



## Washington State Office of Civil Legal Aid

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James A. Bamberger, Director  
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To: Civil Legal Aid Oversight Committee

From: Jim Bamberger, Director

Re: Quarterly Report: 2021 Legislative Session Edition

Date: April 5, 2021

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While I am sorry we were unable to meet on April 2<sup>nd</sup>, I am sure that our legislative members were pleased to be relieved of yet another Zoom meeting. As promised, here is my regular quarterly report to the Oversight Committee. While we are doing many things outside of the legislative context, I think it best to focus this report exclusively on significant legislative initiatives and their consequences.

By any measure or historical reference point, this has been an extraordinary session. The Capitol Campus has been closed, access to members has been limited to scheduled virtual meeting times, there has been little impromptu opportunity for problem identification/solving, and the gravity of the issues presented this session is unprecedented; all of which has been further complicated by volatile and ever-changing revenue projections and the late contributions of emergency federal help to our state.

Hats off to legislative staff, especially technology staff, for running the session with few technological glitches. It is truly amazing how smooth things have gone. Hats off, too, to leadership in both the House and the Senate for ensuring fair and open hearings, and accessible systems through which the public can share their perspectives on the issues of the moment.

Despite all the challenges, work continues apace, and real progress is being made on many equity and justice issues, including several that affect the Office of Civil Legal Aid. Below you will find an outline of progress in the primary issues that have been the subject of our focus since January.

### **1. Removing the Prohibition on Using State Funding to Serve Undocumented Individuals (Policy)**

Representative Debra Lekanoff (D-40) and Rep. Javier Valdez (D-43) sponsored HB 1072. This simple bill would remove section (5)(g) from RCW 2.53.030. This is the section that prohibits the use of state appropriated legal aid funding to represent individuals in the United States without legal authority.

The bill has passed the House Civil Rights and Judiciary Committee, House Appropriations Committee, House Floor, and the Senate Law and Justice Committee. It is awaiting floor action in the Senate, after which it will go the Governor for his signature.

When effective, this bill will remove major obstacles to ensuring equity of access to state funded legal assistance for undocumented immigrants who experience a full range of civil legal problems but, depending of where they live and the legal aid programs and scope of services available, are disproportionately denied legal help.

## **2. COVID-19 Emergency Civil Legal Aid Program Extension (Budget)**

Shortly after the Governor issued his public health emergency proclamation in late February 2020, OCLA sought and secured \$5.5M in emergency funds to establish a statewide COVID-19 Emergency Civil Legal Aid Program. The scope of the program is outlined in the attached Report to the Legislature. The urgency of the civil legal aid crisis facing low-income people, low-wage workers, displaced workers, and others affected by the pandemic has been well-chronicled through a series of op-ed pieces and on-the-ground reporting published in media throughout Washington State. A one-page overview of the core messages of the urgency to establish and maintain front-line legal help for COVID-19 affected individuals and households (with links to the op-ed's) is attached. You can also find links to all of these at [www.ocla.wa.gov/reports](http://www.ocla.wa.gov/reports).

Our statewide COVID-19 emergency civil legal aid program commenced in mid-June and continues with a range of strategies focused on critical legal problems driven by the pandemic. With extraordinary speed – and despite that they have all been working remotely since March 2020 -- our COVID-19 Emergency Legal Aid Program partners *provided legal assistance to 12,270 individuals just between June 1, 2020 and January 31, 2021.*

The state and federal emergency funding we secured to provide these services expires June 30<sup>th</sup>. To ensure continuity of these efforts (and with the Oversight Committee's endorsement) we sought \$11M in continuing support in the FY 2021-23 biennium, with a ramp-down to a new post-pandemic (if there is such a thing) normal of \$3M per year thereafter. I am pleased to report that both the House and Senate budgets that have passed their respective chambers *fully fund* this request, thereby committing state general fund support for this long-term effort. In the coming months we will be working to determine where and how best to continue and, where indicated by changing legal problems and needs for pandemic-related civil legal aid services on the ground.

## **3. Right to Counsel for Indigent Tenants in Unlawful Detainer Proceedings (Policy and Budget)**

The Legislature has committed significant energy to finding an “off-ramp” to the rental housing crisis created by the mass loss of jobs, income, and other pandemic related challenges experienced by landlords and tenants. For 15 months, the state of Washington has been operating under a broad emergency eviction moratorium. As of this writing landlords have

experienced more than \$1B in rental arrears. Tenants, while substantially protected while the moratorium remains in place, face the prospect of mass eviction, residential housing dislocation, and, for many, homelessness.

Nearly all legislative members recognize the need to right the ship through the commitment of significant amounts of federal and state rental assistance, expansion and perpetuation of the pilot Eviction Resolution Program developed by the Superior Court Judges' Association's Unlawful Detainer Work Group in partnership with OCLA, and the expansion of legal assistance for tenants facing unlawful detainer (eviction) actions. The Legislature acted quickly to direct significant (\$355M) state and federal funding for rent assistance in the emergency second supplemental budget bill signed by the Governor on February 19<sup>th</sup>. Additional large commitments relying on federal Treasury Rent Assistance Program (T-RAP) funding are embodied in both the budget bills passed by the House and Senate. All-told, more than \$1B in direct tenant and landlord rent assistance will be pushed out to address the crisis.

The principal policy bill that has emerged to guide the moratorium off-ramp is [E2SSB 5160](#), originally sponsored by Senator Patty Kuderer. Through a succession of significant amendments, the bill has received substantial and growing bipartisan support. More importantly, it has and maintains support from both the major landlord and tenant advocacy groups. The bill has passed the Senate and awaits final floor action in the House.

Section 7 of the bill codifies the authority of courts to establish Eviction Resolution Programs modeled on the pilot program created by the UD Work Group and now operating in six counties.

Sections 8 and 9 establish – *for the first time in the history of the United States* – a universal statewide right to legal representation for indigent tenants in unlawful detainer proceedings. Responsibility for establishing and underwriting such a program is assigned to the Office of Civil Legal Aid.

The right to counsel (RTC) provisions of the bill have been among the least controversial of any of the many tenant provisions offered in the original bill and carried through in its current version. Many landlords testified in support of having tenants represented by attorneys. The RTC provisions appear to have strong bipartisan support as well.

OCLA submitted a succession of fiscal notes outlining how it would implement the RTC and what it would cost. The Senate budget fully funds implementation over the next biennium with a commitment of \$22.3M in state general funds. As the House budget issued before it had acted on the bill itself, no funding was included in the budget that passed that chamber. However, as the bill has now passed the House Appropriations Committee (and is anticipated to pass the floor), we fully anticipate that RTC funding will be included in the final operating budget.

Anticipating passage and a very short timeline to submission of an initial implementation plan to the Legislature (90 days following the Governor's signature), OCLA has created an RTC Implementation Technical Advisory Work Group. The group includes representatives from the courts, legal aid and housing justice programs, community-based tenant advocacy organizations, and BIPOC community advocacy organizations that have been involved in the effort to pass

5160. We have identified 12 primary implementation issue areas and have broken into small sub-groups to generate a range of ideas and suggestions that might be included into OCLA's comprehensive implementation strategy. These efforts are on a very fast track and a blueprint of implementation strategies should be produced by May 15<sup>th</sup>.

Once the bill has passed the House, OCLA will publish a Notice of Position Vacancy for a statewide Eviction Defense Program Manager (the job description has been written and vetted with key stakeholders; we are just waiting for confirmation that the bill will pass). I hope to have an EDP Program Manager on board no later than July 1<sup>st</sup>.

In addition to working with the Implementation Technical Advisory Work Group, I have been consulting with colleagues and program leaders who have implemented RTC programs in New York City, Cleveland, and other cities, and also with the National Coalition on Civil Right to Counsel, and the head of Princeton University's [Eviction Lab](#) – Matthew Desmond, author of the 2017 Pulitzer Prize-winning best-seller, [Evicted](#), which documented the eviction crisis using my home city of Milwaukee, WI as the location for his field research.

#### **4. Expanded Right to Counsel for Children and Youth in Dependency Cases (Policy and Budget)**

Every year, the Supreme Court's Commission on Children in Foster Care (CCFC) and the Governor's Office of Homeless Youth co-sponsor a summit at which regional [Mockingbird Society](#) teams composed of foster and former foster youth present specific recommendations for changes in policies and practices relating to the treatment of youth in care. As members of the CCFC, Jill Malat and I participate in these summits.

For the past five years at least, Mockingbird Youth teams have been advocating for a universal right to standards-based legal representation for children in dependency and termination cases. Under current law, there is only a limited right – for children who remain in care six months after the termination of their parents' legal rights.

On request of the Mockingbird Society, Representatives Noel Frame (D-36) and Jesse Johnson (D-30) filed HB 1219, that would phase in a right to counsel for children and youth over six years. As now amended and passed by the House (85-13), the bill would provide a right to appointed counsel for children and youth ages 8 and above starting at the initial shelter care hearing or at the first hearing thereafter (in cases where a child ages into a right to counsel). [2SHB 1219](#) has passed the House. In the Senate it has passed the Human Services, Reentry & Rehabilitation and Ways and Means Committees. It now awaits floor action. The House fully funds the first two years of the phased implementation (\$2.032M), starting with the first six counties on July 1, 2022. Once it passes, OCLA will add program and support staff to the Children's Representation Program, begin an intensive contract attorney recruitment and training effort, and commence discussions with the courts in the Phase I counties.

## **5. Victims of Crime Act (VOCA) Funding (Budget)**

On February 27<sup>th</sup>, we were notified by the Department of Commerce, Office of Crime Victims Advocacy that, due to a precipitous drop in federal crime victim funding, funding for crime victims legal assistance would drop by \$1.446M effective July 1, 2021. We notified our VOCA-funded programs immediately and advised that they undertake planning for significant funding reductions.

At the same time, OCLA commenced conversations with leaders in the sexual assault (SA) and domestic violence (DV) communities to explore whether and how we might undertake a late-session budget effort to secure a “bridge” level of funding to carry crime victim service efforts for two years while Congress continues to address the structural problem that has given rise to successive reductions in available VOCA funding in recent years. We agreed to undertake a common effort led by the DV and SA communities. A one-page outline of the problem and proposed solution is attached.

We were all pleased by the level of bipartisan support for the VOCA bridge funding effort even though it hit the streets after publication of the House and Senate draft budget bills. Successful efforts to amend the bills were achieved in both chambers, and we anticipate that \$15M will be included in the final budget bill (of which \$3M is for VOCA-funded legal aid programs) to ensure continuity of VOCA-funded efforts during the next two-year cycle.

## **6. Coronavirus Relief Fund Appropriation for Eviction, Housing, and Utilities-Related Civil Legal Aid (Budget)**

In an effort to push recently appropriated emergency federal funding out as quickly as possible, the Legislature enacted an early second supplemental appropriations bill. Included in the bill is \$1.5M in emergency Coronavirus Relief Fund (originating in the CARES Act) for civil legal aid to individuals facing eviction, housing, and utilities-related legal problems. This funding was made available to OCLA in early March 2021. A portion of it will be spent on services between January and June 2021. Both the House and Senate-passed budgets reappropriate the unspent balance in the FY 2021-23 operating budget bill.



# **The Washington State Office of Civil Legal Aid: UNDERWRITING THE FRONT-LINE CIVIL LEGAL AID RESPONSE TO COVID-19**

# THE STATE-FUNDED **NORTHWEST JUSTICE PROJECT**

PROVIDES CIVIL LEGAL AID SERVICES  
THROUGHOUT WASHINGTON STATE

## OCLA-FUNDED COVID-19 EMERGENCY CIVIL LEGAL AID PROVIDERS:

### Northwest Justice Project:

General Statewide COVID-19 Legal Aid Response

### Unemployment Law Project:

Unemployment Claimant Assistance

### LAW Advocates of Whatcom County:

Eviction Defense

### Snohomish County Legal Services:

Eviction Defense; Individual and Family Safety

### Eastside Legal Assistance Program

(King County):

Individual and Family Safety

### Tacomaprobono (Pierce County):

Eviction Defense; Individual and Family Safety

### Thurston County Volunteer Legal Services:

Eviction Defense; Individual and Family Safety

### Kitsap Legal Services:

Eviction Defense

### Clark County Volunteer Lawyer Program:

Eviction Defense

### Yakima County Volunteer Attorney Services:

Eviction Defense

### Chelan-Douglas County Volunteer Attorney Services:

Eviction Defense

### Benton-Franklin County Legal Aid:

Eviction Defense

### Spokane County Bar Volunteer Lawyers Program:

Eviction Defense

### Legal Voice Sexual Violence Law Center:

Individual and Family Safety

### Fair Work Center:

Employee Rights Enforcement

### QLaw Foundation:

Support for COVID-19 Affected LGBTQ+ Individuals

### Washington Immigrant Solidarity Network:

COVID-19 Legal Aid Information and  
Referral for Immigrants



## WHAT OTHERS SAY ABOUT OUR WORK

"Our government needs to use every available lifeline to provide relief in this time of crisis. That's why civil legal aid, an essential part of our state's front-line response, must play an even larger role in the present emergency and during our recovery."

FORMER WA ST. CHIEF JUSTICE MARY FAIRHURST AND FRED RIVERA,  
SEATTLE TIMES

"Ensuring access to justice for everyone helps us all. Every worker able to secure their essential benefits, every resident able to stay safe and healthy in their home, every person protected from violence and instability, reduces the impact of this crisis on our community."

FORMER WA ST. AG ROB MCKENNA AND SALVADOR MUNGIA,  
TACOMA NEWS-TRIBUNE

"Timely and effective civil legal assistance can prevent problems from piling up, help families stabilize and recover, and provide a path out of poverty. Resolving these problems also reduces the strain on other public resources, which is especially important amid the economic fallout of the pandemic. Mitigating the harm of this crisis on our communities and our state requires expanding civil legal assistance to as many people as we can."

SEN. ANN RIVERS AND REP. MONICA STONIER, THE COLUMBIAN

"People denied unemployment insurance, or faced with eviction, or buried in debt, or trapped in the web of court proceedings after being the victim of domestic violence...All may find themselves facing supercharged versions of the poverty-related challenges that afflict people who have no access to legal aid for civil procedures."

SHAWN VESTAL, SPOKANE SPOKESMAN-REVIEW

## HOW TO GET HELP:

▶ **NJP CLEAR Statewide Legal Aid Hotline**  
1-888-201-1014

▶ **NJP CLEAR\*Sr (FOR AGES 60+ REGARDLESS OF INCOME)**  
1-888-387-7111

▶ **NJP CLEAR Online**  
<https://nwjustice.org/apply-online>

▶ **NJP CLEAR in King County**  
Dial 2-1-1

▶ **Washington LawHelp (Self-Help Resources Center)**  
[www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)

▶ **Unemployment Law Project Helpline**  
888-441-9178 ext. 0

▶ **Washington Immigrant Solidarity Network Hotline**  
1-844-724-3737

## ON THE FRONT LINES MEETING COVID-19 CHALLENGES

The COVID-19 pandemic turned many into front-line responders to the challenges faced by millions across our state. Thanks to leadership from the Office of Civil Legal Aid (OCLA), the expertise of the Northwest Justice Project (NJP), and the strong support from Alliance for Equal Justice partners in the public and private sectors, Washington State has been better able to meet the civil legal needs of the most vulnerable people in our state.

Just consider the type of critical legal problems which many lower-income neighbors faced during this most uncertain year:

- ▶ Access to unemployment insurance benefits
- ▶ Protection of housing and shelter for people affected by eviction/foreclosure
- ▶ Increased threats, such as domestic violence, to individual and family safety
- ▶ Protecting employment and other means of maintaining economic security
- ▶ Protecting the rights of essential low-wage workers

And, here's how the OCLA-led response stepped up to the front line on behalf of those in need:

- ▶ Secured \$5.5 million in emergency state and federal funding to establish dedicated COVID-19 legal aid efforts in each core area of need
- ▶ Contracted with the Northwest Justice Project, community-based volunteer attorney programs, regional Housing Justice Projects, and others to expand capacity to meet COVID-19 related needs
- ▶ Recruited, trained, and deployed more than 100 private attorney contractors to help individuals with COVID-related unemployment insurance and shelter preservation
- ▶ Expanded self-help resources available through [www.Washingtonlawhelp.org](http://www.Washingtonlawhelp.org)
- ▶ Maintained baseline legal aid capacity to address the continuing needs of low-income people in WA

All of this happened in less than nine months, and thanks to the ongoing support from the state legislature and the Office of Financial Management, OCLA and its Alliance for Equal Justice partners enter 2021 better enabled to help the increasing number of Washingtonians needing civil legal aid assistance.

### LEGISLATIVE REPORT

The Office of Civil Legal Aid is pleased to offer this update to legislators, staff, and advocates across the state on our front-line legal services during the COVID-19 pandemic and our office's everyday work "to administer and oversee the delivery of state-funded civil legal aid services to eligible low-income people in Washington State." We hope this provides you a better understanding of how our state's longtime commitment to Justice for All works in the civil justice context, and how the efforts of thousands of civil legal aid proponents are making sure that we carry that commitment to those facing civil legal challenges during the pandemic... and every day after that.

# WHAT LEADERS SAY ABOUT CIVIL LEGAL AID

“Civil legal aid is a highly valuable tool for fixing some of the damage of COVID-19. It addresses critical legal problems, connects people with resources, and builds stronger communities. We need to continue to make it work for the most vulnerable among us.”

**DEBRA STEPHENS, CHIEF JUSTICE OF THE WASHINGTON SUPREME COURT AND FRANCIS ADEWALE, CHAIR, SUPREME COURT ACCESS TO JUSTICE BOARD AND CITY OF SPOKANE PUBLIC DEFENDER, SPOKANE SPOKESMAN-REVIEW, 1/20/21**

“Our government needs to use every available lifeline to provide relief in this time of crisis. That’s why civil legal aid, an essential part of our state’s front-line response, must play an even larger role in the present emergency and during our recovery.”

**FORMER WA ST. CHIEF JUSTICE MARY FAIRHURST AND SEATTLE MARINERS GENERAL COUNSEL FRED RIVERA, SEATTLE TIMES, 4/15/20**

“Ensuring access to justice for everyone helps us all. Every worker should be able to secure their essential benefits, every resident able to stay safe and healthy in their home, every person protected from violence and instability, reduces the impact of this crisis on our community.”

**FORMER WA ST. AG ROB MCKENNA AND FORMER WA ST. BAR PRES. SALVADOR MUNGIA, TACOMA NEWS-TRIBUNE, 6/14/20**

“Timely and effective civil legal assistance can prevent problems from piling up, help families stabilize and recover, and provide a path out of poverty. Resolving these problems also reduces the strain on other public resources, which is especially important amid the economic fallout of the pandemic. Mitigating the harm of this crisis on our communities and our state requires expanding civil legal assistance to as many people as we can.”

**SEN. ANN RIVERS AND REP. MONICA STONIER, THE COLUMBIAN, 8/30/20**

“People denied unemployment insurance, or faced with eviction, or buried in debt, or trapped in the web of court proceedings after being the victim of domestic violence...All may find themselves facing supercharged versions of the poverty-related challenges that afflict people who have no access to legal aid for civil procedures.”

**SHAWN VESTAL, SPOKANE SPOKESMAN-REVIEW, 6/5/20**

The COVID-19 pandemic turned many into front-line responders to the challenges faced by millions across our state. Thanks to leadership from the Office of Civil Legal Aid (OCLA), the expertise of the Northwest Justice Project (NJP) and its Alliance for Equal Justice partners in the public and private sectors, Washington State has been better able to meet the civil legal needs of the most vulnerable people in our state.

**For civil legal aid help, call NJP’s CLEAR Hotline at 888-201-1014 (2-1-1 in King County)  
For more information on state-funded civil legal aid, go to [www.ocla.wa.gov](http://www.ocla.wa.gov)**

# Crime Victims Programs

Request **\$15 Million** one-time funding

## Reduction in federal Victims of Crime Act (VOCA) funding

Programs that support crime victims across Washington *recently* learned that the federal VOCA allocation to our state will be reduced by 25% by July 1, 2021. This reduction is a result of changes made to federal VOCA program and current actions in Congress are attempting to stabilize VOCA funding but programs that serve victims of crime cannot wait, they need funding **NOW** to continue their work. Victims and families are experiencing significantly higher amounts of distress and have more complex need as a result of the pandemic and any reduction in funding would be devastating.

## Office of Crime Victims Advocacy (OCVA)

OCVA is located in and administered by the Department of Commerce. OCVA oversees and distributes the state and federal funding necessary to support programs that provide a myriad of services to meet the need of victims. The anticipated loss of VOCA funding will have an overwhelming impact on the vulnerable communities that depend upon these programs during a time when we are seeing an increase of those needing services in Washington.

### Immediate Reductions are Expected in the Following Vital Statewide Services

- Domestic Violence and Sexual Assault Services
- Child Advocacy Services
- Office of Civil Legal Aid
  - Northwest Immigrant Rights Project
  - Northwest Justice Project
  - Sexual Violence Legal Services
- Services for Victims of Trafficking
- Crime Victim Witness Assistance Services
- Eastside Legal Assistance Program
- King County Bar Pro Bono Service Program

## Request: \$15 Million one-time funding for the Office of Crime Victims Advocacy

This one-time funding will allow OCVA to continue providing financial support to community based programs despite the temporary loss of the federal dollars. **Support for victims of domestic violence, sexual assault, trafficking and extreme violence need your help NOW.** Currently many statewide programs are experiencing waitlists for services. Loss of OCVA funding combined with the ongoing effects of the COVID-19 pandemic will put vulnerable individuals and their families at even higher risk. We respectfully ask for one-time funding while we work with our partners to restore the federal dollars. *Demand for services in Washington have never been greater.*

## Please Support our \$15M Request to Support Victims of Crime

Susan Marks, Executive Director, *WA Coalition of Sexual Assault Programs*  
Judy Chen, Executive Director, *WA State Coalition Against Domestic Violence*  
Mary Ellen Stone, Executive Director, *King County Sexual Assault Resource Center*  
Jim Bamberger, Director, *Office of Civil Legal Aid*  
Jorge L Baron, Executive Director, *Northwest Immigrant Rights Project*  
Paula Reed, Executive Director, *Children's Advocacy Centers of WA*

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