

INTRODUCTION

In 2003 more than seven in ten low income people experience an important civil legal problem each year. (WASHINGTON SUPREME COURT TASK FORCE ON CIVIL EQUAL JUSTICE FUNDING, *Civil Legal Needs Study* (Sept. 2003)). Of these nearly 90% did not receive the legal assistance they need. (*Id.*). This was before the Great Recession and the ever growing income inequality chasm that has accompanied the economic recovery.

Over the past five years, job losses, housing foreclosures and major cuts in essential support services have driven an unprecedented spike in poverty rates. These in turn have caused an immediate and unprecedented spike in demand for civil legal aid services. The 2013 American Community Survey documents that 14.15% of Washington residents – 967,282 individuals – lived at or below 100% of the federal poverty level (FPL) in 2011.¹ The corresponding rate in 2005 was 11.9% (with 729,500 people living at or below 100% of the FPL).² About 1.25 million Washingtonians (18.3% of the population) now meet the base eligibility standard for civil legal aid, with household incomes at or below 125% of the federal poverty guideline;³ and more than 2.122 million Washington State residents live at or below 200% of poverty.⁴ While the recovery has assisted households with incomes at the top of the economic scale, those at the bottom have seen real income stagnate and decline over the past five years.⁵

Individuals and families living at or near the poverty level experience legal problems affecting the most basic human needs – protection of housing, preservation of family relationships and protection from domestic violence and abuse, preservation of employment, protection from consumer fraud and abuse, access to public/municipal services, and access to governmental assistance and health care.

¹ Source: US Census Bureau ACS Poverty in 2013 (October 2014)

http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_1YR_S1701&prodType=table

²

http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_05_EST_S1701&prodType=table

³ *Id.*

⁴ *Id.*

⁵ *See*, Romich, Poverty, Income Inequality Increase in Washington State,

<http://www.washington.edu/news/2014/09/18/poverty-income-inequality-increase-in-washington-state>; Balk, As Seattle Incomes Soar, Gap Grows Between Rich and Poor, <http://blogs.seattletimes.com/fyi-guy/2014/10/06/as-seattle-incomes-soar-gap-grows-between-rich-and-poor>

Following the start of the Great Recession, demand for civil legal aid skyrocketed, with low income residents looking for legal help with problems that flow from the direct and indirect consequences of the economic crisis and its aftermath. These include problems involving debt collection (including medical debt collection), unemployment insurance, mortgage foreclosure, access to affordable housing, eligibility for nutritional assistance, and matters relating to families in conflict.

At the same time as demand for legal help has increased, the capacity of the legal aid system to address these needs has declined substantially. During the period from 2009 – 2014, the base state-funded legal aid footprint declined from 105 FTE attorneys to the current level of 85. Case service statistics for state funded legal assistance declined correspondingly from 14,741 closed cases in CY 2009 to 9,241 closed cases in CY 2013.

Women and children disproportionately experience civil legal problems for which legal representation is required. According to the 2003 Civil Legal Needs Study, victims of domestic violence have the greatest number of civil legal needs and, in many cases, experience the greatest risk when needs for civil legal assistance are not met.⁶ Low income residents of rural Washington are disproportionately unable to secure the legal help they need to assert or defend important civil legal rights and prerogatives.

STRATEGIC PLAN⁷

AGENCY MISSION

The provision of civil legal aid services to indigent persons is an important component of the state's responsibility to provide for the proper and effective administration of justice. The mission of the Office of Civil Legal Aid is to work within the judicial branch and with the Supreme Court's Access to Justice Board to ensure justice for low income residents of Washington State through the funding and oversight of effective, economical and responsive state-funded civil legal aid services and to ensure accountability for state-appropriated funds dedicated to this purpose.

Office of Civil Legal Aid, *Strategic Plan* at 1 (December 2008).

OCLA administers and oversees the delivery of state-funded civil legal aid services to eligible low income people in Washington State. OCLA contracts with a statewide "qualified legal aid program," the Northwest Justice Project (NJP), to provide direct and sub-contracted civil legal aid services to eligible low income clients on matters falling within the areas of authorized practice set forth in RCW 2.53.030(2). OCLA is required, among other things, to ensure that state funded legal aid services are delivered "in a manner that maximizes geographic access throughout the state." RCW 2.53.030(3).

⁶ Washington Supreme Court, Task Force on Civil Equal Justice Funding, Civil Legal Needs Study (September 2003) at 29.

⁷ The Office of Civil Legal Aid adopted an agency Strategic Plan in 2008. A copy of that plan is available on the OCLA's website – www.ocla.wa.gov

The Office of Civil Legal Aid is overseen by a bipartisan Civil Legal Aid Oversight Committee. RCW 2.53.010. The Oversight Committee includes members appointed by both caucuses of the House and Senate, three representatives appointed by the Supreme Court (including a client-eligible member), two representatives appointed by the Board for Judicial Administration, a representative appointed by the Governor and a representative appointed by the Washington State Bar Association. The Oversight Committee is chaired by Spokane County Superior Court Judge Ellen K. Clark.

By Supreme Court Order, responsibility for planning and coordination of Washington State's civil legal aid delivery is assigned to the Court's Access to Justice Board (ATJ Board). The ATJ Board has adopted a comprehensive plan for the delivery of civil legal aid services to all low income residents in the state including, but not limited to, clients eligible for state-funded legal aid services. (WASHINGTON STATE ACCESS TO JUSTICE BOARD, *State Plan for the Delivery of Civil Legal Aid Services to Low Income Residents of Washington State* (1995; rev. 1999 and May 2006)). The ATJ Board's *State Plan* defines roles, expectations, responsibilities and accountability standards and systems designed to ensure the effective and efficient delivery of civil legal aid services. To the extent consistent with RCW 2.53.020 and .030 and consistent with direction provided by the bipartisan Civil Legal Aid Oversight Committee, the *State Plan* serves as a guide for developing budget proposals and establishing client service delivery and related performance expectations.

STATUTORY AUTHORITY

The Office of Civil Legal Aid (OCLA) is managed by the agency Director. Under RCW 2.53.020(3), the Director's charge is to:

- (a) Contract with one or more qualified legal aid providers to provide civil legal aid services authorized by RCW [2.53.030](#);
- (b) Monitor and oversee the use of state funding to ensure compliance with this chapter;
- (c) Report quarterly to the civil legal aid oversight committee established in RCW [2.53.010](#) and the supreme court's access to justice board on the use of state funds for legal aid; and report biennially on the status of access to the civil justice system for low-income people eligible for state-funded legal aid; and
- (d) Submit a biennial budget request.

Effective July 1, 2014, OCLA was assigned responsibility to administer and oversee a program pursuant to which attorneys are appointed to represent children who remain legally free six months following the termination of the legal rights of their parents. RCW 2.53.045. OCLA has established the statewide Children's Representation Program and has added a full-time Children's Representation Program Manager to its staff.

GOALS

OCLA works to achieve results in service of the following eight goals:

1. Funding: Secure funding necessary to address the most important civil legal needs of low income people as documented by the Civil Legal Needs Study and related reports of the Supreme Court’s Task Force on Civil Equal Justice Funding.
2. Accountability: Ensure that state funding invested in civil legal aid delivery and infrastructure underwrites effective and economical service delivery that is consistent with applicable statutory and contractual requirements and is responsive to the most significant civil legal problems experienced by eligible low income people within Washington State.
3. Equity: Ensure that eligible low income people have equitable access to the type and quality of civil legal aid services they need to solve important personal and family civil legal problems, regardless of where they reside or barriers they may experience due to cultural, linguistic, ability-based or other characteristics.
4. State Support: Support efforts to establish and maintain statewide support infrastructure so that the state funded civil legal aid system is best positioned to provide effective and economical client services over time.
5. Integration Within Judicial Branch: Ensure that the effective and economical civil legal aid is institutionalized as an enduring responsibility and high priority of the Washington State judicial branch.
6. Oversight: Ensure effective, ongoing bipartisan oversight of the activities of the Office of Civil Legal Aid and the state-funded civil legal aid system, consistent with best practices and relevant professional standards for civil legal aid delivery.
7. Continuous Assessment and Reporting: Establish and/or support systems that allow continued assessment of the social, economic and legal environment affecting low income residents and the capacity of the state-funded civil legal aid delivery system to address the civil legal needs of eligible low income individuals and families; report and make recommendations on policies relating to the provision of state-funded civil legal aid in Washington State.
8. Ensuring Effective, Standards-Based Representation of Legally Free Children: Develop systems to monitor, oversee and effectively support the provision of legal assistance to legally free children consistent with the directives set forth in RCW 13.34.100(2)(6) and the standards referenced in that statute.

MAJOR STRATEGIES

To achieve its mission and goals the Office of Civil Legal Aid employs the following strategies:

- Establish concrete client service expectations with appropriate accountability benchmarks in its contract with the Northwest Justice Project
- Coordinate closely with the Supreme Court’s Access to Justice Board and other key institutions to ensure the effective, efficient and coordinated delivery of civil legal aid services in authorized areas of representation, consistent with the requirements of RCW 2.53, the ATJ Board’s *State Plan for the Delivery of Civil Legal Aid*, Washington State’s Civil Equal Justice Performance Standards and other recognized national standards for delivery of civil legal aid

- Conduct reviews of state-funded legal aid programs to ensure compliance with statutory, contractual, fiscal and service delivery expectations, requirements and limitations.
- Provide effective staff support for the bipartisan Civil Legal Aid Oversight Committee
- Ensure that sufficient resources are invested in critical statewide capacities needed to achieve effective, efficient and consistent client service delivery including skills and professional competency training, interpreter services, leadership development initiatives, regional delivery planning and coordination, case management, video conferencing, GIS and other technology based systems, etc.
- Work to ensure that the unmet civil legal needs of poor and vulnerable people are considered and, where appropriate, incorporated into judicial branch initiatives
- Monitor and report on changes in the substance and frequency of civil legal problems experienced by low income people in Washington State, including support a comprehensive update of the 2003 Civil Legal Needs Study
- Provide effective support and training for and effective oversight of attorneys appointed to represent legally free children pursuant to RCW 13.34.100(2)(6)

MEASURES

The Office of Civil Legal Aid conducts a biennial fiscal and regulatory review of the Northwest Justice Project's operations and conducts annual site visits to selected NJP regional field service offices. These oversight activities are undertaken to ensure:

- Compliance with all statutory requirements set forth in RCW 2.53.030
- Effective and efficient delivery of state funded civil legal aid services in authorized areas of legal representation that are responsive to the needs of eligible clients
- Effective coordination of the delivery of civil legal aid services with other relevant legal, social and human services in communities throughout Washington State
- Provision of services consistent with national and state-based professional standards and best practices.

The Office of Civil Legal Aid uses the following tools in evaluating the efficiency and effectiveness of state-funded civil legal aid service delivery:

- The requirements of RCW 2.53.030
- The ATJ Board's *State Plan for the Delivery of Civil Legal Aid Services*
- Regional client service delivery plans
- The ATJ Board's *Standards for Civil Legal Aid in Washington State* (2009)
- The federal Legal Services Corporation's *Performance Criteria* (May 2007)
- The ABA's *Standards for the Delivery of Civil Legal Services to the Poor* (rev. August 2006)
- Relevant standards for accounting and fiscal administration

In the area of children's legal representation in dependency cases, the OCLA has:

- Developed and requires state-funded children's attorneys to use a web-based Case Activity, Reporting and Oversight System (CAROS) to monitor the performance of state-funded attorneys representing legally free children.

- Engaged the Court Improvement Training Academy at the University of Washington School of Law to develop and deliver training designed to enhance the ability to state-funded attorneys to represent children consistent with the standards referenced in RCW 13.34.100(2)(6).
- Provides ongoing technical assistance and support, peer mentoring and other resources designed to ensure effective, standards-based legal representation.
- Developed other strategies to monitor and assess attorney performance.

EXTERNAL ENVIRONMENT

Over the past six years, Washington State has experienced a deep economic contraction and a slow, unequal recovery. Poverty rates continue to grow as does the number and gravity of the legal problems experienced by those living in poverty. Cuts in local and state services coupled with significant changes in public policies directly affecting the poor, disabled and vulnerable have led to increased homelessness, a systematic lack of critical services for children, the mentally ill and other vulnerable populations, and other signs of social decay.

During this same time, the statewide civil legal aid system, a model public/private partnership, has experienced multiple challenges that have undermined its ability to maintain presence and provide a sufficient level of relevant legal aid services to those who need them. These include deep reductions in funding from the state and other key sources of underwriting support.

TRENDS

Demand for civil legal aid is counter-cyclical. As times get tougher, the social and legal problems facing low income people and families increase. A hospital bill becomes a debt collection problem that, once collateralized, becomes a mortgage foreclosure. Family social and economic stress is increased as life-long wage earners find themselves without jobs or the ability to secure new employment and as bills and legal obligations pile up. These dynamics are compounded by the loss of extended unemployment insurance benefits for the long-term unemployed. The loss of health, child care and other support services creates additional stresses on family incomes, causing them to make choices between paying rent, utilities, child care, credit card debt or other essential services. The social epidemic of domestic violence continues to grow in every part of the state. Washington State continues to experience a spike in housing foreclosures and the number of persons faced with the threat of foreclosures⁸, an influx of military service personnel and families needing help with an array of life and related legal problems, and families victimized by increasingly aggressive predatory lenders.

These trends manifest in unprecedented levels of demand for civil legal aid services. They have also created substantial increases in demand on the civil justice system. A 2010 survey of judges conducted by the American Bar Association documents the strong correlation between the current economic crisis and (a) increasing demand on the court system, (b) increased numbers of

⁸ Efforts to address the deluge of pending and expected foreclosures have been assisted by the Attorney General's commitment of \$2.25 million per year over the next five years to support a range of civil legal assistance related to foreclosure prevention, mediation, and related civil legal problems for persons at or below 400% of FPL. *See* <http://www.atg.wa.gov/pressrelease.aspx?id=30552>

unrepresented litigants, and (c) increased numbers of litigants who have experienced real injustice in the course of their cases.⁹

In the face of this demand, the state-funded civil legal aid system's delivery capacity has been reduced by nearly 20% over the past four years due to cuts in state funding and uncompensated increased costs of operation. As of January 1, 2015, NJP will have a state-funded client service footprint, including its intake/referral staff and statewide advocacy coordinators, of 85 FTE attorneys. With more than 2 million eligible clients, this results in one state-funded attorney for every 15,000 residents living at or below 125% of the federal poverty guideline, and 1:25,000 for those living at or below 200% of FPL.

STRATEGIES

The Office of Civil Legal Aid will work to (a) secure funding to protect against further erosion in client service staff capacity due to the state's share of known and measurable personnel and occupancy cost increases, (b) secure funding to stabilize the statewide civil legal aid system so that it can remain available and relevant to low income residents in all parts of the state, (c) continue to provide effective oversight to ensure that state-funded services are delivered in the most effective and efficient manner consistent with the needs of eligible clients, the requirements of its governing statute, relevant performance standards and the expectations set forth in the ATJ Board's *State Plan*, (d) complete a comprehensive update of the substance and frequency of civil legal problems experienced by low income residents of Washington State and make recommendations to the Legislature and others relating to the findings of the update, and (e) complete the effective implementation of the Children's Representation Program, monitor outcomes and indicators of child well-being and provide periodic reports to the Legislature regarding the impact and effectiveness of providing representation for legally free children.

FINANCIAL PLAN

In the short term, OCLA will work to secure increases in state civil legal aid funding to mitigate increased operational costs and buy back a portion of the client service capacity lost in recent years, with the objective of stabilizing the system in the short term to the "new normal." Over the longer term, OCLA will work with the judicial branch and the legislature to ensure adequate funding to meet the most urgent civil justice needs of low income and vulnerable people in the state. OCLA will also work with the Washington State Bar Association, the Supreme Court's Access to Justice Board and other key organizations to increase the availability of private volunteer involvement in civil legal aid delivery – a component of the legal aid delivery system that in 2013 provided more than 65,000 total hours of help to state-eligible clients with an annual value of more than \$11,000,000.¹⁰

OCLA will also monitor caseload trends and seek funding sufficient to fully pay for the cost of attorneys appointed pursuant to RCW 13.34.100(2)(6).

STAFFING

⁹ <http://new.abanet.org/JusticeCenter/PublicDocuments/CoalitionforJusticeSurveyReport.pdf>

¹⁰ Source: Legal Foundation of Washington, 2013 Annual Report at 6.

<http://www.legalfoundation.org/sites/legalfoundation/upload/filemanager/LFW-2013-Annual-Report-to-post.pdf>

The Office of Civil Legal Aid is staffed by a single FTE, the agency Director and a Children's Representation Program Manager. For the FY 2013-15 biennium, total agency administrative expenses, including contracted administrative and statewide support services were 2.5% of total agency expenses. Given the expansion of the agency's mission and increased administrative duties, OCLA will request an additional 1 FTE for professional agency administrative assistance and contracts management in the FY 2015-17 biennium.

2013-15 Current Biennium Total

CL AE Carry Forward Level	2.0	23,637	1,463	25,100
Total Carry Forward Level	2.0	23,637	1,463	25,100
Percent Change from Current Biennium				
M1 90 Maintenance Level Revenue				
Carry Forward plus Workload Changes	2.0	23,637	1,463	25,100
Percent Change from Current Biennium				
M2 AA Maintain Existing Client Service		718		718
M2 AB Maintain Children's Representation	0.5	1,200		1,200
Total Maintenance Level	2.5	25,555	1,463	27,018
Percent Change from Current Biennium				
PL A1 Civil Legal Aid Enhancement	0.5	2,958		2,958
PL A2 Private/Local Authority			300	300
Subtotal - Performance Level Changes	0.5	2,958	300	3,258
2015-17 Total Proposed Budget	3.0	28,513	1,763	30,276
Percent Change from Current Biennium				

M2 AA Maintain Existing Client Service

OCLA seeks funding to mitigate against legally obligated increases in personnel expenses experienced by its client service provider, Northwest Justice Project.

M2 AB Maintain Children's Representation

Budget is required to fully fund the state's responsibilities under ch. 108, Laws of 2014 (codified at RCW 13.34.100(2)(6)), providing for state payment for attorney representation of children in dependency cases starting six months after termination of the legal rights of all parents.

PL A1 Civil Legal Aid Enhancement

Stabilize client service capacity at statewide Northwest Justice Project at minimum sustainable levels consistent with increased poverty population, client demand levels and complexity of civil legal problems; enhance capacity of state-funded volunteer and specialty legal aid providers to provide needed legal aid services; address critical agency administrative needs.

PL A2 Private/Local Authority

OCLA requests the Expenditure Authority for funding received from Private/Local Grants designated for specific purposes by the terms of the grants.

State of Washington
Decision Package Revenue Detail

FINAL

11/19/2014

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Page: 1

Budget Period: 2015-17
Agency: 057 Office of Civil Legal Aid
Version: B1 2015-17 Budget Request
Package Program:
Budget Level: M1
Decision Package Code: 90
Decision Package Title: Maintenance Level Revenue

Last Updated: Oct 23 2014 10:31AM

Fiscal Year: 2016

Fund-Source

	Agency Level	Total
001-0541 Contributions Grants	150,000	150,000
Total	150,000	150,000

Fiscal Year: 2017

Fund-Source

	Agency Level	Total
001-0541 Contributions Grants	150,000	150,000
Total	150,000	150,000

Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

Decision Package

Agency Office of Civil Legal Aid

Decision Package Title Maintain Existing Client Service Capacity

Budget Period 2015-2017 Biennial Budget

Budget Level Maintenance Level

Agency Recommendation Summary Text

OCLA seeks funding to mitigate client service capacity consequences of legally obligated increases in personnel related expenses experienced by its sole-source client service provider, Northwest Justice Project.

Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
001-1 General Fund State	\$ 237,000	\$ 481,000	\$ 718,000
Staffing	FY 2016	FY 2017	Total
FTEs (number of staff requested)	0	0	0

Package Description

Protect legislatively authorized client service capacity in face of known and measurable personnel related cost increases.

Narrative Justification and Impact Statement

This package contributes to the Judicial Branch Principle Policy Objectives as identified below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest

level of public trust and confidence in the courts.

Access to timely, competent and effective civil legal assistance is essential to the ability of litigants to effectively assert and defend important legal rights within the justice system. Such access is also essential for the courts to deliver on the constitutional promise of administering real justice in all cases openly and without unnecessary delay. Civil legal aid offers a legal voice for low income people who lack any other means of participating in legal proceedings in which they are involved. In so doing, it is the vehicle through which the justice system offers both fairness and the appearance of fairness.

Accessibility. *Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.*

Persons with disabilities limiting their ability to effectively participate in judicial proceedings are disproportionately poor. The availability of civil legal aid services helps ensure that these people are able to assert their rights to reasonable accommodation and otherwise overcome access barriers that limit their ability to meaningfully participate in legal proceedings in which they are parties. The same is true for individuals who are limited English proficient (LEP) and who are also disproportionately poor. Legal aid helps them assert their language access rights and to effectively participate in proceedings in which they are involved.

Access to Necessary Representation. *Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.*

In an adversary civil justice system, those with an effective legal voice are much more likely to be successful in presenting their cases than those without. Legal aid offers a full spectrum of assistance to enable low-income people effectively participate in their legal cases. In those cases where the stakes are important, the issues complex and the other side is represented, an unrepresented individual is at a distinct disadvantage. Within the resource limits available, civil legal aid -- whether offered through a staffed legal aid program or a pro bono attorney -- levels the playing field and ensures that evidence and arguments of those with important interests at stake will be heard and considered on their merits. Protecting current levels of client service capacity will ensure that there is some minimal presence to address the needs of low income people on a statewide basis. Without such investment, *the system will lose another 5 FTE attorneys over the course of the biennium.*

Commitment to Effective Court Management. *Washington courts will employ and maintain systems and practices that enhance effective court management.*

N/A

Appropriate Staffing and Support. *Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.*

N/A

Measure Detail

Impact on clients and service

The Office of Civil Legal Aid (OCLA) is an independent judicial branch agency that administers and oversees the state's investment in civil legal aid services. OCLA's activities relating to contracting and oversight of state civil legal aid funding is governed by RCW 2.53.020 and .030. The Legislature has directed that OCLA contract with a "qualified legal aid program" for the provision of civil legal aid services to eligible clients. RCW 2.53.030(2). OCLA contracts with the Northwest Justice Project to provide state-authorized and supported civil legal aid services.

NJP maintains a statewide client intake, access and referral system (CLEAR); regional and satellite offices in 17 locations throughout the state; a system to help underwrite state-eligible client services provided through 17 local volunteer attorney programs and 4 providers of specialized and targeted legal aid services; and training and professional development support for state-funded legal aid program staff and volunteers.

Over the past four years, NJP has lost 20 FTE client service positions. Its current footprint is now 82.5 basic field client service attorneys. A chart outlining basic field client service staffing changes since 2009 is attached.

The requested funding is necessary to protect the existing footprint against further erosion. OCLA seeks an amount that is equal to the state's percentage of total program *personnel* cost increases commensurate with the state's contribution to NJP's overall program operations (52%).¹ These are costs that must be incurred by NJP, as they reflect experiential progression on NJP's Board-adopted salary scale.

Impact on other state services

Further reduction in client service capacity means fewer clients served. It may also mean closure of one-attorney offices in one or more rural locations. Reduced client service capacity can and does have an indirect impact on demands for state and local services for victims of domestic violence, homeless persons, persons in need of medical or mental health services, etc.

Relationship to Capital Budget

N/A

¹ This request only seeks an adjustment to address known and measurable personnel cost increases (salaries and benefits), which represent more than 80% of NJP's total increase in operating costs over the biennium.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

N/A

Alternatives explored

This is a cost-driven need that is tied directly to state-funded client service capacity. The only alternative is a one-time vendor rate adjustment in the amount of 3.3% to carry forward through the biennium.

Distinction between one-time and ongoing costs and budget impacts in future biennia

The amount requested will carry forward as part of the new base level of funding.

Effects of non-funding

NJP will lose an additional 5 FTE during the course of the FY 2015-17 biennium. Depending upon where such cuts are taken, it could further substantially reduce client service available through the statewide legal aid information, assistance and referral line (CLEAR) and/or further reduction of client service capacity in one of its 17 field or satellite locations and/or closure of one or more one-attorney offices.

Expenditure calculations and assumptions and FTE assumptions

Costs are determined on the basis of existing staffing levels by position and experience, actual costs associated with experiential progression on NJP's Board-approved salary scale and anticipated changes in related expenses for health care and other employer provided benefits.

Object Detail	FY 2016	FY 2017	Total
Staff Costs	\$ 0	\$ 0	\$ 0
Non-Staff Costs	\$ 237,000	\$ 481,000	\$ 718,000
Total Objects	\$ 237,000	\$ 481,000	\$ 718,000

Northwest Justice Project OCLA-Funded Client Service Locations	2009 FTE Attorneys	2013 FTE Attorneys	Net Change 2009-2013	Residents @125% of FPL 2010	Counties Served
Bellingham	4.8	3.9	-0.9	68,150	Whatcom, Skagit, Island, San Juan
Everett	5	4	-1	76,237	Snohomish
King County	10.6	8.6	-2	241,707	King
Olympia	4	3	-1	56,874	Thurston, Mason, Lewis
Spokane	6	4	-2	97,426	Spokane, Lincoln, Whitman
Colville	2	2	0	13,694	Ferry, Stevens, Pend Oreille
Tacoma	7	6	-1	117,635	Pierce
Bremerton	2	2	0	29,992	Kitsap
Vancouver	5	5	0	59,693	Clark, Skamania, Klickitat
Walla Walla	2	1	-1	17,642	Walla Walla, Asotin, Garfield, Columbia
Pasco	1	2	+1	46,001	Benton, Franklin
Wenatchee	4	4	0	47,374	Chelan, Douglas, Adams, Grant
Omak	1.9	1.9	0	10,171	Okanogan
Yakima	5	3.8	-1.2	75,928	Yakima, Kittitas
Port Angeles	3	1	-2	18,029	Clallam, Jefferson
Aberdeen	3	1	-2	19,617	Grays Harbor, Pacific
Longview	3	2	-1	21,835	Cowlitz, Wahkiakum
Total Community-Based Client Service FTE's	69.3	55.2	-14.1		
Statewide Intake, Advice, Brief Service and Referral (CLEAR), Self-Help Support and Private Bar	32	27	-5		
Statewide Client Service Coordination, Training, Support and Supervision, and Publications Coordinator	4.8	3.6	-1.2		
Total State-Funded Client Service FTE's	106.1	85.8	-20.3		

Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

Decision Package

Agency Office of Civil Legal Aid

Decision Package Title Maintain Children’s Legal Representation Capacity

Budget Period 2015-2017 Biennial Budget

Budget Level Maintenance Level

Agency Recommendation Summary Text

Budget is required to fully fund the state’s responsibilities under ch. 108, Laws of 2014 (*codified at* RCW 13.34.100(2)(6)), providing for state payment for attorney representation of children in dependency cases starting six months after termination of the legal rights of all parents.

Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
001-1 General Fund State	\$ 600,000	\$ 600,000	\$ 1,200,000
Staffing	FY 2016	FY 2017	Total
FTEs (number of staff requested)	.5	.5	.5

Package Description

Funding is requested to fully fund implementation of 2ESSB 6126 (ch. 108, Laws of 2014) in FY 2015-17. The legislation, codified at RCW 13.34.100(2)(6), provides for the appointment of attorneys to represent children in dependency cases six months following termination of the legal rights of all parents. Section 2(6) of the legislation provides that the state will pay for legal representation that meets practice, caseload and training standards established in 2010 by a legislatively created Children's Representation Work Group. Section 3 (*codified at* RCW 2.53.045) of the legislation designates the Office of Civil Legal Aid as the agency to administer the system for ensuring accountability of legal representation to the referenced standards and to pay for

legal representation in qualifying cases. OCLA initiated this program effective July 1, 2014. Funding is requested to fully underwrite this program consistent with anticipated qualifying caseload numbers. The funding level reflects best current caseload information provided by the Children's Representation Program Manager (10/13/14) and preliminary billing information for Q1 of FY 2015. OCLA will continue to closely monitor payment levels and will adjust the level requested consistent with caseload and billing experience through the first two quarters of FY 2015.

Because OCLA will move to a direct attorney contract model in the 2015-17 biennium, this decision package assumes the hiring of a .5 FTE attorney contract administrator.

Narrative Justification and Impact Statement

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

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.

The Legislature determined that providing attorneys for children following the termination of the parent and child relationship is fundamental to protecting the child's legal rights and to accelerate permanency. Ch. 108, Laws of 2014, Sec. 1(1).

Accessibility. *Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.*

Consistent with legislative findings and objectives, the provision of standards-based legal representation for children in qualifying cases will ensure that these most vulnerable parties will have an effective legal voice in matters that will profoundly affect the rest of their lives.

Access to Necessary Representation. *Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.*

Funding is requested in order to fully fund the provision of effective, standards-based legal representation consistent with the legislative directive in RCW 13.34.100(2)(6) that courts appoint attorneys to represent children who remain legally free six months following entry of orders terminating all parental rights.

Measure Detail

Impact on clients and service

Consistent with stated legislative intent, OCLA funds and oversees attorneys appointed in cases where children no longer have a parent to advocate on their behalf and there is no other party to assert or defend their stated legal interests in the dependency proceeding post- termination of parental rights. Through a web-based Case Activity Reporting and

Oversight System (CAROS), OCLA monitors the activities and effectiveness of state-funded attorneys appointed to represent children under section RCW 13.34.100(2)(6). OCLA also monitors outcomes achieved in relation to specific child welfare indicators and court process timelines to determine the impact and effectiveness of attorney representation for these children.

Impact on other state services

It is anticipated that legal representation will expedite permanency for these children in ways that are consistent with appropriate child welfare indicators, thereby reducing costs associated with ongoing foster care and extended judicial proceedings.

Relationship to Capital Budget

N/A

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

N/A

Alternatives explored

This is to continue a program established pursuant to legislative directive and provide funding at a level dictated by actual caseload and billing experience. There are no alternatives.

Distinction between one-time and ongoing costs and budget impacts in future biennia

All costs are ongoing.

Effects of non-funding

Non-funding will result in either (a) non-compliance with the requirement in RCW 13.34.100(2)(6) that attorneys be appointed for children in qualifying cases or (b) the imposition of a legislative mandate directing counties to make such appointments without sufficient funding to pay for it in violation of RCW 43.135.060.

Expenditure calculations and assumptions and FTE assumptions

Object Detail	FY 2016	FY 2017	Total
Staff Costs	\$ 49,000	\$ 49,000	\$ 98,000
Non-Staff Costs	\$ 551,000	\$ 551,000	\$ 1,102,000
Total Objects	\$ 600,000	\$ 600,000	\$ 1,200,000

Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

Decision Package

Agency Office of Civil Legal Aid

Decision Package Title Civil Legal Aid Delivery Capacity Enhancement

Budget Period 2015-2017 Biennial Budget

Budget Level Policy Level

Agency Recommendation Summary Text

Stabilize client service capacity at statewide Northwest Justice Project at minimum sustainable levels consistent with increased poverty population, client demand levels and complexity of civil legal problems; enhance capacity of state-funded volunteer and specialty legal aid providers to provide needed legal aid services; address critical agency administrative needs.

Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
001-1 General Fund State	\$ 1,479,000	\$ 1,479,000	\$ 2,958,000
Staffing	FY 2016	FY 2017	Total
FTEs (number of staff requested)	.5	.5	.5

Package Description

OCLA seeks \$2,880,000 in the FY 2015-17 biennium to stabilize basic civil legal aid service capacity across the state-funded legal aid delivery system. This request is designed to ensure that those facing the most profound civil legal problems have equitable access to the type and level of high quality civil legal assistance they need to address such problems regardless of where they live. OCLA also seeks \$78,000 in funding to add .5 FTE in professional administrative support to address critical agency functions and legal requirements.

Narrative Justification and Impact Statement

This package contributes to the Judicial Branch Principle Policy Objectives as identified below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.

Access to timely, competent and effective civil legal assistance is essential to the ability of litigants to effectively assert and defend important legal rights within the justice system. Such access is also essential for the courts to deliver on their constitutional duty to administer justice in all cases openly and without unnecessary delay. Wash. Const. art. 1, sec. 10. Civil legal aid offers a legal voice for low income people who lack any other means of participating in legal proceedings in which they are involved. In so doing, it is the vehicle through which the justice system offers both fairness and the appearance of fairness.

Accessibility. *Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.*

Persons with disabilities that limit their ability to effectively participate in judicial proceedings are disproportionately poor. The availability of civil legal aid services helps ensure that these people are able to assert their rights to reasonable accommodation and otherwise overcome access barriers that limit their ability to meaningfully participate in legal proceedings in which they are parties. The same is true for individuals who are limited English proficient (LEP) and who are also disproportionately poor. Legal aid helps them assert their language access rights and to effectively participate in civil legal proceedings in which they are involved.

Access to Necessary Representation. *Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.*

In an adversary civil justice system, those with an effective legal voice are much more likely to be successful in presenting their cases than those without. Legal aid offers a full spectrum of assistance to help low-income people effectively participate in their legal cases. In those cases where the stakes are important, the issues complex and the other side is represented, an unrepresented individual is at a distinct disadvantage. Within the resource limits available, civil legal aid -- whether offered through a staffed legal aid program or a pro bono attorney -- levels the playing field and ensures that evidence and arguments of those with important interests at stake will be heard and considered on their merits.

Commitment to Effective Court Management. *Washington courts will employ and maintain systems and practices that enhance effective court management.*

N/A

Appropriate Staffing and Support. *Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.*

N/A

Measure Detail

Impact on clients and service

Budget reductions experienced over the past two biennia coupled with the lack of any maintenance level adjustments since the 2007-09 biennium have led to deep staffing cuts at the statewide staffed legal aid program, Northwest Justice Project (NJP). These in turn have resulted in deep reductions in client service, both at the field office level and at the statewide CLEAR intake, advice and referral center and correspondingly great hardship to those unable to effectively assert and defend their legal rights.

NJP lost 20% of its basic field client service staff between 2009 and 2013 (from 101.5 FTE attorneys involved in direct client service to 82.5 today) and the number of closed state-funded cases dropped from 14,700 to about 9,200. The vast majority of this case reduction came from NJP's CLEAR system. This reflects (a) the consequence of lost staffing and (b) the fact that CLEAR staff had to spend a substantially greater amount of time per case as they narrowed priorities to the most compelling, complex and time consuming legal matters. Today there is *one state-funded basic field staff attorney for every 15,000 individuals* in WA State living at or below 125% of the federal poverty level (FPL).

OCLA's governing statute requires that client services be provided in a manner that "maximizes geographic access across the state." The deep staff reductions realized in the field and at the statewide CLEAR system since 2009 have aggravated longstanding geographic client service capacity disproportionalities and now threaten the viability of client service presence in key rural areas of the state.

The budget request will allow NJP to cost-effectively restore 12 FTE attorney positions (depending upon experience level) to address these critical client service capacity and geographic proportionality issues.¹ It will also provide funding to enable other state-funded volunteer (pro bono) and specialty legal aid providers to upgrade client services in client service areas of greatest need. Finally, the budget request seeks funding for a .5 FTE professional administrative support staff person to assist OCLA manage the agency's ever growing array of legal, programmatic and administrative tasks and responsibilities.²

¹ NJP's average fully-loaded (personnel and overhead) cost per attorney is \$125,000, well below the cost of comparable attorneys in other state governmentally funded entities.

² Between 2005 and 2014, OCLA has operated with a single FTE, the agency Director. In 2014, the Legislature added a new program (ref. 2ESSB 6126) which required the hiring of a dedicated attorney Children's Representation Program Manager. The agency still has no internal administrative support capacity.

As a whole, the package is designed to (a) stabilize staffed legal aid capacity in the most rural and remote parts of the state as well as urban areas where there is a disproportionate lack of staffed legal aid presence or other alternative sources of legal help, (b) enhance the ability of volunteer attorney (pro bono programs) to recruit, train and effectively support a larger number private volunteer attorneys to provide assistance to eligible low income clients,³ (c) protect the core functions of providers that provide services to clients requiring specialized legal focus and substantive expertise, (d) otherwise ensure the continuing relevancy of the state civil legal aid system to those who need it most and (e) ensure that OCLA has sufficient professional administrative capacity to effectively discharge its oversight and basic agency functions.

Impact on other state services

In addition to meeting the critical justice needs of eligible clients, timely and effective civil legal aid - whether provided by a staffed legal aid attorney or a cooperating volunteer attorney -- solves problems that, if left unaddressed, often result in greater demand for state services or the expenditure of other scarce governmental resources. For example, legal assistance to secure protection from a domestically violent relationship can reduce demand on law enforcement and court services; legal assistance that protects a displaced worker's claim for unemployment insurance protects that worker's family security, housing and income stability while the worker seeks new employment; legal assistance that preserves a family's housing reduces demands on local and state homeless assistance; legal assistance that helps a returning veteran secure access to essential mental health services through the Veteran's Administration reduces demand on state services; legal assistance that secures appropriate special educational services for a failing student could help avoid that student's potential involvement in the juvenile justice system; legal help that results in securing a low income individual's eligibility for federal income and medical assistance programs results in less demand for scarce state-funded services and, in the case of those who were homeless at the time, saves local government about \$50,000 per person per year.

Relationship to Capital Budget

N/A

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

N/A

Alternatives explored

If the justice system is to be open and available to all who need it, and fairness to be achieved for those involved in it, there is no meaningful alternative to an increase in state investment in civil legal aid. Basic and consistent underwriting support for the state-funded civil legal aid system comes from three sources -- OCLA, the federal Legal Services Corporation (LSC) and interest on lawyers' trust accounts (IOLTA) and other funds administered by the Legal Foundation of Washington. In the current biennium, OCLA's appropriation was cut by

³ More than 65,000 hours of free legal services are provided by volunteer attorneys working through state-funded local pro bono programs.

\$980,000 from the FY 2013 carryforward level. Cumulative state budget cuts experienced since FY 2009 exceed \$2.73 million. This does not include more than \$2.4 million in requested but unfunded maintenance level adjustments in the FY 2009-11, FY 2011-13 and FY 2013-15 biennia. IOLTA funding (which helps support the operations of our state's volunteer and specialty legal aid programs) remains at historic lows due to near-zero interest rates. Federal funding remains well below the 2009 level.

The Access to Justice Board established by the Washington Supreme Court and its Equal Justice Coalition continue to work with the American Bar Association and its national partners to encourage Congress to increase funding for the Legal Services Corporation. Finally, private resource development, while increasing, still falls far short from filling resource capacity gaps.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Funding requested is ongoing.

Effects of non-funding

In both absolute and relative terms, NJP's client service delivery footprint is not sustainable. One attorney offices continue to be nursed in Walla Walla, Aberdeen and Port Angeles. Across the balance of the state, legal aid attorney-to-eligible client ratios test the limits of institutional relevancy. In King County, the Northwest Justice Project has one basic field legal aid attorney for more than 25,000 eligible clients. In Spokane and NE WA, the current number is about 1:24,000. In Pierce County, the current number is 1:19,000. In Benton-Franklin Counties, it is 1:23,000. Non-funding will lead to further erosion in access to necessary services, the likely closure of some rural offices and exacerbation of geographic disproportionalities.

Despite *leveraging more than 65,000 hours of volunteer attorney time* on state-eligible cases, volunteer attorney programs continue to operate on a shoestring and remain limited in their ability to effectively recruit, train and support the untapped pool of potential volunteer attorneys who, in turn, have the potential to serve many more clients on important matters without charge. Non-funding will limit these opportunities and further compromise efforts to develop and proliferate best practices in pro bono delivery and reduce unnecessary administrative redundancies amongst the 17 stand-alone volunteer attorney programs.

Non-funding will also result in continued erosion in the capacity of key specialized legal aid providers (TeamChild, Seattle Community Law Center, Unemployment Law Project, and Solid Ground) to cost-effectively deliver highly specialized civil legal aid services to some of the most vulnerable and isolated low-income residents of our state. This will place ever greater burdens on NJP to replicate this capacity at a time when it has neither the resources nor expertise to do so.

Expenditure calculations and assumptions and FTE assumptions

Object Detail	FY 2016	FY 2017	Total
Staff Costs	\$ 39,000	\$ 39,000	\$ 78,000
Non-Staff Costs	\$ 1,440,000	\$ 1,440,000	\$ 2,880,000
Total Objects	\$ 1,479,000	\$ 1,479,000	\$ 2,958,000

Washington State Judicial Branch
2015-2017 BIENNIAL BUDGET REQUEST

Decision Package

Agency Office of Civil Legal Aid

Decision Package Title Private/Local Authority

Budget Period 2015-2017 Biennial Budget

Budget Level Policy Level

Agency Recommendation Summary Text

OCLA requests the Expenditure Authority for funding received from Private/Local Grants designated for specific purposes by the terms of the grants.

Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
001-1 General Fund State	\$ 150,000	\$ 150,000	\$ 300,000
Staffing	FY 2016	FY 2017	Total
FTEs (number of staff requested)	0	0	0

Package Description

OCLA requests the Expenditure Authority for funding received from Private/Local Grants designated for specific purposes by the terms of the grants. Funding this request will provide additional resources for the agency's mission.

Narrative Justification and Impact Statement

Measure Detail

Impact on clients and services

None

Impact on other state services

None.

Relationship to Capital Budget

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None.

Alternatives explored

None.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Similar requests may be made in future biennia.

Effects of non-funding

This is a revenue request for the grantors' relying on Office of Legal Aid resources to distribute the funding to sub-grantees.

Expenditure calculations and assumptions and FTE assumptions

The request is based on past and anticipated future projects funding.

Object Detail	FY 2016	FY 2017	Total
Staff Costs	\$ 0	\$ 0	\$ 0
Non-Staff Costs	\$ 150,000	\$ 150,000	\$ 300,000
Total Objects	\$ 150,000	\$ 150,000	\$ 300,000