

**CIVIL LEGAL AID
OVERSIGHT COMMITTEE**

**MEETING OF
SEPTEMBER 23, 2022**

MATERIALS

**CIVIL LEGAL AID OVERSIGHT COMMITTEE
MEETING OF OCTOBER 28, 2022**

MEETING MATERIALS

- Tab 1: Meeting Agenda**
- Tab 2: Draft Minutes of September 23, 2022 Meeting**
- Tab 3: Civil Legal Aid Oversight Committee Mission**
- Tab 4: Civil Legal Aid Oversight Committee Roster**
- Tab 5: Civil Legal Aid Oversight Committee
Operating Rules and Procedures**
- Tab 6: List of Oversight Committee Resolutions and
Policies**
- Tab 7: OCLA Director's Report (including
attachments)**

TAB 1

CIVIL LEGAL AID OVERSIGHT COMMITTEE

October 28, 2022

10:00 a.m. – 1:00 p.m.

Via Zoom Link

AGENDA

1. Introductions of Members and Guests (10:00 – 10:15) (Chair Augustine)
2. Occupied Land Acknowledgment and Recognition of Responsibility (10:15 – 10:20) (TBD)
3. Approval of September 23, 2022 Meeting Minutes (10:20 – 10:30)
4. OCLA Staff Introductions (10:30 – 11:00) (Jim Bamberger and OCLA Staff)
5. OCLA Program Overviews/Updates (11:00 - 11:45)
 - a. Appointed Counsel Program for Children in Dependency Cases -- Children's Representation Program (CRP) Expansion (2HB 1219; RCW 13.34.212(3)) (OCLA CRP Team)
 - b. Appointed Counsel Program for Tenants (2ESSB 5160; RCW 59.18.640) (OCLA Eviction Defense Team)
6. Preparing for Transition (11:45 – 12:15)
 - a. Civil Legal Aid Oversight Committee Leadership Transition (Sarah Augustine, Chalia Stallings-Ala'llima, Alé Sanchez)(action item)(possible action item)
 - b. OCLA Executive Leadership Transition (Jim Bamberger)
7. OCLA Request to Rescind Oversight Committee Policy Relating to the OCLA Director's Travel (12:15 – 12:30) (Jim Bamberger)(action item)
8. New Business (12:30 – 12:45)
9. Adjourn (12:45)

TAB 2

**CIVIL LEGAL AID OVERSIGHT
COMMITTEE MEETING OF
SEPTEMBER 23, 2022
DRAFT MINUTES**

Pursuant to notice duly provided in advance and in response to the COVID-19 Public Health Emergency, the winter quarterly meeting of the Civil Legal Aid Oversight Committee was held virtually through Zoom.us Friday, September 23, 2020.

Members Participating: Chair Sarah Augustine, Vice-Chair Chalia Stallings-Ala'ilima, Alejandro (Ale') Sanchez, Rep. Peter Abbarno, Justice G. Helen Whitener, Judge Faye Chess, Judge Rebecca Pennell, Ted Grammount (acting client representative), Rep. My-Linh Thai

Members Not Participating: Senator Ann Rivers, Senator June Robinson,

OCLA Staff: Jim Bamberger (OCLA Director); Hope Hough (OCLA Support Team); Gabriel Robinson (OCLA Support Team); Philippe Knab (OCLA Eviction Defense Team); Bailey Zydek (OCLA Children's Representation Team)

Other Participants: César Torres (Northwest Justice Project), Abigail Daquiz (Northwest Justice Project), Kara Masters (Equal Justice Coalition), Larry Jefferson (Office of Public Defense Director), Sophia Byrd McSherry (Office of Public Defense Deputy Director), Erin Shea McCann (Legal Counsel for Youth and Children), Kara Masters (Equal Justice Coalition), Arielle Handforth (Legal Foundation of Washington/Equal Justice Coalition), Vanna Sing, (Tacoma Healing Awareness Community), Michael Terasaki (Pro Bono Council)

Chair Sarah Augustine called the meeting to order at 10:34 a.m.

1. Welcome and Introductions

Chair Sarah Augustine invited members and guests to introduce themselves.

Jim Bamberger noted that Ted Grammount's term technically ended on June 30th. However as the Supreme Court has not yet appointed his replacement, Ted will serve as the client-eligible member of the Oversight Committee at the meeting.

2. Occupied Land Acknowledgment and Recognition of Responsibility

Jim Bamberger said that OCLA's main office is in downtown Olympia, overlooking the southernmost reach of the Salish Sea, commonly known as Budd Inlet. He noted that these lands were continuously occupied and conserved by Coastal Salish peoples for thousands of years prior to European contact and appropriation. The two nations in closest proximity to and with the greatest historical ties with this area are the Squaxin Island and Nisqually Nations (in their English translation). The lands were also shared with people from other nations including the Puyallup, Chehalis, Chinook, and Skokomish people. The historical record is clear. These

lands were expropriated from these nations under threat of force and dislocation in the Treaty of Medicine Creek, a document written in English, translated into “chinook jargon” at the time of signature, completely misunderstood by the indigenous signatories, and continuously breached by the United States and the State of Washington in the years since. This area was ground zero for the fight for indigenous hunting and fishing rights reserved in the treaty and home to great Indigenous rights champions including Billy Frank, Jr. and many others.

Jim noted that it is one thing to acknowledge and respect the rights the indigenous users of this land; but that with respect comes commitment to restorative justice. He noted that across the state many parts of what is commonly referred to as Indian Country – lands occupied by 35 nations, 29 of which are federally recognized – are civil justice deserts. He expressed OCLA’s commitment to work with indigenous nations and groups to rebuild a meaningful civil justice presence and commitment for indigenous people living in Indian Country. He noted that a first, though very small step, was OCLA’s set-aside of 20% of a recent state appropriation for civil legal aid to domestic violence survivors to provide services to survivors living on or near rural Indian reservations. He announced that OCLA had contracted with two indigenous run organizations – WomenSpirit Coalition and the Lummi Victims of Crime Program – to provide services to survivors living on or near rural reservations on the Olympic Peninsula and the Lummi reservation in Whatcom County. He noted more work needs to be done in the coming years and affirmed OCLA’s commitment to move these efforts forward.

3. Minutes of June 10, 2022, Meeting

Chair Augustine invited a motion to approve the minutes of the June 2022, meeting which are found under Tab 2 of the meeting materials.

Motion: By Judge Pennell

Second: By Rep. Thai

Action: Approved

4. Review and Consideration of OCLA Draft FY 2023 Supplemental and FY 2024-25 Biennial Budget Decision Packages

Chair Augustine noted that the purpose of the meeting is limited OCLA’s request for Oversight Committee endorsement of the draft budget packages included under Tab 7 of the meeting materials. She reminded members that their role was advisory in nature, and that they did not have authority to approve or reject. She noted that the Oversight Committee does have a responsibility to review, understand and make recommendations to the OCLA Director regarding these budget proposals, and that this would be the focus of the rest of the meeting.

Jim Bamberger provided an overview of the rapidly changing budget environment going into the coming biennial session. While Washington state is in very sound fiscal condition, and while there is a multibillion-dollar fund balance projected into FY 24-25, inflation, increased

interest rates, and caseload changes will consume most currently projected resources, leaving little money for additional discretionary legislative investment. Jim explained that while there continues to be significant need for expanded funding for basic civil legal aid services, he is not including such a request. He explained that the proposed budget requests are limited to those that (a) protect the capacity of providers in all programs to maintain current state-funded operations through modest vendor rate adjustments, (b) address budget shortfalls in the two mandatory appointed counsel programs assigned to OCLA by the Legislature (the indigent tenant right to appointed counsel and the expansion and transition of the Children's Representation Program to full statewide operation by the end of FY 2027), (c) continued funding for two critical programs funded on a one-year basis in the FY 23 supplemental operating budget (the pre-RTC eviction defense program and the *State v. Blake* civil consequences program), and (d) a joint effort with the Office of Public Defense to bring compensation levels for children's and parents' representation contractors into parity with that of the Office of the Attorney General by the end of FY 2027.

Jim explained that there are eight specific proposals; two requesting supplemental funding in the coming year; and six for the FY 2024-25 biennium. He proposed to briefly review each separately. He asked that, if possible, the Oversight Committee take action to endorse all of them following his review.

Chair Augustine asked whether Committee members wished to take action on individual proposals separately as Jim goes through them or take action on the whole at the end. Members asked Jim to proceed through the entire set. Jim explained that for the early supplemental budget two packages were developed to address shortfalls in the current fiscal year, OCLA will present the following:

- A request for \$577,000 to address shortfalls in the tenant appointed counsel program. These are the consequence of experience obtained during the first 9 months of the programs operation and include expanding service capacity in a number of regions due to higher than anticipated caseloads, greater time/case than originally contemplated, and the expansion of statewide support, coordination, and appellate capacity. The baseline level of funding for this program is about \$12.5 million. This represents about a 4.5% adjustment.
- A request for a \$648,000 adjustment in expenses for the initial implementation of what we call the 1219 Program – referencing the 2021 legislation that established a new right to appointed counsel for many children in dependency cases that is being phased in over five years. The principal driver of this request is the adoption by the Supreme Court's Commission on Children in Foster Care of new caseload standards, reducing the full time caseload from 60 dependency cases and a total of 80 cases to 45 dependency cases and a total of 60 cases at any given time. The Commission's action came in response to a part of 2SHB 1219 which asked it to review and make recommendations as appropriate to the practice, caseload, and training standards the Commission adopted in 2010 and which the Legislature had previously endorsed.

Jim then explained the six decision packages OCLA proposes to offer for the coming biennium.

- A request for \$4.9 million for the biennium to continue the Legislature’s commitment to assist tenants against whom unlawful detainer actions have not yet been filed but who are facing threat of forced, coerced, or unlawful eviction, and those whose cases might be diverted away from the unlawful detainer process. He explained that the Legislature provided \$2M for FY 23, on a one-time basis. The needs are continuing and require continued legislative investment.
- A request for \$5.6 million increased biennial funding for the indigent tenant appointed counsel program for increased costs of operations due to mandatory programmatic changes and for a modest (4%/yr.) vendor rate adjustment.
- A request for \$4.4 million in increased biennial funding for the next phase of the CRP’s 1219 program expansion. The principal drivers for this are changes in the numbers of projected cases and the reduced caseload standard adopted by the Supreme Court’s Commission on Children in Foster Care.
- A request for \$1.72 million for a gradual adjustment of compensation rates for CRP contract attorneys. This proposal mirrors a proposal endorsed by the OPD Advisory Committee and places both programs on a glide path to parity with fully-loaded FTE expenses for AAGs in dependency cases. This comes at a critical moment as OCLA is actively trying to recruit many new contractors to represent children and youth in dependency cases in the next two phases on program implementation.

Jim explained that “compensation” in this context is not salary. It is what OCLA pays to underwrite the full cost that a full-time contract attorney incurs in operating the full-time practice. As outlined in the decision package, these include:

- Salaries and benefits for the attorney contractor
 - Taxes
 - Salaries and benefits for essential support staff and/or contracted support services
 - An allocated percentage of business and professional expenses (e.g., technology, rent/overhead, general business and malpractice insurance, legal research, accounting, payroll, financial services)
 - Travel
 - Training
 - Contribution to retirement program
 - Student loan debt repayment
 - Other essential operational expenses
- A request for \$4.78 million to maintain civil legal aid services to individuals eligible for civil relief as a result of the Supreme Court’s decision in *State v. Blake*. Jim explained that the Legislature appropriated all funding for Blake related activities on a one-time basis, and that all agencies that received such funding will be asking for continuation of the same. Jim reminded members that in the judicial branch this includes both the Administrative Office of the Courts and OPD.

- A request for a vendor rate adjustment to protect the capacity of state-funded legal aid programs to maintain current legislatively authorized levels of client service. Jim explained that OCLA has regularly requested vendor rate adjustments for NJP, and proposes to do so again given significant known and measurable changes in anticipated expenditures for both NJP and the volunteer and specialty legal aid programs underwritten in part with state funds through a subcontract between NJP and the Legal Foundation of Washington.

Sarah invited member questions of Jim. Members asked a number of clarifying questions to which Jim provided responses.

Chair Augustine invited a motion to endorse the budget proposals Jim presented.

Motion: Judge Pennell

Second: Judge Chess

Action: Six to endorse with abstention by Rep. Abbarno and Rep. Thai

Jim thanked Oversight Committee members for their support and encouraged them to help the agency secure the funding requested.

5. Adjournment

Chair Augustine reminded members that final meeting of the year was changed to October 28th and that Jim has previously sent out a Zoom link for that one.

There being no further business, the meeting was adjourned at 11:45 a.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, 2024; not eligible for reappointment

Position 2 (BJA 2):

Name: Hon. Faye Chess
Address: Seattle Municipal Court
600 5th Ave.
Seattle, WA 98104
Phone: 206-684-5600
E-mail: faye.chess@seattle.gov
Appointing Entity: Board for Judicial Administration
Term Expires: June 30, 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, 2023; not 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, 2023; not eligible for reappointment

Position 5 (Supreme Court 3 – Client Eligible):

Name: Theodore Grammount (acting pending ATJ Board Appointment)
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; awaiting appointment of successor

Position 7 (Senate Democratic Caucus):

Name: Senator June Robinson
Address: 236 John Cherberg Building
PO Box 40433
Olympia, WA 98504-0443
Phone: 360-786-7674
E-mail: june.robinson@leg.wa.gov
Appointing Entity: Senate Democratic Caucus
Term Expires: June 30, 2024; not 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
Appointing Entity: House Republican Caucus
Term Expires: June 30, 2022, eligible for reappointment

Position 9 (House Democratic Caucus):

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

Position 10 (Office of the Governor):

Name: Alejandro (Ale') Sanchez
Address: Department of Licensing
MS 48001
PO Box 9020
98507
Phone: 360-902-0191
E-mail: Alsanchez@dol.wa.gov Appointing Entity:
Department of Licensing
Term Expires: June 30, 2024; eligible for reappointment

Position 11 (Washington State Bar Association):

Name: Chalia Stallings-Ala'ilima
Address: Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Phone: 206-326-5480
E-mail: chalia.stallingsalailima@atg.wa.gov
Appointing Entity: Washington State Bar Association
Term Expires: June 30, 2024; not eligible for reappointment

TAB 5

CIVIL LEGAL AID OVERSIGHT COMMITTEE OPERATING RULES AND PROCEDURES

(Revised 4-23-07)

I. Name

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

II. Membership

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

- (a) Three persons appointed by the supreme court from a list of nominees submitted by the 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 POLICIES AND RESOLUTIONS 12-2021

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 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
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	
	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

Olympia, WA 98504
PO Box 41183
360-485-1530
360-280-1477 (mobile)

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

To: Civil Legal Aid Oversight Committee

From: Jim Bamberger, Director

Re: Director's Report: July - October 2022

Date: October 21, 2022

Happy Fall to All!

Following the most glorious summer and early fall, we begin our march through the darker (and rainier) months of the year – illuminated by the lights and energy of several holidays and festivals. It is a time of both reflection and great anticipation. So it is here at the Office of Civil Legal Aid.

As no report was submitted for the September budget meeting, this report updates you on activities undertaken since our last extended meeting on June 10th. Most significant are the staff changes that have and continue to occur.

1. Goings and Comings

• We Said “Goodbye” to Jill Malat and Dana Boales

As you may remember, the founding Children’s Representation Program (CRP) Manager, Jill Malat, left employment in that capacity at the end of March. Jill continued in a limited capacity on a contract basis, successfully steering the Children’s Representation Practice Standards Work Group to a successful update of the 2010 CRP Practice, Caseload, and Training Standards, and their unanimous adoption by the Supreme Court’s Commission on Children in Foster Care. Jill was the longest serving staff member, having started in May 2014 when she was tasked with establishing the first limited program for appointed counsel for children in dependency cases (the “legally free” program). Jill is now serving as a pro tem judge in multiple courts in Seattle and King County.

Dana Boales was the next longest serving staff member, having come to OCLA in October 2016 to establish and manage the statewide Crime Victims Legal Aid Program. Dana brought a deep reservoir of skills not only to manage the VOCA and later additional programs (Reentry Legal

Aid Program and *State v. Blake* Civil Consequences Program), but substantial leadership skills that worked to our great benefit during her time with us. From 2019 through 2022, Dana helped lead us through a very difficult audit conducted by the Department of Justice's Office of Inspector General. This past year she took an active leadership role in the months-long (and continuing) strategic planning effort related to operationalizing our race and related equity commitments both internally and externally. Dana left us in August to join the team of the newly established Office of Independent Investigations (OII). Established in RCW 43.102, OII is an office within the Governor's office (not unlike the recently established Women's Commission and the Office of Equity) the primary purpose of which is to review police use of force incidents. While Dana left us in August, she's been readily available to help us navigate the interim period until our new VOCA-DV Program Manager gets up to speed.

We are grateful for both Jill's and Dana's amazing contributions to OCLA's civil equity and justice efforts during their time with us. We wish them well.

- **We Say "Hello" to Katherine Kameron, Katie Maucione, Erin Ryan, Annalise Martucci, and Renee Villa**

The departures of Jill and Dana coupled with the need for additional capacity to properly implement the appointed counsel programs for indigent tenants and children in dependency cases (among other new programs), we added two program counsel for the CRP, one program counsel for the Eviction Defense Appointed Counsel Program, and an additional member for the support team the demand and workload on which had reached a breaking point.

- **Katherine Kameron** joined OCLA in June as a Program Counsel with the CRP. Formerly in private practice, Katherine most recently spent three years representing parents and children in dependencies in Pierce County. Katherine also brings substantial HR-related experience. Working both from home and at OCLA's workspace in Tacoma, Katherine has hit the ground running.
- **Katie Maucione** joined OCLA in July as a Program Counsel with the CRP. Katie has years of experience representing youth and children in dependency cases working in the Spokane County Public Defender's office. Katie regularly handled many of the most complex cases, including significant cases involving Indian children and their rights under the federal and state Indian Child Welfare Acts. Like Katherine, Katie has hit the ground running, and does so from her home and office in north Spokane.
- **Erin Ryan** joined OCLA in mid-June to serve as Program Counsel with our Eviction Defense programs. She lives and works in Vancouver where she shares office space with Eviction Defense Program Manager Philippe Knab. Erin brings both public defense and civil legal aid experience which, as it does with Philippe, adds great value to our effort to establish and operate the nation's first civil public defense program for indigent tenants in eviction cases. Along with Philippe, Erin is also taking on substantial responsibilities in our cross-silo (civil-criminal) programs including the *State v. Blake* Civil Consequences and Reentry Legal Aid Program (RLAP).

- **Annalise Martucci** joined OCLA on October 17th as Program Manager for both the Crime Victims Legal Aid and the newly established Legal Aid to Domestic Violence Survivors Programs. Annalise most recently worked as an Assistant Managing Attorney with Northwest Justice Project (NJP) and before then a private family law practitioner. She also brings substantial family law related teaching/training experience at Whatcom Community College. Annalise lives and works in Mount Vernon, WA in Skagit County.
- **Renee Villa** (pronounced “vee-ya”) is the most recent addition to our support team. She most recently worked on the membership support team at the Association of Washington Cities and before then in a support position at South Puget Sound Community College. Renee started on October 17th.

I will provide a status report at the October 28, 2022 meeting on the effort to recruit and hire a Director of Operations.

This new OCLA team (which includes “holdovers” Hope Hough, Philippe Knab, Bailey Zydek, and Gaby Robinson) met together for the first time on October 19th. While we lost significant historical knowledge when Dana and Jill left us, the new team is bringing high levels of energy, new and innovative ideas, critical and challenging eyes, creativity, and a common sense of purpose. They are well positioned and ready to carry OCLA forward into this new era of expanded statutory responsibility and heightened expectations for accountability to agency mission, values, and support for the communities that OCLA is charged to provide and effectively oversee high quality, effective, equity-informed civil legal assistance and representation.

2. FY 2023 Supplemental and FY 2024-25 Biennial Budget Submission

Following the Oversight Committee's endorsement of OCLA's draft budget proposals, we further refined them. They were submitted to the Office of Financial Management for including in the Governor's proposed FY 2023 supplemental and FY 24-25 biennial operating budget proposals.¹ As the Governor may not change judicial branch budgets, these will show up as requested by OCLA in the budgets he submits to the Legislature in late December. We are meeting with key budget leads, non-partisan and partisan staff, and others to educate, explain, and respond to questions arising from our proposals. I look forward to working closely with our legislative members in helping demonstrate the case for maintenance and proper funding of the critical programs that form the foundation of these requests.

3. Program Updates

Much energy has gone into meeting statutory mandates and contracting for client services across OCLA's programmatic portfolio. We have new programs to stand up, existing mandates for

¹ The final budget documents are posted in the OCLA section of the posted judicial branch budget transmittal at [Washington State Courts - Financial Services Financial Services - 2023-25 Judicial Branch Biennial Budget Submittal](#)

program expansion, and other programs that continue to require active management, oversight and, where necessary and appropriate, adjustments.

a. Children's Representation Program Expansion

Bailey Zydek and her CRP team have been working to meet statutory deadlines for implementation of the statewide right to appointed counsel for children and youth in dependency cases. Ch. 210, Laws of 2021 (codified at RCW 13.34.212(3)) directed OCLA to establish a statewide Children's Representation Program and to implement the directive that children and youth 8 and above receive appointed counsel in all dependency cases, and that all children (regardless of age) involved in termination of parental rights cases (TPRs) receive appointed counsel regardless of age. OCLA was required to expand the program to full statewide operation over the course of five fiscal years. Under the statute, this is to be accomplished on a county-by-county basis, with the first three counties coming online in July 2021 and five more by January 1, 2023. Each subsequent cohort of counites will be brought on by January 1st of the following year.

The CRP team successfully recruited and contracted with attorneys to represent all eligible children in Grant, Lewis, and Cowlitz Counties effective July 1st. Contract attorneys will be engaged in Yakima, Benton, Franklin, Walla Walla, and Kittitas Counties for these counties to become operational January 1, 2023. The balance of the implementation schedule is posted on OCLA's [website](#).

Expansion of this program will be a daunting project as it will require significant expansion of the community of contracted attorneys dedicated to representation of children and youth consistent with new practice and caseload standards. Recruitment (posting, reviewing, interviewing, checking references, onboarding) is an ongoing, time-intensive task shared by the entire team. As the number of counties fully engaged continues to grow, so will the CRP staff. To ensure meaningful time for active oversight and support of our contractors we will try to maintain a ratio of program counsel to contracted attorneys at somewhere near 1:40. The CRP team is currently recruiting a full-time training coordinator for CRP representation that meets the new [Practice, Caseload, and Training Standards](#) adopted by the Supreme Court's Commission on Children in Foster Care on September 12th.

b. Eviction Defense Appointed Counsel (Right to Counsel or RTC) Program

Full implementation of this new civil public defense program was achieved January 18, 2022, just 9 short months following the Governor's signature on Engrossed Second Substitute Senate Bill 5160 on April 22, 2021. As we explained in our July 29, 2022 Report to the Legislature and as we have consistently explained to our contracted providers, judicial officers, court administrators, and others, the footprint we put into place was the very best we could accomplish on short notice, without relevant data, and without experience necessary to anticipate the full spectrum of functions and capacities necessary for proper operation of this civil public defense program. In the months since, the Eviction Defense team has monitored a host of data points to help guide our understanding of what is happening, for whom, and how in the context of the

appointed counsel program. Much of the data provided by OCLA-contracted providers is presented in a [dashboard](#) developed and quarterly updated by our data consultants at JustTech. Other data comes in response to specific requests, monthly reports on case numbers and case time (not included in the dashboard), the Judicial Information System managed by AOC, and active observation of unlawful detainer dockets throughout the state.

As a result of our continuous learning, we recognized the need for expanded statewide support, coverage for conflicts, dedicated capacity to address emergency cases, and dedicated appellate capacity. Additionally, we had to make changes to the original footprint itself, adjust allocations of RTC funding away from the Eviction Defense Screening Line (backfilled with COVID funding for non-RTC eviction defense cases), and make changes in our deployed client service capacity. A number of these changes/new capacities are outlined in the July 28, 2022 [Report to the Legislature](#). Others are continuing works in progress. The Eviction Defense team presented to the House Committee on Housing, Human Services and Veterans Committee on October 19th (PPT presentation posted [here](#)) A similar presentation will be made to the Senate Housing and Local Government Committee on December 1st.

c. Pre-RTC Eviction Defense Program

Recognizing that it benefits all parties to resolve matters prior to the filing of an unlawful detainer (UD) action, the Legislature appropriated \$2M in FY 2023 funding for pre-RTC eviction defense services. Following a competitive contracting process, OCLA engaged 11 providers that provide pre-RTC eviction defense services in nearly all of Washington State.² These programs provide a range of pre-UD legal information, advice, assistance, and representation. Contracts were executed, and services are being provided. OCLA is asking the Legislature to continue the pre-UD or pre-RTC efforts in the coming biennium.

d. Domestic Violence Survivor Representation

In 2022, the Legislature directed OCLA to establish a new program dedicated to providing civil legal aid services to survivors of domestic violence. The final budget provided \$2M in ongoing funding for this effort.

OCLA published two notices of funding availability (NOFAs) for this program. \$1.6M/yr. was dedicated to legal assistance generally available to survivors of domestic violence (as defined in RCW 7.105.010(9)); the remaining \$400k/yr. was directed to assistance for survivors living on or near rural Indian reservations. Because the funding is ongoing and given the complexity of this representation and the long duration that many cases involving domestic violence survivors take, OCLA requested proposals for three-year contracts for this initial effort.

² Despite active encouragement, OCLA did not receive a proposal from organizations that provide eviction defense services in Clark County.

OCLA engaged a review committee that recommended funding of five proposals under the larger NOFA and two proposals for the on-near reservation effort. Contractors engaged under this program include:

- Spokane County YWCA – Expanded services to DV survivors outside of Spokane County in NE WA
- Tacoma Probono Community Lawyers – Expanded services to DV survivors who identify as members of BIPOC communities; gender, transgender, and other sexual minorities; and survivors from other communities experiencing disproportionately high victimization rates and disproportionately lower access to culturally competent legal assistance
- Thurston County Volunteer Legal Services – Expanded and culturally competent services to DV survivors in Lewis, Mason, Thurston, Grays Harbor, and Pacific Counties
- Sexual Violence Legal Services (hosted by Legal Voice) to provide direct legal assistance as well as statewide support and training for DV legal aid service providers
- Northwest Immigrant Rights Project (NWIRP) – expanded legal assistance to immigrant survivors of domestic violence in eastern WA eligible for adjustment under federal immigration laws because of their status as survivors of domestic violence

For the On-Near Reservation program we contracted with two programs:

- Lummi Victims of Crime Program – provision of legal assistance to survivors living on or near the Lummi Reservation
- WomenSpirit Coalition's Sayu'x Wey Family Safety Center serving survivors living on or near multiple reservations on the Olympic Peninsula

This program will be managed by Annalise Martucci.

e. Other Civil Legal Aid Programs

In addition to the above, OCLA executed contracts to continue/expand services to the following programs:

- Reentry Legal Assistance Program (which received an increase in baseline funding in the FY 23 supplemental budget)
- *State v. Blake* Civil Consequences Program (which received an increase in baseline funding in the FY 23 supplemental budget)

4. Other Matters

- Earlier this spring, the Supreme Court asked the Civil Legal Aid Oversight Committee and the Access to Justice Board to work with other members of the

appellate court community to develop recommendations relating to existing court rules, practices and procedures affecting meaningful access to appellate review for unrepresented appellants. The Oversight Committee has been ably represented by both Sarah Augustine and Justice Whitener (who wears multiple hats on this one). The ATJ Board is represented by former Chair and current WSBA Governor Francis Adewale. The Supreme Court is represented by Supreme Court Clerk Erin Lennon and Justice Whitener. The group has offered several recommendations, including the need for funding of an intentional process to critically review and review rules and practices that systemically deny access to appellate review for unrepresented litigants without a statutory or constitutional right to appellate representation.

- At the October 28th meeting, I'm asking that the Oversight Committee rescind the policy relating to the OCLA Director's travel. The policy was adopted in 2011 (No. 2011-02 (attached)). This was a time when the Director was the sole employee of the agency and there were no internal safeguards on the prerogative of the Director to travel in the course of the performance of official duties.

Much has changed since then. OCLA now has 12 employees and a new Director of Operations should be hired shortly. There are plenty of internal checks and balances to ensure that the Director's travel is appropriately responsive to agency needs. Further, our fiscal relationship with AOC ensures an additional level of oversight and accountability. Under current circumstances, I suggest that the policy unnecessarily involves the Oversight Committee in internal operational activities. I encourage the Oversight Committee to rescind the policy at the October 28th meeting.

RESOLUTION NO. 2011-02

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 AGENCY'S ROLES AND FUNCTIONS

Whereas, the Office of Civil Legal Aid is an independent judicial branch agency and that, in accordance with RCW 2.53.020, the Director of the Office of Civil Legal Aid is appointed by and serves at the pleasure of the Washington Supreme Court; and

Whereas, under RCW 2.53.010, the Civil Legal Aid Oversight Committee oversees the activities of the Office of Civil Legal Aid and reviews the performance of the Director of the Office of Civil Legal Aid but does not have day-to-day operational authority over the work of the Director of the Office of Civil Legal Aid; and

Whereas, it is important that the Director of the Office of Civil Legal Aid be able to travel, as necessary or appropriate, to perform tasks, attend meetings and otherwise discharge his express and implied duties as Director of an independent state agency; and

Whereas, it is important that there be transparency and meaningful oversight and accountability of the Director's expenditure of state funds and resources;

NOW THEREFORE, BE IT RESOLVED BY THE CIVIL LEGAL AID OVERSIGHT COMMITTEE THAT:

1. The Director of the Office of Civil Legal Aid is expected to engage in travel necessary or appropriate to the discharge of his duties, and that such travel be undertaken consistent with applicable state policies and procedures; and
2. The Director of the Office of Civil Legal Aid is requested to submit an annual report to the Civil Legal Aid Oversight Committee detailing travel expenses incurred and the general purpose of travel incurred in his official capacity at agency expense.
3. The Director of the Office of Civil Legal Aid is requested to consult with the Chair and Vice-Chair of the Civil Legal Aid Oversight Committee before undertaking travel out-of-state at agency expense.

Adopted this 7th day of October, 2011.

Thomas A. Brown
Chair