

1. COVID-19 Related Client Service Efforts

As reported in the September Director's report, OCLA obligated \$5.5M in COVID-19 funding for emergency civil legal assistance and support for individuals and families affected by the pandemic. Emergency legal assistance is targeted to address COVID-19 related legal problems in the following areas:

- Unemployment Insurance (UI)
- Employment/Worker Health and Safety
- Economic Security
- Eviction Defense
- Foreclosure Defense
- Economic Security

A full list of recipients and the focus of the client services was provided in the September 25th Director's report.

Since the September 25th meeting, we have been meeting with program staff engaged in COVID-19 related services, monitoring client service information (demand, demographics, and outcomes), and adjusting expectations as changing circumstances require. Two notable situations emerged during this period requiring flexible responses by OCLA and its contractors: (1) further extension of the Governor’s moratorium on evictions through December 31st, and (2) continued backlogs in review, processing, denial, and appeals of unemployment compensation claims.

Through regular meetings and individualized conversations, OCLA and Legal Foundation of Washington staff¹ met regularly with HJP staff. In light of the moratorium’s extension, we encouraged programs to increase outreach and legal rights education of tenants, work closely with local entities administering state Emergency Rent Assistance Program (ERAP) funding, and monitor unlawful detainer cases that continue to be filed to ensure that they are filed consistent with the proper interpretation of the exceptions to the moratorium: (a) immediate risk to health and safety, (b) intent of the owner to personally occupy the premises as the owner’s primary residence or (c) sale of the property. HJP’s operating in pilot Eviction Resolution Program (ERP) counties have also been encouraged to work with local Dispute Resolution Center staff, judicial officials, and ERAP funding managers to ensure effective implementation of the pilot ERP’s.

In response to the problems experienced with unemployment claims processing and review/appeals from denials, an interagency working group was convened involving representatives from OCLA, the Employment Security Department (ESD), the Office of Administrative Hearings (OAH), and the Unemployment Law Project (ULP). This group met every two weeks between September and mid-November. These meetings helped us identify and troubleshoot a range of issues relating to claimant access to case status information for claimants and claimant access to accurate information about the availability of free legal assistance. In addition, we worked to identify and address a range of processing bottlenecks, practices that create confusion for claimants, and ensure that timely information is available to OCLA and ULP staff on the number of cases moving through the ESD decision making process and into the OAH hearing process. Most importantly, the meetings resulted in the development of cross-agency staff relationships that allow for effective and timely problem identification, consultation, and resolution outside of the formal meeting framework. As a result of these efforts, substantial progress has been and continues to be made in reducing confusion and ensuring claimant access to timely legal assistance. More than 10,000 cases/month are now being forwarded to OAH for review hearings.² Backlogs have moved from ESD to OAH, with the latter agency aggressively expanding the number of available administrative law judges and scheduling of “rocket dockets” to handle the volume. In the meantime, OCLA contract attorneys and attorneys at ULP are seeing significant increases in the number of claimants requesting and receiving legal representation on appeals from unemployment and pandemic unemployment insurance claim

¹ Through a Memorandum of Agreement, emergency COVID-19 eviction defense funding made available to 10 local Housing Justice Projects flows through the Legal Foundation of Washington, which was able to advance grant funds necessary to enable these programs to meet operational expenses pending reimbursement from OCLA.

² This number is likely a harbinger of the likely volume in coming months as a consequence of the Governor’s most recently revised restrictions.

denials. As of November 30th, 55 cases have been assigned to OCLA-contracted attorneys. We expect that number to grow rapidly.

2. Other COVID-19 Related Activities

A. SCJA Unlawful Detainer Work Group/Eviction Resolution Program (ERP)

The SCJA's pilot Eviction Resolution Program (ERP) described in the September quarterly report³ received emergency CARES Act (Coronavirus Relief Fund) funding from OFM in October and went live in all six pilot counties in November. AOC staff issued a [press release](#) and established a [dedicated website](#) where information about the ERP program in general and efforts in each of the pilot counties is hosted. SCJA Unlawful Detainer (UD) Work Group Chair, Jacqueline Shea-Brown and I have made a number of presentations to local stakeholders and rental housing industry groups about the design and objectives of the ERP.

Expenditure authority for CARES Act funding currently expires December 30th. We are all hoping that Congress will act before the end of the year to provide additional COVID-19 relief, but there is little certainty of any action on the federal front. In the absence of immediate additional federal investment, the Administrative Office of the Courts (AOC), on recommendation of the Chief Justice, SCJA President, UD Work Group, and OCLA, submitted an "early action" supplemental budget request to allow continued operation through the end of the current biennium (June 30, 2021).

B. Governor's Eviction Moratorium Work Group

In September, I was asked to serve on the Governor's Eviction Moratorium Work Group. The work group was established by OFM pursuant to the Governor's directive in Proclamation 20-19.3 and continued in Proclamation 20-19.4. The Work Group includes a broad range of representatives from the rental housing industry, tenant advocates, state and local governmental agencies, and others involved in activities affected or governed by the eviction moratorium. The Work Group has met seven times since late September, offering suggestions that resulted in changes to the most recent extension of the moratorium (incorporated into Proclamation 20-19.4), and continues to address issues of concern to many stakeholders.

C. Foreclosure Fairness Act Working Group

Since prior to enactment of the Foreclosure Fairness Act (FFA) in 2012, Representative Tina Orwall has regularly convened a group of stakeholders to develop and promote legislative and budget initiatives designed to ensure fairness in the non-judicial foreclosure process established in the state's Deed of Trust Act, RCW 61.24. I participate in these conversations as do foreclosure prevention attorneys at Northwest Justice Project (NJP) and other homeowner attorneys and advocates. The objective has been to establish mechanisms pursuant to which homeowners facing the prospect of foreclosure can meet on an equal footing with representatives

³ The materials for the September 25, 2020 meeting are still on the Oversight Committee [website](#) and available for your review.

of lending or loan servicing institutions who have authority to negotiate resolution of disputes involving residential mortgage loans that are in default.

During this most recent period, the foreclosure working group has been challenged to address the dual challenges of (a) an unprecedented increase in the number of mortgages that are technically in default (due to the COVID-19 crisis), and (b) a failure of the FFA funding mechanism to generate sufficient funding to underwrite critically need housing counseling and civil legal aid services. Recommendations are being developed for presentation to the Legislature in this coming session that we hope will allow us to better prepare for the coming tsunami of mortgage foreclosure activity once the current federal forbearance requirements⁴ expire at the end of the year.

3. FY 2021 Supplemental Budget and FY 2022-23 Biennial Budget Requests

Now that the election has come and gone and legislative committee membership has been determined, all eyes are turned toward the first virtual legislative session in Washington State history. Both the Senate and House have adopted rules governing how the session will proceed in each of the respective chambers. Notably, both will conduct most committee business virtually and will limit public and lobbyist access to the Capitol Campus. This means that there will be substantially fewer opportunities to meet with members face-to-face.

OCLA's principal objective this session is to secure funding to continue critical COVID-19 related client service activities throughout the FY 2022-23. Final decision packages (consistent with those endorsed at the Oversight Committee's September 25th meeting) have been submitted seeking a total of \$5.5M in COVID-19 funding for FY 2022 and \$4.5M in 2023. We are hopeful that between now and the beginning of legislative budget deliberations in earnest Congress will enact a supplemental COVID-19 stimulus bill that can be used, in part, to continue to underwrite programs that are currently funded by a combination of federal CARES Act and state Disaster Response Account. Should that not occur, we will then be looking to the state general fund to maintain COVID-19 emergency client services.

The most recent [revenue forecast](#) produced by the Economic and Revenue Forecast Council shows a much smaller projected operating deficit than initially predicted last spring. Instead of an \$8.8 billion deficit through FY 2023, the forecast now projects a deficit on the order of \$2.2 billion. The report is full of uncertainties, some of which are compounded by the current spike in infections and the Governor's recent actions reducing economic activity in a number of sectors. The forecast also does not take into consideration critically needed new investments driven by the COVID-19 pandemic. Consequently, we anticipate and are preparing for a very difficult budget conversation.

In addition to the budget, OCLA is likely to be asked to evaluate the fiscal impact of a number of bills during the coming session, including bills to expand the right to legal representation for children in dependency cases and to expand the availability of legal assistance for tenants and homeowners facing eviction and foreclosure.

⁴ https://files.consumerfinance.gov/f/documents/cfpb_csbs_industry-forbearance-guide_2020-06.pdf

4. US Department of Justice – Office of Inspector General (US DOJ-OIG) Audit

As reported in the September Director’s Report, OCLA’s administration of federal Victims of Crime Act (VOCA) funding during the FY 2016-19 period was the subject of a fiscal audit by the federal Department of Justice’s Office of Inspector General (DOJ/OIG). This was part of a comprehensive audit of the Department of Commerce’s administration of VOCA funding coming to the state of Washington.⁵ A final report was issued to the Department of Commerce by the DOJ’s Office of Justice Programs (DOJ/OJP) in early October. This report confirmed the propriety of OCLA’s approach to administering, investing, and overseeing the use of VOCA funds. However, it formally questioned about \$70,000 in expenditures of one of OCLA’s subrecipients and directed Commerce to obtain repayment of those funds.

In response, OCLA engaged the Bellevue-based independent accounting firm, Lindley & Associates, LLC, to review and help OCLA respond to the DOJ/OJP conclusions about questioned costs. Lindley & Associates undertook a comprehensive review of the subrecipient’s personnel and non-personnel time and accounting records for the period in question. They submitted a report disputing the DOJ/OJP conclusion regarding the allocation of personnel expenses, but confirmed that certain non-personnel expense calculations for the period in question were not supportable with contemporaneous documentation. Relying on and incorporating the Lindley & Associates analysis and 58 pages of backup documentation, OCLA responded by contesting about 90% of the questioned costs, and agreeing to undertake recovery of the balance (\$7,168.06). OCLA’s position was incorporated into the Department of Commerce’s November 2, 2020 response to DOJ/OJP. OCLA has since entered into an agreement with the subrecipient pursuant to which recovery of the questioned costs will be completed by December 31, 2020 and has forwarded that to the Department of Commerce, Office of Crime Victims Advocacy. As the documents involved in this are extensive, I have not included them as attachments to this report. I am happy to make them available on request.

5. Closing Out the Children’s Representation Study

In 2017, the Legislature directed OCLA, in concert with the Washington Center for Court Research (WSCCR) at the Administrative Office of the Courts, to undertake a comparative study of the effectiveness of early appointment of attorneys for children in dependency cases. Grant County and Lewis County were designated as “treatment counties” (counties in which trained attorneys are appointed to provide standards-based legal representation at the initial shelter care hearing), while Whatcom County and Douglas County were designated as “control counties” (counties where attorneys do not represent children at the initial stages of a dependency case or, if attorneys are appointed, they are not trained and do not provide standards-based representation). Between the fall of 2017 and September 30, 2019, attorneys were appointed in 499 cases in Grant County and Lewis County. Appointments terminated effective September 1, 2019. Since then we have been working with OCLA-contracted study attorneys to close out the balance of cases, thereby enabling WSCCR to complete the data analysis and report findings to the Legislature.

⁵ OCLA administers VOCA civil legal aid funding pursuant to an interagency agreement with the Department of Commerce.

The COVID-19 pandemic and related changes to dependency and termination⁶ case practices and timing, along with changes in visitation protocols and the availability of required services for parents and children, have caused significant delays in the wind-down schedule for these cases. Cases will continue well beyond original timelines. This in turn will require additional expenditures for attorney representation. OCLA and WSCCR are in the process of advising the Legislature of the changed assumptions and timelines caused by COVID-19 emergency orders and directives and offer a path forward toward completion of the study consistent with the Legislature's objectives in FY 2022.

⁶ Of the 261 remaining open cases as of October 31st, 66 are moving forward with termination of parental rights trials. Since April termination trials have been effectively stayed due to emergency orders issued by the Washington State Supreme Court and local courts, these cases will not proceed on normal timelines.