

**CIVIL LEGAL AID  
OVERSIGHT COMMITTEE**

**MEETING OF  
DECEMBER 17, 2021**

**MATERIALS**

**CIVIL LEGAL AID OVERSIGHT COMMITTEE  
MEETING OF DECEMBER 17, 2021**

**MEETING MATERIALS**

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Legal Aid With Attachments**

TAB 1

# **CIVIL LEGAL AID OVERSIGHT COMMITTEE**

**December 17, 2021  
10:30 a.m. – 1:00 p.m.  
Via Zoom Link**

## **AGENDA**

1. Introductions of Members and Guests (10:30 – 10:40) (Chair Augustine)
2. Occupied Land Acknowledgment and Recognition of Responsibility (10:40 – 10:50) (Chair Augustine, Jim Bamberger)
3. Approval of June 25, 2021 Virtual Meeting Minutes (10:50 – 11:00)
4. Reflections on the Past Year and Hopes for the Future (voluntary sharing among Oversight Committee members and staff) (11:00 – 11:15)
5. Introduction/Reintroduction of the OCLA Team (11:15 – 11:25) (Jim Bamberger and OCLA team members)
6. Update on OCLA's Internal Race Equity Planning (11:25 – 11:40) (Jim Bamberger and Jessica Walker Beaumont)\*
7. Implementation of SB 5160 – Right to Counsel for Indigent Tenants (11:40 – 12:00) (Jim Bamberger, Philippe Knab)\*
8. Update on OCLA COVID Planning and NOFA Process (12:00 – 12:15) (Jim Bamberger)\*
9. Priorities for the Supplemental Legislative Session (12:15 – 12:30) (Jim Bamberger)\*
10. Oversight Committee Meeting Schedule (12:30 – 12:40)
11. Additional Business/Listening Session (12:40 – 1:00)
12. Adjourn (1:00)

\* Discussed in Director's Report and attached materials

TAB 2



## Washington State Office of Civil Legal Aid

1206 Quince St. SE  
Olympia, WA 98504  
MS 41183  
360-704-4135

James A. Bamberger, Director  
jim.bamberger@ocla.wa.gov

To: Civil Legal Aid Oversight Committee

From: Jim Bamberger, Director Office of Civil Legal Aid

Re: Minutes of June 25, 2021 Meeting

Date: 12-15-21

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This is to advise that there are no minutes of the June 25<sup>th</sup> meeting. We apparently did not turn on the Zoom recording feature, which would normally provide audio, video, and transcription of the meeting. I also normally take notes during the meeting. I did not do so, thinking that it would be covered by staff and through the recording. Lesson learned the hard way.

Below you will find my best recollection of what happened during the meeting.

1. Members and guests introduced themselves
2. Minutes of the December 2021 meeting were unanimously approved. We do not have a record of who made or seconded the motion. No amendments were offered.
3. Anticipating the return of some semblance of normalcy following more than a year of living under COVID emergency restrictions, fear, and anxiety, Chair Augustine invited members to and members shared reflections and lessons they had learned living with the pandemic. (Editor's note: Boy were we wrong about the 'return to normalcy')
4. I updated members on the status of Oversight Committee members whose terms were expiring or had expired. (Note: I wrongly suggested that Justice Whitener's term had expired when in fact she had very recently been reappointed.) I also advised that Rep. My-Linh Thai and Rep. Peter Abbarno had been appointed by the Speaker to represent the House Democratic and House Republican Caucuses respectively.
5. I provided an overview of action taken during the biennial legislative session affecting the Office of Civil Legal Aid. These included:
  - a. Enactment of HB 1072 removing the restriction on state legal aid funding for representation of immigrants in the US without legal authority.
  - b. Enactment of 2ESSB 5160 establishing the nation's first appointed counsel program for tenants and assigning responsibility for administration of the program to OCLA.
  - c. Enactment of SHB 1219 phasing in a right to appointed counsel for children and youth ages 8 and above in dependency cases and assigning responsibility for administration of the program to OCLA.

- d. Appropriation of funding for extended COVID legal aid services in the amount that was requested by OCLA
  - e. Appropriation of a small amount of funding to help individuals who were convicted under the simple possession law found unconstitutional in *State v. Blake* secure civil relief from their convictions and Legal Financial Obligations and related fees imposed (and paid) as a result of their wrongful convictions
6. Chair Augustine and I updated the Oversight Committee on the public participation process by which OCLA would inform itself of the scope and substance of COVID related civil legal problems that should be the focus of continued and/or expanded investment. (Note: This was substantially updated in the September 22, 2021 Director's Report).
7. The Oversight Committee unanimously approved the proposed Policy on Extraordinary Executive Action, action for which had been deferred from the December 2020 meeting to allow for further stakeholder engagement.
8. The meeting was adjourned on time.

**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](mailto:j_r.pennell@courts.wa.gov)  
Appointing Entity: Board for Judicial Administration  
Term Expires: June 30, 2024; not eligible for reappointment

### **Position 2 (BJA 2):**

Name: Hon. Faye Chess  
Address: Seattle Municipal Court  
600 5<sup>th</sup> Ave.  
Seattle, WA 98104  
Phone: 206-684-5600  
E-mail: [faye.chess@seattle.gov](mailto: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](mailto:helen.whitener@courts.wa.gov)  
Appointing Entity: Supreme Court (on recommendation of the Access to Justice Board)  
Term Expires: June 30, 2023; not eligible for reappointment

**Position 4 (Supreme Court 2):**

Name: Sarah Augustine, Chair  
Address: 132 North 1<sup>st</sup> Ave.  
Yakima, WA 98902  
Phone: 509-453-8949  
E-mail: [director@drcyakima.org](mailto: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](mailto:theodoregrammount@rocketmail.com);  
[grammount@gmail.com](mailto: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](mailto: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](mailto: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 Peter Abbarno  
Address: 411 John L. O'Brien Building  
PO Box 40600  
Olympia, WA 98504-0600  
Phone: 360-786-7896  
E-mail: [Peter.abbarno@leg.wa.gov](mailto:Peter.abbarno@leg.wa.gov)  
Appointing Entity: House Republican Caucus  
Term Expires: June 30, 2022

**Position 9 (House Democratic Caucus):**

Name: Representative My-Linh Thai  
Address: 424 John L. O'Brien Building  
PO Box 40600  
Olympia, WA 98504-0600  
Phone: 206-333-4107  
E-mail: [my-linh.thai@leg.wa.gov](mailto:my-linh.thai@leg.wa.gov)  
Appointing Entity: House Democratic Caucus  
Term Expires: December 31, 2023

**Position 10 (Office of the Governor):**

Name: Alejandro (Ale') Sanchez  
Address: Department of Licensing  
Phone:  
E-mail: [Alsanchez@dol.wa.gov](mailto:Alsanchez@dol.wa.gov)  
Appointing Entity: Office of the Governor  
Term Expires: June 30, 2024; eligible for reappointment

**Position 11 (Washington State Bar Association):**

Name: Chalia Stallings-Ala'ilima  
Address: Office of the Attorney General  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
Phone: 206-326-5480  
E-mail: [chalia.stallingsalailima@atg.wa.gov](mailto: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 1<sup>st</sup> of the odd numbered year and ending on June 30<sup>th</sup> 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 POLICIES AND RESOLUTIONS 12-2021**

<b>Number</b>	<b>Date</b>	<b>Subject Matter</b>	<b>Status</b>	<b>Further Action Required</b>
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 State	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 expense.
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
<b>Policy Directions and Statements</b>				
	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	
	15-Dec-17	Embracing the Race Equity and Justice Initiative Acknowledgments and Commitments and directing that race equity discussions be a standing agenda item in future meetings	approved by motion in open meeting	Requires a standard agenda item for discussion and/or training
	29-Dec-20	Policy on Extraordinary Executive Action	approved March 25, 2021	

TAB 7



## Washington State Office of Civil Legal Aid

1206 Quince St. SE  
Olympia, WA 98504  
MS 41183  
360-704-4135

James A. Bamberger, Director  
jim.bamberger@ocla.wa.gov

To: Civil Legal Aid Oversight Committee

From: Jim Bamberger, Director Office of Civil Legal Aid

Re: OCLA Director's Quarterly Report

Date: December 13, 2021

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Seasons and Holiday Greetings to all!

Below and attached you will find my report to the Oversight Committee for the period between the date of my last quarterly report (September 22<sup>nd</sup>) to now. Over the past three months staff continued to be engaged in a range of activities related to core OCLA programs, implementation of new programs assigned to OCLA in the last legislative session, and building a race-equity informed and anti-racist culture within the agency itself and in the way we perform our core statutory and contractual responsibilities. This report highlights just some of that work.

Before I say another word, however, please allow me the privilege to share my great appreciation for all the OCLA team has accomplished these past two years despite all the challenges we have faced. The lift has been enormous and the challenge of achieving and maintaining workable unity in service of our common mission has never been tested as it has been. The team has proven resilient and productive, meeting all challenges thrown at them with grace and a “can-do” attitude. They have my enduring respect and appreciation. So, here’s a big shout out to Jill Malat, Dana Boales, Hope Hough, and our newest team members Bailey Zydek, Philippe Knab, and Leslie Owen!

### **1. Implementation of the Tenant Right to Counsel (RTC) Program**

As outlined in the September report, much of my focus and all of Philippe Knab’s focus has been on implementation of the nation’s first appointed counsel program for tenants in eviction proceedings. In sections 8 and 9 of SB 5160, the Legislature for the first time imposed a duty on courts to appoint attorneys for tenant defendants in unlawful detainer (eviction) cases. OCLA was assigned responsibility to set up and administer the program. We were given 90 days to develop and submit an implementation plan and one year to fully implement the program statewide. The Legislature appropriated \$23.5M for the FY 2022-23 biennium for the RTC program.



I described development the implementation plan in the [September 22<sup>nd</sup> Director's Report](#). By way of brief recap:

- We convened a broad-based group of stakeholders to help us identify critical areas of implementation focus. Twelve subject matter areas were identified. An [Implementation Plan](#) was published and transmitted to the Legislature on July 15<sup>th</sup>. In addition to outlining the core components of the RTC program, the plan identifies strategies and infrastructure necessary to institutionalize equity and access commitments throughout all RTC operations at the statewide and local level.
- OCLA identified, developed contract documents, and engaged 13 legal aid providers that, between them, hired, trained, and placed 65 attorneys and about 15 private contract attorneys to accept court appointments to represent indigent tenants. All attorneys received mandatory training on a range of substantive law, tenant defense litigation skills, ethics, and how to effectively represent tenants in a highly racialized housing justice environment. Additional trainings are being developed.
- OCLA contracted with the Northwest Justice Project (NJP) to establish a statewide Eviction Defense Screening Line – a single statewide point of contact for tenants against whom unlawful detainer actions have been filed and to which courts and court administration can refer pro se tenants. In what can only be described as an amazing accomplishment, by September NJP had hired and trained a full complement of screeners, developed essential operating systems and protocols, and was able to open the Screening Line to the public. The Screening Line will meet the operational objective of screening and assigning qualified tenants to OCLA-contracted RTC providers on an average of two working days.
- OCLA engaged a technology firm (JustTech) to help build out a universal RTC case management module and reporting systems. JustTech is a national firm that offers expert support for the Legal Server case management system that all RTC providers must use and has direct working relationships with senior staff and programmers at PS Technologies which designed and hosts the Legal Server case management system. The RTC module changes will be fully implemented and RTC provider staff will be trained by December 31, 2021.
- OCLA contracted with the King County Bar Association's Housing Justice Project to hire, train, and host a Statewide RTC Training and Advocacy Coordinator. The Coordinator (Karla Davis) will foster and support a virtual statewide law firm of RTC attorneys who work off the same playbook and coordinate/share RTC-related advocacy strategies and resources regardless of the organization that employs them.
- From the outset OCLA has kept the Superior Court Judges Association, the Clerks Association, and the Association Superior Court Administrators updated on RTC implementation issues. To date we have issued nine memoranda relating to the RTC implementation effort. These are posted on the OCLA [website](#). We are grateful for the collaborative efforts of the judges, clerks, and court administrators. Over the past few months issues great and small have arisen that could have compromised our implementation efforts. Each time our partners have worked with us to effectively problem solve and find effective solutions and workarounds.

In mid-November, Philippe Knab and I conducted a 2-day visit to Spokane, where we met with a host of stakeholders including Judges Tony Hazel (who presides over the UD docket) and Rachelle Anderson (SCJA President), RTC attorneys, a landlord attorney and a representative of the Landlord Association of the Inland Northwest, staff of the Tenants Union of Washington, and others. Implementation is going well, and we were both pleased with our conversations with the five RTC attorneys with whom we met and Judge Hazel's very positive observations about their professionalism and advocacy. Philippe will be visiting other RTC providers after the new year.

During the implementation phase we have come to recognize that certain essential capacities were not included in our implementation planning. These include: (a) unified statewide appellate advocacy to handle and consistently argue emergency appeals in cases where writs of restitution have wrongfully issued; (b) statewide capacity to stabilize emergency cases, often arising when tenants call either the day before the show-cause hearing or have had writs of restitution against them; and (c) regional gap/support capacity to ensure continuity of RTC services where staff are over caseload capacity, are on leave, or leave the practice. As outlined below, OCLA has asked the Legislature for a modest increase in the supplemental budget to ensure full and proper implementation of the program over time.

By January 10, 2022, the entire state will be up and running, and tenants in every judicial district will have highly trained attorneys appointed to represent them – more than five months earlier than required.

On November 10<sup>th</sup> I sat for a half-hour interview with TVW's Austin Jenkins on his inside Olympia show. Most of the visit focused on the RTC and eviction defense programs. I also presented on implementation of the RTC program on November 16<sup>th</sup> and 19<sup>th</sup> at work sessions of the House Housing, Human Services & Veterans Committee and the Senate Housing and Local Government Committees in November. Finally, on December 3<sup>rd</sup>, I presented on our RTC program at an ABA-hosted national conference of Access to Justice Commission Chairs and staff.

## **2. Pandemic Legal Aid Funding**

With the able assistance and leadership of Oversight Committee Chair Sarah Augustine and Vice-Chair Chalia Stallings-Ala'ilima, OCLA hosted a series of listening sessions over the course of the summer and early fall. These were designed to provide opportunities to hear from people and organizational leaders about the impact of the COVID-19 pandemic on their communities and the communities they serve. We hosted five and one-half hours of conversations over the course of three Zoom listening sessions, including one impromptu session requested by BIPOC community members and leaders. The details of these efforts were outlined in the September Director's Report.

Based on the feedback we received, we recognized the need to focus our COVID related efforts on communities most harmed by the pandemic. These include children and youth – especially those who have special educational needs and who are or are perceived to be BIPOC – whose

educational progress suffered during the pandemic and others who disproportionately experienced a range of legal problems and issues directly or indirectly because of the pandemic. In October, OCLA published two Notices of Funding Availability (NOFAs) for \$4.25M in state COVID legal aid funding for the 18-month period between January 2022 and June 30, 2023. The first [NOFA](#) was focused on the educational needs of children and youth, while the second [NOFA](#) was focused on general pandemic related legal problems and needs. Availability of funding was widely promoted. OCLA established a review panel composed of internal staff and experts representing underrepresented communities. Responses to the NOFAs are currently under review.

I want to thank both Reps. Abbarno and Thai for taking the time to attend and participate in four hours of listening sessions. Your presence affirmed the importance of and bipartisan support for this effort.

### **3. Agency Race Equity and Related Planning**

This summer OCLA launched its internal race equity planning process. After extensive consideration and multiple interviews with OCLA staff, we engaged Jessica Walker Beaumont of Rooted Strategies to help lead us toward our dual objectives of incorporating race equity and anti-racist culture and practice into day-to-day agency operations and intra-agency relationships and how we do the same while discharging our external legal, contractual, and policy related responsibilities. We are on the front end of this effort, having just completed our 7<sup>th</sup> one-hour, all staff, facilitated Zoom meeting focused on race equity basics and moving into a series of deep discussions related to agency culture and norms. As Jessica will share with the Committee on Friday, we are now focused on how we actively make the pivot to a more intentional and permanent incorporation of our race equity and justice commitments into all aspects of internal and external agency operations. We are planning for a safe, in-person, daylong retreat for some time early in the new year. The work is challenging and each of us comes into from a very different set of cultural, familial, professional, and lived experiences. I'm pleased to report that all staff are committed to and actively engaged in the effort.

As outlined below, OCLA is in transition, and will replace and add staff in 2022. We are setting out to bring a race equity lens to all these decisions. Jill Malat's impending departure creates an opportunity for intentional hiring and careful succession planning. Another part of the objectives of this effort is designed to help inform the scope, functions, and essential qualifications of a new executive level position that we are currently calling Director of Operations. You may recall that prior consultants Marcella Fleming Reed and Lori Homer expressed significant concerns about the vulnerability of the agency given its limited staff and the absence of any level of operational redundancy. Two years ago, they strongly encouraged that we seek additional funding for an executive level position. While the request was submitted, it was not funded. Given the substantial expansion of OCLA's duties – including the assignment of three new programs (RTC for tenants, RTC for children in dependency cases, and civil work arising from the *State v. Blake* decision), we have no choice to move forward and find ways to resource this and other positions internally.

We anticipate creating the new executive level position description and other anticipated hiring decisions as an area of early focus for living into OCLA's race equity and anti-racist commitments. Establishing explicit policies and procedures around recruitment and hiring, naming desired anti-racist competencies, creating staff evaluation procedures, and identifying paths to promotions are examples of the work ahead. So too is focusing on establishing a more intentional organizational culture around how the team works together and confronts inevitable conflicts so that new staff members enter into a healthy working environment.

#### **4. 2022 Supplemental Legislative Session**

The Legislature reconvenes on January 10<sup>th</sup>. Like last year, much of the session will be handled virtually. Meetings with members and legislative hearings will be conducted via Zoom. This is a short (60 day) session during which the Legislature will both consider substantive legislation (on very fast timelines) and craft adjustments to the FY 2022-23 operating budget.

As we do during every legislative session, OCLA will monitor bills and address those that directly affect our operations or scope of authority/responsibility. We are not seeking agency request policy legislation.

On the budget side, we submitted decision packages for two supplemental requests. The first is for a small adjustment in our Children's Representation Program to cover the costs associated with changes in our application of legislatively endorsed and legally binding caseload standards. The second addresses the capacity gaps in the tenant RTC program outlined in section 1 of this report. Copies of the decision packages are attached (Attachment1).

While implementing the Tenant RTC program and working on the Eviction Resolution Pilot Program, it became clear that there continues to be a substantial need for eviction related legal help for tenants faced with the threat of eviction but against whom a formal eviction case has not been filed (and for whom RTC appointments are unavailable). During the eviction moratorium and continuing through the Bridge Proclamation, OCLA used federal and state COVID funding to help these tenants. That funding has been substantially exhausted, with OCLA support dropping by more than 45% between the first half and second half of this fiscal year. With the prospect of even further reductions in FY 2023, we decided to ask the Legislature to include an additional \$2M for this "pre-RTC" legal help next fiscal year. A copy of our letter requesting this additional fiscal support is attached (Attachment 2).

Finally, based on discussions with Rep. Simmons and others during the interim period, we anticipate both legislation and enhanced budget authority to address the civil implications of the *State v. Blake* decision. This decision found Washington's simple drug possession law unconstitutional. The ruling effectively invalidated all convictions based on the challenged statute. In doing so, it also rendered civil penalties (known as Legal Financial Obligations or LFOs) invalid and entitles persons to civil relief to remove the judgments assigning the LFO's and to recover LFO moneys paid.

## **5. Children's Representation Program**

In 2017 the Legislature directed OCLA to work with the Washington State Center for Court Research (WSCCR) at the Administrative Office of the Courts to do a comparative evaluation of the impact and effectiveness of standards-based legal representation of children in dependency cases. Under Jill Malat's guidance, we developed and oversaw the recruitment, training, and support of attorneys appointed to represent children in the two treatment counties (Grant and Lewis) and coordinated efforts with the research team. After many challenges (not the least of which was the impact of the pandemic on court operations in all counties being studied), WSCCR issued its [final report](#). The report documents significant improvements across a range of outcome categories when skilled attorneys are appointed to represent children and youth from the outset of a dependency case. The study confirms the wisdom of the Legislature's action to establish a universal right to appointed counsel for children 8 and above in these cases in the last legislative session.

## **6. Transitions – Comings and Goings at OCLA**

Sadly, this will be Jill Malat's last meeting with us. After seven and a half years standing up and overseeing what has become a nationally recognized program for effective representation of children and youth in dependency cases, Jill is leaving us to pursue her passion to serve as a judicial officer. All of us at OCLA are thrilled to support Jill in following her professional dream. Below you will find the thoughts I shared with you and other stakeholders following Jill's public announcement.

I write with mixed emotions to share that, after 7.5 amazing years, Jill Malat has decided to leave the Office of Civil Legal Aid to pursue full-time judicial work. Jill first joined OCLA as the Children's Representation Program Manager in 2014 after the Legislature took a tepid first step toward ensuring legal voice for foster children and youth in dependency cases. That first step – amending RCW 13.34.100 to create a right to appointed counsel for children who remain in the dependency system six months following termination of their parents' legal rights – allowed Jill and the Office of Civil Legal Aid to establish a statewide Children's Representation Program that demonstrated time and again the importance and value of stated-interest, standards-based, equity-informed legal representation of children and youth in the dependency system. Jill's work in recruiting, training, supporting, and reviewing the efforts of contract attorneys across the state ensured that legally free children and youth had, for the first time, a voice in the trajectory of their own cases – and their lives.

Some 7.5 years later, Jill leaves a legacy of children- and youth-informed representation so powerful and effective that the Legislature could no longer ignore the urgency of broadening and institutionalizing the right. Thus, this past legislative session, the Legislature (in HB 1219) established and funded a universal right to appointed counsel for children and youth ages 8 and above in

dependency cases, with appointments starting at the first shelter care hearing. The Legislature assigned implementation authority to the Office of Civil Legal Aid, which must fully implement the program statewide over the next six years. This success is a testament to Jill's vision, passion, and leadership; and the effectiveness of the program which was most recently confirmed in an independent [study](#) conducted by the Washington State Center for Court Research at the Administrative Office of the Courts at the Legislature's request.

We are in the process of crafting a job description for the CRP Program Manager – one that is forward looking and incorporates our equity values into the criteria we will use to recruit, screen, and evaluate the applications we receive.

On the arrival side, we are pleased to welcome Gabriel Robinson to the OCLA team. Gabriel will provide long-needed additional support to lead OCLA program staff and relief to Hope Hough who has exclusively carried all OCLA support responsibilities since 2017. Gabriel starts on December 15<sup>th</sup>.

On the soon-to-arrive side, we will shortly be advertising for several additional positions. These include an additional Program Counsel for the CRP as we begin to implement the new right to counsel for children in dependency cases established in HB 1219, an additional Eviction Defense Program Counsel/Equity and Access Coordinator and, as noted above, an additional executive position currently called a Director of Operations. Depending on the outcome of the legislative session, we may also need to hire additional capacity to support our *State v. Blake* related efforts.

## 7. Closing Thoughts

This is a time of the year when we reflect on the past and plan for the coming year. The past two years have tested all of us. But many of us enjoy privileges that effectively insulated us from the greatest risks associated with the COVID pandemic. We are not front-line “essential” workers. We are not unsheltered or living on the street or in congregate facilities. We have the resources and technology to function remotely. We have access to vaccines. We know of and can comply with relevant public health and safety measures. We have homes. We can be safe.

The past two years have tested the OCLA team. They have also tested our communities. They have also tested our state. And they have also tested our nation. We are exhausted.

But as difficult as things have been for us, I cannot help but think about those who do not benefit from the gifts and privileges we enjoy. These are people who, because of the work they do, the communities in which they live, their racial or ethnic identities, the status of their families and communities, and so many other socio-economic and racial dynamics, are not safe, disproportionately suffered from the pandemic, and are collectively paying a price that gratefully and with humility I acknowledge that I (and people like me) have not had to pay.

So, while I will share that this has been the toughest period of my professional life, I recognize that it is only so because I was gifted with and gratefully accepted the opportunity/responsibility to work in service of and with those who have limited ability to direct and control the trajectory of their lives. When I consider the challenges of the past two years in that light, my heart is lifted and I'm ready to start anew tomorrow.

Again, best wishes to you all and to your families. Thank you for your support and commitment. And may the best of this year be the worst of next.

Jim

# **ATTACHMENT 1**



**Washington State Judicial Branch  
2022 Supplemental Budget  
Decision Package**

**Agency:** Choose an item.

**Decision Package Title: Bringing OCLA’s Children’s Representation Contracting Practices into Compliance with Applicable Law**

**Budget Period: 2022 Supplemental Budget**

**Budget Level: Maintenance Level**

**Agency Recommendation Summary Text:** Funding is requested to address the fiscal impact of a reduction in Children’s Representation Program (CRP) contractor caseloads to conform agency practice with legislatively required CRP caseload standards.

**Summary:**

<b>Operating Expenditures</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
Fund 001	\$78,250	\$313000	\$313000	\$313000
Fund	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
<b>Total Cost</b>	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
<b>Staffing</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
FTEs	0	0	0	0
<b>Object of Expenditure</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
Obj. X	\$78500	\$313000	\$313000	\$313000
Obj. X	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
<b>Total</b>	<b>\$78250</b>	<b>\$313000</b>	<b>\$313000</b>	<b>\$313000</b>

**Package Description:**

An internal review of OCLA’s CRP contracting practices identified a systemic misapplication of applicable standards to OCLA CRP caseloads – increasing them by about one-third above the standard. The requirement to conform OCLA contracting practices to standards adopted by the [Children’s Representation Workgroup of the Supreme Court’s Commission on Children in Foster Care](#) is found in RCW 13.34.212(1)(c). The standard set forth in sec. 1.4 of the statutorily referenced standards limits caseloads to 60 clients. OCLA’s longstanding CRP contracts provided

for “sixty clients/cases”. This language is inconsistent with and violates the [standard](#), and OCLA full time contractors have regularly represented up to 80 clients at one time.

To remedy this situation, OCLA revised its contracts to expressly limit the number of clients per any full-time attorney to 60. While the attorneys may still handle up to 80 cases for these 60 clients, OCLA will no longer tie its FTE based contracts to an 80 client/case standard. This change was made effective October 1, 2021. The impact of this change is to require a small number of additional contractors and the annual fiscal impact of the change is calculated to be \$313,000.

**Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service.** Please include current expenditure authority level and FTEs.

Funding requested here is for a longstanding program to ensure qualified attorneys to provide standards-based representation for children (regardless of age) who remain legally free six months following termination of their parental rights. Bringing OCLA’s contracting practice into conformity with legislatively endorsed caseload standards has a small annual fiscal impact.

**Decision Package expenditure, FTE and revenue assumptions, calculations and details:**

This is a minor adjustment to an existing program. No new staff is required and there is no new revenue involved. Calculations of the fiscal impact of making a small change to ensure that OCLA’s contracting practices conform with legislatively embraced caseload standards indicates an annual incremental cost of \$313,000; \$78,250 in FY 2022.

**Decision Package Justification and Impacts**

**How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?**

**Fair and Effective Administration of Justice.**

Conformity of contracting practices to the caseload limits set forth in the standards adopted by the Supreme Court’s Commission on Children in Foster Care ensures that CRP contractors will have the time to provide meaningful, standards-based representation of legally free children. Studies confirm that standards-based representation leads to better outcomes for children and youth.

**Accessibility.**

Fewer clients per contractor enhances the ability of the contractor to meet all needs – including accessibility needs of their children and youth clients.

**Access to Necessary Representation.**

Conformity of practice to caseload limits set forth in the Commission on Children in Foster Care's standards enhances the quality and effectiveness of representation in cases in which OCLA contractors are appointed to represent legally free children and youth.

**Commitment to Effective Court Management.**

[Click here to enter text.](#)

N/A

**Sufficient Staffing and Support.**

N/A

**What is the impact on other state agencies?**

None

**What is the impact to the Capital Budget?**

None

**Is change required to existing statutes, Court rules or contracts?**

No, the change ensures OCLA's contracting practice conforms to existing law.

**Is the request related to or a result of litigation?**

No, it is the result of an internal review of OCLA contracting practices.

**What alternatives were explored by the agency and why was this option chosen?**

None are available.

**What are the consequences of not funding this request?**

OCLA will have insufficient funding to meet appointed counsel needs for legally free children during FY 2022 and beyond.

**Other supporting materials:**

[Click here to enter text.](#)

**Information technology:** Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No

Yes

**Washington State Judicial Branch  
2022 Supplemental Budget  
Decision Package**

**Agency:** Office of Civil Legal Aid

**Decision Package Title:** Tenant Right to Counsel Implementation

**Budget Period:** 2022 Supplemental Budget

**Budget Level:** Maintenance Level

**Agency Recommendation Summary Text:**

Supplemental funding needed to ensure effective and proper implementation of the Indigent Tenant Right to Counsel Program created by sec.'s 8 & 9, ch. 115, laws of 2021 (2ESSB 5160, codified at RCW 59.18.640 and RCW 2.53.050) during the FY 2022-23 biennium (escalating at 3%/yr.).

**Summary:**

<b>Operating Expenditures</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
Fund 01	\$350000	\$850000	\$875500	\$901765
Fund	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
<b>Total Cost</b>	<b>\$350000</b>	<b>\$850000</b>	<b>\$875500</b>	<b>\$901765</b>
<b>Staffing</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
FTEs	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
<b>Object of Expenditure</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
Obj. X	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
Obj. X	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
<b>Total</b>	<b>\$350000</b>	<b>\$850000</b>	<b>\$875500</b>	<b>\$901765</b>

**Package Description:**

As required by sec. 9, ch. 115, laws of 2021 (2ESSB 5160), the Office of Civil Legal Aid (OCLA) adopted and published its plan to effectively implement the right to counsel (RTC) program for indigent tenants. The plan is published at <https://ocla.wa.gov/wp-content/uploads/2021/07/Implementation-Plan-Right-to-Counsel-for-Indigent-Tenants-7-15-21-Final.pdf>. The plan calls for accelerated implementation so that RTC services would be made available throughout much of the state when the Governor's Bridge Proclamation expired on October 31, 2021. Because of the need to accelerate

implementation and necessary changes in implementation approach from those assumed in the March 2021 fiscal note, year-one expenditures will exceed the FY 2022 appropriation level (set at the amounts in fiscal note) by \$918,000. This amount is offset by the one-time \$568,000 for eviction defense services appropriated in SB 5092, sec. 117(3), leaving a shortfall of 350,000 or about 3.2% in FY 2022. OCLA also requires an increase of \$850,000 or 7.4% over appropriated levels in FY 2023 and succeeding years to maintain full and effective operation of the RTC program.

**Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service.** Please include current expenditure authority level and FTEs.

This request ensures full and effective implementation of the mandatory right to counsel program in the first year of its operation consistent with both substantive law (2ESSB 5160) and budget proviso, sec. 117(7), ch. 334, laws of 2021 (ESSB 5092) as well as the RTC Implementation Plan submitted to the Legislature on July 15, 2021. As outlined below and in the attached, it incorporates changes made to the approach that formed the basis of the FY 2022-23 appropriation; changes that are being implemented on the ground.

To fully and effectively implement the statewide RTC program, OCLA made several changes to the approach outlined in the 3/21 fiscal note. These changes are reflected in the July 15, 2021 Implementation Plan. The changes drove several costs that were unanticipated in the 3/21 fiscal note which the budget writers used as the basis of the FY 2022-23 appropriation. OCLA is mitigating the FY 2022 impact by using CRF and other eviction defense funding included in the FY 2022 appropriation. These are one-time mitigation tools. The continuing costs of effective operation of the RTC program as outlined in the Implementation Plan will exceed appropriated levels by about \$850,000 (or 7.4%) in FY 2023 succeeding years.

The appointed counsel program established in Sec.'s 8 and 9 of 2ESSB 5160 is unprecedented. No other state has undertaken such a project, on such a timeline, and at such scale. OCLA exercised due diligence to operate within appropriated amounts, but the essential components of the program that emerged from the planning process include several functions and capacities not contemplated at the time the fiscal note was submitted. Details of the changes in assumptions and functions are outlined in OCLA's 11/21 response to questions from legislative budget staff (attached).

**Decision Package expenditure, FTE and revenue assumptions, calculations and details:**

There are no changes in FTE's and no revenue assumptions. This request just addresses a shortfall between the amount appropriated for implementation and the expenditures obligated to effectively implement the RTC program. This has been a very fluid situation, and updated information will be provided to budget writers and staff on a continuing and timely basis.

**Decision Package Justification and Impacts**

**How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?**

**Fair and Effective Administration of Justice.**

It ensures effective implementation of the newly established right to counsel (RTC) program for indigent tenants, thereby expanding access to justice and fairness of outcomes in the justice system for tenants against whom unlawful detainer actions have been commenced.

**Accessibility.**

OCLA's implementation plan ensures equity of access and accessibility of services to tenants with barriers and access limitations.

**Access to Necessary Representation.**

Effective implementation of 2ESSB 5160's RTC program will ensure high quality, effective, equity-informed representation of tenants in unlawful detainer cases.

**Commitment to Effective Court Management.**

N/A

**Sufficient Staffing and Support.**

N/A

**What is the impact on other state agencies?**

N/A

**What is the impact to the Capital Budget?**

N/A

**Is change required to existing statutes, Court rules or contracts?**

No

**Is the request related to or a result of litigation?**

No

**What alternatives were explored by the agency and why was this option chosen?**

None are available.

**What are the consequences of not funding this request?**

Failure to fund this request will result in less than proper implementation of the RTC program and possible suspension of attorney appointments before the end of FY 2022. It will also compromise OCLA's ability to maintain full RTC services in FY 2023 and beyond.

**Other supporting materials:**

[Click here to enter text.](#)

**Information technology:** Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

# **ATTACHMENT 2**



## Washington State Office of Civil Legal Aid

1206 Quince St. SE  
Olympia, WA 98504  
MS 41183  
360-704-4135

James A. Bamberger, Director  
jim.bamberger@ocla.wa.gov

To: Legislative Leaders, Policy Leads, Budget Writers

CC: Policy and Budget Staff

From: Jim Bamberger, Director Office of Civil Legal Aid

Re: FY 2023 Supplemental Budget  
Pre-Filing Tenant Legal Assistance

Date: December 10, 2021

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This past year the Legislature made historic strides to rebalance the rights, responsibilities, and relationships between tenants and landlords with the passage of HB 1236 and SB 5160. Notably, the Legislature enacted and funded the nation's first statewide appointed counsel program for indigent tenants against whom unlawful detainer actions have been commenced. As I have previously reported and will update in a January 2022 Interim Report to the Legislature, the Office of Civil Legal Aid (OCLA) accelerated implementation of the right to counsel (RTC) program. We have commenced RTC operations in more than 30 of our 37 judicial districts. By January 10<sup>th</sup> courts in every judicial district in the state will be appointing highly trained attorneys to represent indigent tenants in these cases. We will have accomplished this in seven (7) months, fully five (5) months ahead of the legislative deadline.

I write today to ask that you consider complementing your commitment to court-based eviction defense with a modest fiscal commitment to pre-litigation legal assistance for tenants who are threatened with the possibility of eviction.

Prior to passage of SB 5160, OCLA dedicated a portion of emergency COVID-19 funding secured from OFM to provide legal help to tenants in many communities through local Housing Justice Projects (HJPs). While each HJP operated differently depending on local court practice, they generally offered limited assistance, mostly using volunteer and contract attorneys, to help tenants resolve disputes with their landlords. While some of this work occurred at the courthouse, much was accomplished prior to the filing of unlawful detainer cases. During FY 2021, OCLA committed \$1.7M for these HJP services. Funding for FY 22 will be less than half of the FY 21 level, and staff and tenant service reductions are scheduled to take place effective January 1, 2022.



Re: Pre-Filing Legal Help for Indigent Tenants

December 10, 2021

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In addition to establishing the right to counsel program, SB 5160 required all judicial districts to create and operate an Eviction Resolution Pilot Program (ERPP) for the resolution of non-payment of rent cases and diverting them away from the courts. The ERPP was an expansion of a pilot first developed through a partnership between OCLA and the Superior Court Judges Association and operated in the six courts that experienced the highest number of eviction filings – Snohomish, King, Pierce, Thurston, Clark, and Spokane.

The ERPP brings together tenants, landlords (and their respective lawyers) and representatives from local rent assistance providers who, with the help of a skilled and trained Eviction Resolution Specialist, work to address and resolve the non-payment issue and, where appropriate, negotiate a rent repayment plan. Success at the ERPP stage diverts the cases from the courts, protects tenants from the negative consequences of a court filing on their records, facilitates timely payment of back-due rent, and often restores a level of civility and trust to the tenant-landlord relationship.

Since expiration of the eviction moratorium and the Bridge Proclamation, Northwest Justice Project (NJP) has experienced a spike in calls to the statewide Eviction Defense Screening Line. A very large percentage of these involve requests for assistance from tenants who have not yet been sued for unlawful detainer. Many are tenants who have received an ERPP notice and who, if they do not respond and participate, will be the subject of a later unlawful detainer filing. Many others involve tenants who are being bullied by their landlords into vacating or being coerced into payment plans the terms of which they cannot conceivably meet (and which often violate the requirements of SB 5160). NJP's experience has been mirrored by that of our community based HJP's.

Attorneys funded through the RTC program are exclusively dedicated to representing tenants against whom unlawful detainer actions have already been commenced. RTC attorneys cannot help tenants with pre-filing threats to their housing stability. As noted above, funding reductions have substantially eroded the ability of our HJP's to serve these tenants, many of whom could and should successfully participate in the ERPP.

Restoring and continuing meaningful levels of tenant-focused legal assistance (short of a right to counsel) will significantly bridge the gap in the continuity of legal help for tenants, and (a) result in greater participation and success in the ERPP process and (b) help reduce the number of unlawful detainer filings over the short- and longer-term. For these reasons, OCLA respectfully requests that you consider providing \$2M in supplemental funding for FY 2023 to be used exclusively for the purpose of providing legal information and assistance to tenants threatened with eviction but against whom an unlawful detainer action has yet to be commenced.

Thank you for your consideration of this request. I will follow up with you and staff to discuss this and answer any questions you may have.